



NATIONAL ROUND TABLE ON THE ENVIRONMENT AND THE ECONOMY
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Canada's Trade-Environmental Challenges and Opportunities

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Executive Summary

The major trade liberalization that Canada has experienced over the past decade has come with benefits and costs in both the economic and environmental domains. As evidence accumulates about the many links between trade liberalization and environmental quality, it is becoming clear that liberalization can be an important instrument of environmental enhancement, but only if the rules and institutions of trade liberalization agreements are designed to accord greater equality and involvement to the environmental community and its concerns. As Canada embarks on a major new set of trade liberalization negotiations over the next two years, it is vital to consider four questions:

- Can trade liberalization now serve as an effective tool of sustainable development?
- Are the new negotiations currently proceeding in this way?
- What priority issues need to be addressed for them to do so?
- What role the NRTEE can play to this end?

This discussion paper first reviews the environmental benefits and costs of trade liberalization as they apply to the relatively small, open, internationally integrated, natural resource-based Canadian economy. It suggests that Canada has a particular interest in leading the effort to shape further trade liberalization arrangements in ways that promote sustainable development, in order to prevent the erosion of, and build on, its accomplishments in the NAFTA trade-environment regime.

It then examines the major negotiations for further trade liberalization already in process or about to get underway, and the prospects that they will contain adequate or improved environmental provisions. It concludes that as they are unfolding at present, they are likely to bring a retreat from rather than advance on the NAFTA regime.

The paper then identifies options for a Canadian approach and action in regard to these negotiations. Here it identifies the options of national sovereignty or multilateralism but suggests the value of a strategy of regional leadership focused on six current and five emerging, priority issues in the trade-environment debate in the Americas, Asia-Pacific and multilateral realms.

It finally considers the role the NRTEE might play, given the current efforts of other similar bodies and the NRTEE's contribution in this area in the recent past. It suggests that the NRTEE has a distinctive, valued and effective contribution to make, centered on eight issues at the core of the new negotiations.

Introduction

During the past decade, a central, new thrust of Canadian foreign policy has been the conclusion of trade liberalization arrangements with Canada's major trading partners. This process began with the Canada-US Free Trade Agreement (FTA) taking effect in 1989, followed by the North America Free Trade Agreement (NAFTA) of 1994. It continued with the completion of the Uruguay Round of multilateral trade negotiations and the creation of the World Trade Organization (WTO) in 1994 and with the conclusion of bilateral agreements with Israel and Chile by 1996. In 1994 Canada also accepted a commitment to secure free trade within the Americas under the Free Trade Agreement of the Americas (FTAA) by the year 2005. It accepted a similar commitment to do so across the Asia-Pacific region under the Asia Pacific Economic Co-operation forum (APEC) by the year 2010, for developed members, and by 2020 for developing ones. Over the coming year Canada is likely to help launch a new "millennium" round of multilateral trade negotiations that will embrace not only a "build in" agenda to liberalize agriculture and services but also involve many issue traditionally under firm national control.

These liberalizations have brought substantial benefits to Canada, and promise more in the future. Relative to its major economic partners, Canada has a small, open, natural resource based economy highly dependent on international trade and investment to generate a high standard of living. Trade liberalization under internationally agreed rules, interpreted and implemented by respected international institutions, has brought Canadian producers and their workers virtually barrier-free access to the much larger markets of the United States, and a wide variety of readily available, less expensive imported products and services for consumers at home. Not surprisingly, public opinion polls indicate that Canadians have come to strongly support the free trade communities of which they are now a part.

