

that a departure from the principle of non-discrimination is necessary and will be effective. If these conditions are met, there is unlikely to be conflict with the trade rules. If necessary, the GATT's waiver provisions could be successfully invoked. It is only when these conditions are not met that there is likely to be conflict and the trading rules in such circumstances stand as an important barrier to arbitrary and discriminatory behaviour by a minority of states or a powerful state acting unilaterally.

Trade Measures to Level the Environmental Playing Field

One of the most frequently raised concerns is that environmental protection policies undermine the competitiveness of firms because of high compliance costs. Arguments have been advanced that unless there is broad international consensus on particular goals and instruments, governments should be allowed to take steps to "level the playing field" by taking appropriate action in the field of trade, usually by means of countervailing or offsetting duties of one kind or another.

Before considering whether trade policy should be used to level playing fields, we should consider the extent to which environmental regulations undermine competitiveness. Recent analytical and empirical work suggests that the aggregate additional costs of meeting environmental requirements in the United States add less than one percent to the cost of doing business.¹³ Aggregate costs, of course, reflect wide variation and in highly competitive industries, additional costs of even one percent can make the difference between profit and loss. But the relative cost of compliance with existing pollution requirements appears to be modest and well within the capacity of most industries to absorb. At the same time, as pointed out by Michael Porter in his study of the Canadian economy, compliance with tough pollution standards can also prove a powerful incentive to innovation and prove an important step toward improving competitiveness.¹⁴

Related to concern about differential compliance costs is the fear that countries will use lower standards as an investment incentive and thus become pollution havens. Again, the evidence to support such fears is not very robust. While the assimilative capacities of some countries – particularly developing countries – to absorb or tolerate higher levels, for example, of atmospheric pollution may attract some dirty industries to relocate, the cost of relocating has to be taken into account as do other factors such as labour costs, proximity to either suppliers or

¹³ Patrick Low indicates that for the United States the weighted average cost to output of pollution abatement and control equipment was 0.54 percent, with the highest ratio, for the cement industry, being just over three percent. See "Trade Measures and Environmental Quality: Implications for Mexico's Exports," in Patrick Low, ed., *International Trade and the Environment*, World Bank Discussion Paper 159 (Washington: World Bank, 1992), p. 107.

¹⁴ Michael Porter, *Canada at the Crossroads: The Reality of a New Competitive Environment* (Ottawa: Business Council on National Issues, 1991).