

case for fully harmonizing environmental policies, as countries are at various levels of economic development, have distinct assimilative capacities and have different social preferences on environmental issues.<sup>18</sup> Rather, this Paper raises the issue of whether below replacement cost practices with respect to renewable resources or below production cost practices with regard to such non-renewable resources as coal that have a negative environmental impact should be considered countervailable.<sup>19</sup> If a country does not subsidize production, but production or replacement costs of a particular traded good were nonetheless lower than those of its trading partners, there would clearly be no basis for taking trade remedy or any other trade-based action.

Differences in countries' resource pricing, environmental regulations and policies can affect the competitiveness of their domestic producers. A popular public view is that, if foreign producers have lower environmental standards, imports from these producers constitute "social dumping," and that there should be some provision for imposing countervailing duties. But it is obvious that many, perhaps all, government policies, at least indirectly influence competitiveness. Many "benefits" conferred by governments, i.e., roads, education, social policies, health care, are not considered a subsidy. A GATT Working Group concluded that: "There are various actions by governments, economic or otherwise, which may provide an advantage to domestic producers, but which have not traditionally been considered subsidies." The question is where the multilateral community desires to draw the line on what is an allowable basis for competition, and which government policies might appropriately be considered countervailable subsidies.<sup>20</sup>

In this regard, and from a certain environmental perspective, the distinction between "generally available" and "specific" subsidies may pose a problem. Both types of subsidies may contribute to environmental degradation and, in this respect,

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<sup>18</sup>The OECD Polluter Pays Principle recognizes these types of differences. The Principle recognizes that: "Differing national environmental standards, for example with regard to the tolerable amount of pollution, are justified by a variety of factors including, among other things, different pollution assimilative capacities of the environment in the present state, different social objectives and priorities attached to environmental protection and different degrees of industrialization and pollution density." OECD, "Conceptual Framework for PPM Measures", COM/TD/ENV(93)114/REV2, p.24.

<sup>19</sup> In respect to natural resource policies, such policies would first need to be redefined as a subsidy under revised multilateral rules.

<sup>20</sup>GATT, Committee on Subsidies and Countervailing Measures, Group of Experts on the Calculation of Subsidy, "Criteria For Distinguishing Subsidies From Other Measures Having a Trade Distorting Effect", Working Paper No. 15, March, 1984, p.1.