Yet trade liberalization has come with costs. There have been difficult adjustments for displaced workers and industry. Trade liberalization creates pressures for short term income inequality, widening the gap between those who gain from trade and those who lose their high incomes, jobs, businesses, and the economic centre of their communities. Freer trade creates a feeling of a loss of control, as effective authority over important economic decisions passes from local or national governments to international centres or dispute resolution tribunals whose operations are unfamiliar and inaccessible to the average citizen. Moreover, freer trade and investment can create pressures to reduce or stop improving domestic environment and labour standards for fear of lower cost competition from abroad. These anxieties are apparent, amidst the current global financial crisis, in the ambivalent reaction of many Canadians, and the acute antagonism of some, to the prospect of concluding at the Organization for Economic Cooperation and Development (OECD) a high standard Multilateral Agreement on Investment (MAI) that would extend the disciplines over trade to the foreign direct investment that lies underneath.

The benefits of trade liberalization for the environment are increasingly well understood. A host of studies under the auspices of the WTO, OECD, APEC, NAFTA, and non-governmental research institutes confirm the close, complex, and comprehensive relationship between trade/investment liberalization and environmental quality. Despite uncertainty about some linkages, these studies point to the possibility that the values of both economic growth and environmental enhancement can be jointly promoted through trade liberalization agreements - but only if the rules and institutions created by such agreements are designed to foster greater

equality and integration of the concerns of each. This ideal of sustainable development has been difficult to realize in practice. Indeed, since the introduction of NAFTA, with its pioneering provisions for environmental protection, there have been few moves toward incorporating fundamental principles of sustainable development in the more broader and more far reaching trade liberalization negotiations in which Canada is now involved.

This failure to move forward from a NAFTA regime that many judged to be a minimum platform, and the many trade liberalization negotiations involving Canada that will reach their peak over the next two years, make it an appropriate time to address four questions:

1. Is further trade and investment liberalization for Canada desirable from the standpoint of sustainable development?
2. What challenges and choices will Canada confront in the near future in designing trade liberalization agreements with adequate environmental protections?
3. What options does Canada have to shape such trade liberalization processes and prospective agreements in ways that better promote sustainable development?
4. How might the NRTEE best add value to existing efforts to promote this end?

1. Canada's International Trade and Environmental Interests

In general terms, the basic economic and environmental advantages of trade are well known. They lie in the advantages that arise when individuals in a particular location need not themselves produce all the goods and services they desire for themselves, but can rely on others who can produce the desired amount of the product more efficiently and inexpensively. By allowing different communities to specialize in what they are best able to produce (including ecologically enhancing products), and exchanging the products without governmentally-imposed barriers, trade can improve the **scale** of goods and services available, enabling more to be produced with a fixed set of raw material, labour and capital inputs. It can further improve the **structure** of an economy, enabling it to specialize in high-value added products of low environmental impact and generate higher paying jobs and incomes for its citizens. It can also enhance the level of **technology** in an economy, through inflows of the technology embedded in imported products and through the foreign direct investment which trade often inspires. Finally, with the higher incomes and greater international awareness that trade generates, citizens are better able to demand and afford enhanced levels of environmental protection and institute the **policy** changes required to secure such goals.

Yet increased international trade also involves environmental costs. By lowering the costs of each product and thus inspiring greater overall demand, trade can lead to wasteful **overconsumption** that drains scarce natural resource and ecological capital. It can induce some economies to specialize in the production of "dirty" goods or those that rely heavily on inexpensive natural resources, thus creating further pressures on such resources and an economic structure reliant on the production of low-priced and **low-value** goods. It can further lead to a reliance on expensive and **inappropriate imported technology** that crowds out more environmentally adapted traditional local alternatives. Moreover, it can allow firms to migrate from a home market to produce in jurisdictions with weaker environmental policies, leading to job loss at home and a "**race-to-the bottom**" as all jurisdictions competitively lower their environmental regulations

and enforcement in order to secure or lure investment and jobs. Finally, particularly when trade takes place with ever more **distant** partners, it can impose economic costs and environmental risks arising from long-range transportation, and lessen the sense of awareness or responsibility consumers have for production practices and impacts in remote locations.

