

While the existing scope for action is broad, what the GATT/WTO do not provide for, however, is the use of trade restrictions, including discriminatory ones, to press an environmental agenda extraterritorially. There are a number of variations on the theme, but this is essentially what some observers are proposing: authorizing trade restrictions under the GATT/WTO as a means to apply environmental or conservation standards outside a country's jurisdiction, including with respect to foreign process or production methods (PPMs), or to force acceptance of international environmental agreements. The result of this approach is that a country's trade rights could become conditional on adopting others' environmental policies and programmes. This effectively would cast the GATT/WTO in the role of an environmental interventionist. The basic question is whether this should be done.

The Paper argues that, for both trade and environmental reasons, it should not. Changing the rules to allow for easier use of discriminatory and extraterritorial trade restrictions may have short-term appeal for some, but would be counterproductive in the long-run. Denying export opportunities, especially to developing countries, would simply eliminate a source of the income necessary to deal with an environmental problem. It also would undermine the international trust and cooperation that will be equally necessary for long-term success - intrusions into a country's domestic jurisdiction through the use of trade penalties by others will only create dissent. And the danger of protectionist abuse would be high. Environmental groups may have only environmental objectives in mind, but, once on the books, provisions permitting such trade restrictions could well attract other interests.

These and other problems discussed in the Paper that arise with the use of trade penalties to force environmental programmes on others are particularly relevant when such actions are taken unilaterally. Since only a few players on the international scene have sufficiently large markets to attempt this approach in any consistent or credible way, the implication is that international environmental issues would be determined by those few on the basis of international might. This would be the case even if the solution imposed had more to do with politics, as sometimes occurs, than with what is best for the environment and the situations and needs of other countries. Of course, there is little doubt that unilateral measures will be used in some instances. The issue is not whether this will happen, however, but whether it should be provided for, and thus encouraged, under the trade rules. It is argued here that this course would be neither desirable nor negotiable.

This does not mean to say that nothing needs to be done in the GATT/WTO on the trade and environment issue. In response to the valid concerns of the environmental community and others, more openness in the system and a better