

requirement that such regulations may not be used as a disguised restriction on trade and must serve a legitimate domestic objective. The GATT Technical Barriers Code does not involve the establishment of standards but it encourages international harmonization. Current Uruguay Round negotiations, however, involve improvements in the Code that may include more robust provisions leading to greater harmonization.

Second, GATT measures must be applied transparently (article X). Both domestic producers and international traders must have equal and open access to those laws, regulations and procedures that affect their ability to transact business in any market. The frequently voiced complaint by environmentalists that the trade regime discourages the use of information about the environmental impact of various products misreads the GATT. The GATT places a very high premium on information, and enjoins its members from imposing differential regulations that discriminate between domestic and imported products.

Third, GATT contracting parties (CPs) may not use quantitative restrictions (QRs) except in clearly delineated circumstances (article XI). When quantitative restrictions are used, they must not discriminate among foreign suppliers (article XIII). The strong bias against QRs reflects GATT philosophy that such measures are likely to be more restrictive, less transparent and more discriminatory than measures that have a direct price effect, such as tariffs. This GATT bias makes sense in an environmental context. For example, GATT allows a country to impose a tax on imported products to reflect its desire to let the final price more closely reflect environmental costs, so long as that tax is also applied to domestically produced goods. GATT does not want CPs to use QRs to achieve such objectives.

Fourth, CPs may use subsidies to achieve various domestic objectives, including environmental goals, but may not use export subsidies except for primary products (article XVI). Subsidies must be notified but can be limited to domestic producers and products (article III). Products that benefit from subsidies may be countervailed – a special tariff to offset the price effect of the subsidy – if imports of the subsidized product can be shown to cause material injury to domestic producers (article VI). The rules relating to subsidies are amplified in the much more detailed subsidies code negotiated during the Tokyo Round negotiations. A new, much improved code may emerge from the current Uruguay Round multilateral trade negotiations.

Fifth, should there be conflict between any GATT article and the desire of any contracting party to protect the environment (to protect animal, plant or human life or health; to conserve exhaustible resources; or to take action to ensure compliance with a domestic regulatory requirement not otherwise inconsistent with the General Agreement), article XX allows member states to implement the environmental protection measure so long as the measure does not constitute a dis-