These benefits and costs of international trade apply in an acute form to Canada. For relative to its major economic partners and competitors in the United States, Japan and Europe, Canada has a small, open, internationally integrated, natural resource-based economy. Indeed for Canada, the relationship between the economy and the environment largely means the relationship between international trade and its underlying investment on the one hand, and the environment on the other.

Due to Canada's relatively **small** market of only 30 million people, with the largest province having only about one-third the total, these gains from trade can be maximized, as the British North America Act and recent Internal Agreement on Trade recognized, by allowing trade to take place freely among the constituent provinces and territories. As the neighbouring United States has a population close to 300 million, and an economy ten times that of Canada, its market makes available vastly greater products and markets, and resulting efficiencies and gains, than that of Canada alone. Moreover, because the US contains high income consumers, advanced technology producers and jurisdictions with generally high levels of environmental regulation, it has a particular appeal as a trading partner. A vast majority of Canadians (over 90%) live within easy driving distance (100 miles) of the United States, and are often closer to sources of supply and markets in the US than in other parts of Canada. Consequently, there are further gains from engaging in international rather than merely interprovincial trade.

Smaller countries such as Canada thus tend to be more **open** to international trade, relying on exports and imports for a large share of their national production (GDP). Due to its size and historical pattern of economic development, Canada has become an exceptionally trade-dependent economy. At present about 40% of its domestic production is exported. Indeed, if one excludes the government share of production, a majority of the private sector Canadian economy and the jobs that come from it depend on export markets. As the equivalent of 40% of Canadian GDP is imported, total trade constitutes about 80% of Canadian GDP. Over 80% of this trade is with the United States.

This is an exceptionally high, but not abnormal level of international trade dependence. Among Canada's major trading partners in the G7 club of major industrial democracies, Germany and Britain have ratios within the same range. Moreover, even the largely national US economy is steadily internationalizing, as trade (exports and imports combined) as a share of US GDP has risen from only 10% in 1970 to 23% by 1996 and a projected 36% by 2006.

Much of Canada's trade is based on **internationally-integrated** production among different affiliates of the same multinational corporation or alliance partners within the same business consortium. About 40% of Canadian trade with the US takes place among different units of the same firm and a further 30% takes place within business alliances. It is thus multinationals rather than markets operating at arms length that are the conduits for, and buyers and sellers in, international trade. With the move to just-in-time inventory and integrated production (based on trade in components rather than final products), these ties are tightening. In short for Canada, and for its major trading partners close behind, trade and foreign direct investment are rapidly becoming one.

This integration has several implications. It means that the US economy is becoming increasingly dependent upon the Canadian economy for critical components, balancing the longstanding dependence in the other direction. It further means that the environmental impact of such intra-corporate and intra-alliance trade depends critically on the technology transferred and diffused through MNC operations, and the management systems, technology and production practices these MNC's employ. And because Canada has become one of the world's largest home countries for outward foreign direct investment, as well as a major host for inward foreign direct investment, the environmental regulations imposed on Canadian MNC's at home or under international agreements have an expanded impact around the world.

Finally, relative to its G7 partners, Canada has a **natural resource** based economy and export configuration. In absolute terms, by global standards, Canada's trade rests essentially on manufactures, led by the automotive sector, rather than on natural resources or services. Under the impact of the FTA and NAFTA, the share of natural resources in its export mix has fallen to a level of only 30% at present. Yet in comparison with its G7 partners, Canada's exports of natural resources still loom exceptionally large. It is thus exposed, as are many commodity-based developing countries, to the danger that expanded exports might strain its finite ecological capital, especially in sectors already under stress from activity at home.

Canada thus has a particular incentive to pioneer trade liberalization agreements that take full account of environmental values, and indeed that serve proactively as positive instruments of ecological enhancement and sustainable development. Canada has already done so in NAFTA and in the similar Canada-Chilean agreement, with solid results.

After five years in operation, there are good grounds for concluding that the NAFTA trade-environment regime has been a substantial success in meeting not only its economic development goals, but also its environmental enhancement objectives. It is liberalizing trade and investment most rapidly and robustly in sectors that are environmentally friendly. It appears on balance to be helping transfer environmentally friendly technologies throughout the region. Some of its trade institutions with major environmental mandates have moved quickly to improve communication, build capacity and induce a high level convergence of environmental regulations among the three member countries, particularly in such areas as dangerous goods transportation and pesticides. Its accompanying Commission for Environmental Co-operation (CEC) has usefully improved scientific surveillance and transparency across the region and allowed civil society stakeholders to initiate several investigations of the alleged non enforcement of environmental regulations on the part of constituent governments.

However, the NAFTA trade-environment regime, with its rules largely incorporated into the Canada-Chilean agreement, covers only three of Canada's trading partners, about 85% of its current trade, and less than two-thirds of its foreign direct investment. At present, Canada's commerce with its second and third largest trading and investment partners, Japan and the European Union, and with the important emerging markets in the Americas and Asia-Pacific takes place with no specific environmental rules and institutions, beyond those of the inadequate WTO regime. Economically, these overseas markets are likely to account for an increased share of Canadian and world trade in the coming years, especially as emerging markets recover from the current financial crisis. Such an overseas diversification would reduce Canadian vulnerability to an economic downturn or an eruption of protectionist pressures from a United States whose economy is currently slowing and whose trade deficit is expanding to historic highs.

Environmentally, as most of Canadian trade and the vast majority of Canadian FDI is with its G7 partners who largely share Canada's domestic commitment to high environmental standards, the opportunity exists to work with them to shape broader trade liberalization regimes that protect and enhance the environment. Without such efforts there is a danger that the many free trade agreements rapidly forming around the globe without the minimum NAFTA environmental protections, will exert a progressive downward pressure on even the modest advances that NAFTA has brought.

2. Canada's Coming Trade Liberalization Challenges

The dangers of a downward spiral, and the opportunities to build upon the NAFTA platform, arise in acute form at present. For there are a large number of trade liberalization negotiations, many involving Canada, that are reaching a critical stage over the coming two years. Thus far, there has been very little progress made in incorporating environmental protections within them.

At the *global* level, the ongoing work of the trade ministers' Quadrilateral (comprising the US, European Union, Japan and Canada), the Group of Seven and Group of Eight (G7/8) Summit in Cologne, Germany in June 1999, and the US-hosted ministerial meeting of the WTO in December 1999, will almost certainly launch a new "millenium round" of multilateral trade negotiations.

At the regional level, within the *western hemisphere*, 34 countries of the Americas (all save Cuba), agreed at their Second Summit of the Americas in Santiago, Chile on April 18-19, 1998 to accelerate their efforts to reach their agreed-on goal of a Free Trade Agreement of the Americas by 2005 and to make "concrete progress" by the end of the century. They will proceed through meetings of the ministerial-level Trade Negotiations Committee, chaired by Canada until the autumn of 1999, and the General Assembly of the OAS to be held in Canada in the year 2000, prospectively at the leaders' level.

Within the *Asia-Pacific*, at the New Zealand- hosted economic leaders meeting in autumn 1999, APEC members are expected to complete their effort, now prospectively one-year overdue, to implement early voluntary sectoral liberalization (EVSL) in a full 15, and priority 9, economic sectors (including environmental products and services, fisheries, and forestry).

Across the North-Atlantic, the European Union and US are currently discussing a major trade and investment liberalization agreement, in a process which may come to involve Canada and NAFTA as a whole.

Within the existing efforts, there are processes underway to refine and extend the regime. In 1998 the three *NAFTA* countries launched a five year review of their trade agreement designed to identify areas where institutional strengthening might be required. Recently, NAFTA's foreign, environment and natural resource ministers have begun to show increasing interest in expanding the NAFTA community and its economic and environment co-operation.

These efforts involving Canada are matched by many others, driven by Canada's competitors in the world beyond. *Mercosur* (a regional arrangement involving Brazil, Argentina, Paraguay and Uruguay) is proceeding with discussions for a free trade area between it and the European Union. The EU has already pledged to complete a free trade agreement with its Mediterranean

partners (Euro-Med) as the next millenium opens, and is now engaged in free trade talks with Mexico. None of such arrangements seems likely to incorporate environmental protections approximating those of the NAFTA regime.

Moreover, even those arrangements now under negotiation that involve Canada promise a retreat from the NAFTA protections. Multilaterally, the World Trade Organization (WTO), now with 132 members and an additional 32 developing and transition countries seeking entry, has a committee examining the links between trade and environment, particularly to determine how WTO disciplines can avoid conflict with those multilateral environmental agreements (MEA's) which use trade sanctions for enforcement. Yet the committee, beset by divisions between developed and developing countries, has yet to reach consensus on any action-oriented measures. Moreover the WTO's April 1998 decision to outlaw a US measure banning import of shrimps harvested by methods that harm turtles underlines the limitations of the WTO's 1947 and 1994 environmental provisions, and its means for introducing environmental expertise and values in its dispute resolution process.

Negotiations to create by 2005 a Free Trade Agreement of the Americas (FTAA) embracing all countries of the western hemisphere save Cuba, have confined consideration of the environment to a broader, advisory Committee on Civil Society composed entirely of government officials. The leaders themselves, at their spring 1998 Santiago Summit, expressed less commitment to trade that protected and promoted sustainable development than they did at their first Summit in Miami in December 1994.

Across the vast and diverse Asia-Pacific region, the 21 members of the APEC forum (including since 1997 Russia, Vietnam and Peru) have since 1994 been committed to creating free and open trade and investment throughout their community by the year 2010 for developed economy members and by the year 2020 for developing economy members. However, they have made no move to devise an accompanying trade-environment regime, or create a permanent Environment Ministers forum or an official-level Environment Committee to parallel that of their trade ministers or that for Trade and Investment Liberalization and Facilitation.

Even within NAFTA there are growing concerns about the adequacy of its environmental provisions and capacity, especially in the face of growing environmental demands. These centre on the CEC's independence, funding, and inability to engage the trade community on an equal and integrated basis. NAFTA's trade policy managers have failed to join at virtually any level with those responsible for the accompanying North American Agreement on Environmental Cooperation (NAAEC) and CEC to deal with their heavily interdependent agenda. Some of its trade institutions have been slow to meet their environmental responsibilities. Some members have sought to severely restrict the CEC's ability to fulfill its obligation to assess the environmental effects of NAFTA-related trade. And the operation of NAFTA's innovative dispute settlement mechanisms for investment has generated an appearance that the NAFTA rules and processes privilege the property rights of foreign investors, while restricting the right of national and subnational governments to regulate for environmental protection.

Thus, as the year 2000 approaches, virtually all regions and subregions around the world are vigorously taking up regional trade liberalization as a key strategy for their future development. Yet they are failing the challenge of incorporating appropriate environmental considerations within them. If the present trends continues, the high water mark that Canada helped set in NAFTA, will be eroded by these newer, more broadly inclusive, less environmentally friendly regimes.

3. Options for a Canadian Approach and Action

At present, there are three options Canada can pursue in its trade-environment strategy: a return to a reliance on national sovereignty; continuing a traditional reliance on the broad multilateral process centered on the WTO; or using its capacity for leadership within more limited membership regional arrangements to shape more environmentally friendly trade liberalization agreements as a model and foundation for the global community as a whole.

A strategy of **national sovereignty** would retreat from seeking international agreements and rely on the Canadian market alone for economic development and national regulatory authority for environmental protection. It could include taking steps to impose minimum environmental standards covering all the operations of its companies exporting or investing abroad. But such a strategy would lessen Canadian influence over the many trade liberalization processes currently underway. Canadian governments would have less protection over companies threatening to leave Canada for jurisdictions with lax environmental regulations. Without the spur of international liberalization, where federal power is paramount, there would be less incentive to overcome the traditional provincial reluctance to engage in upwardly-oriented interprovincial harmonization of the environmental regulations which they largely constitutionally control. It could further strain the limited capacity of Canadian governments to ensure adequate environmental inspection and enforcement.

A strategy of **multilateralism** would focus Canada's energies on securing trade and investment liberalization with enhanced environmental protections at the WTO. It has the advantage of being a broadly inclusive forum, which would produce rules to which most of the international community would adhere. Such gains would command great legitimacy, and leave fewer outside countries where poor environmental practices could prevail. But securing such multilateral agreements is a very slow process, taking about six years to launch a negotiation and about eight years to complete it. The WTO process is aimed only at freer rather than free trade. It is dominated by developing countries for whom the right to develop generally takes precedence over the requirements for environmental protection. As the traditional institution of the trade policy community, its organizational culture, rules, professional capacities, *modus operandi*, and past record recognize environmental considerations to only a minimal extent. And unlike the NAFTA regime, there is no parallel multilateral environmental body, apart from the limited UNEP, UNCED, or ISO to deal with it on an equal basis.

A strategy of **regional leadership** involves Canada's seeking a priority to secure rapid free trade within the Americas, the Asia-Pacific region, and with its G7/8 partners, but doing so in ways which enhanced the strength of the environmental provisions within the NAFTA agreement. Such a strategy would exclude many countries, and leave Canada to negotiate with fewer potential allies with a much more predominant United States. But it offers several advantages. It promises much quicker action. It embraces virtually all of Canada's trade and investment partners, and many of the world's leading ecological powers, such as Russia, China and Brazil. It offers Canada allies from countries with high environmental commitment, such as Germany and Japan. Moreover, because both the FTAA and APEC process include Canada, the United States, Mexico and Chile, it provides a core foundation for employing an enhanced NAFTA model in these broader domains, rather than starting to negotiate a trade-environment regime anew.

Especially within these restricted regional domains, Canada possesses the trade/investment and ecological power to sustain such a leadership role. It is, in absolute terms, the world's seven largest trader, eighth largest foreign direct investor and a core member of the clubs that contain the world's other large trading partners — the G7, its trade ministers Quadrilateral, and the OECD's Executive Committee in Special Session (ECSS). In the environmental domain its capability and claim is even stronger, as it possesses a leading global share of such critical ecological resources as coastlines, freshwater, and forests.

Such international leadership would also rest on firm domestic foundations, grounded in a highly supportive public opinion which, with exceptional strength and unanimity, identifies global environment protection as the first priority for Canadian foreign policy.

Such a strategy would take the proven NAFTA platform and performance, adapt it to the distinctive requirements of the new, more diverse, regional communities, and extend it to meet emerging ecological challenges. These challenges centre on eleven priority issues, six of which are at the centre of the current trade-environment debate and five of which are rapidly emerging as the key issues of the future.

The first six priority issues are as follows:

1. Overall Preambular Principles

The overall, preambular principles of trade agreements set priorities and provide a normative context in which to interpret and apply the more specific provisions of trade agreements. Of particular importance, as the NAFTA model reflects, is the promotion of sustainable development and increasing levels of environmental protection as defining overall purposes of the trade and investment liberalization agreement. A second critical element is a commitment to full equality and integration of trade and environment concerns and values.

2. Processing and Production Methods

At present international trade law allows countries to restrict imports only on the basis of characteristics of the product itself, rather than the means by which it was produced or processed. As the WTO's recent decision in the shrimp-turtle case highlights, there is a need for improved international disciplines on production and processing measures, if only as a superior alternative to unilateral action by states to protect species (at times not endangered) well beyond their borders. A recent WTO decision outlawing a European Union ban on imports of US beef products produced with a growth hormone legal in the US has similarly highlighted the related issue of acceptable standards and processes for scientific risk assessment, and the testing and certification of products.

3. Multilateral Environmental Agreements

The international community has now created hundreds of widely accepted multilateral environmental agreements. Some include provisions for trade-restricting measures and sanctions, for purposes of enforcement of their environment provisions. NAFTA assigned priority to a few specified MEAs over its trilateral trade liberalization guarantees. But few other trade agreements have followed this precedent and there are many uncovered MEAs whose status is in doubt in a potential conflict of laws.

4. Harmonization

There is an ongoing debate about the degree to which, and means through which, countries participating in international trade agreements should move toward harmonized environmental regulations and ever higher levels of protection. Most such agreements affirm the sovereign right of each national and subnational government to set such standards as they see fit. But they include an obligation to render these national standards compatible, to engender understanding of partners often opaque standards and standards systems, and to co-operate in the setting of new standards. Strengthening such obligations can be an environmentally important addition to trade agreements.

5. Enforcement

The issue of enforcement of domestic and international environmental obligations through trade agreements involves several salient issues. Is publicity alone an adequate mechanism for surveillance and enforcement? Are the scientific resources, provisions for transparency and attention of public opinion and influential groups sufficient to ensure its effective operation? Are trade sanctions effective punishments for or deterrents against a failure to meet environmental obligations? Are non-trade restricting alternatives, such as fines, or enforcement in domestic courts, superior? Should there be broader provisions for who can initiate and sustain processes against non-enforcement, including not only national governments and multinational firms but actors from subnational governments, international secretariats, and a broad range of civil society actors?

6. Capacity Building

Few of the existing trade and investment liberalization regimes have come with provisions for funding to enhance sustainable development, despite the evidence that liberalization alone does not naturally produce such a result. Nor are the capacities and models of the World Bank and regional development banks sufficient for this purpose. It is useful to consider ways in which trade regimes can incorporate funds for ecological enhancement, ideally tailored to channeling resources to the most ecologically stressed local communities through the liberalized area.

The five key emerging issues are as follows:

7. New Sectors, Targets and Forms of Liberalization

Future negotiations will increasingly focus on new sectors and linkages, as liberalization moves from manufactured goods to agriculture and services, including tourism and financial services, whose full environmental potential is only now starting to be adequately understood. It is further extending from border barriers to behind-the border barriers of regulation and competition policy, raising issues about the impact of oligopolistic practices on the environment. And it is dealing with new forms of trade such as electronic commerce, which can lower the ecological and economic costs of long distance transactions and spread technology instantaneously, globally and at ever lower cost;

8. Liberalization for Environmental Enhancement

How trade and investment liberalization can best be mobilized to serve as proactive instruments of environmental enhancement, rather than merely incorporate provisions designed to protect against the particular environmental damage that liberalization is thought or feared to create? One way, as APEC has recognized, is to press for accelerated or advanced liberalization in those sectors known to have an environmentally-beneficial impact, and delayed liberalization in those that do not. Another is to identify “green” and “black” subsidies - and create further disciplines on the ecologically-salient subsidies to products and processes engaged in international trade and investment. There is important work to be done in inventorying such subsidies, assessing their environmental impacts, and devising the best trade and investment disciplines and processes to produce the desired outcome.

9. Foreign Direct Investment

Apart from a few rudimentary exceptions — OECD and United Nations codes of conduct, NAFTA, and a proliferating patchwork of Bilateral Investment Treaties (BIT’s) or Foreign Investment Protection Agreements (FIPAs), there are few intergovernmental rules governing FDI and very few that contain environmental provisions. It is critical to the construction of future trade-environment regimes that the environmental quality of FDI be addressed and incorporated in its many consequential dimensions. These begin, following the pioneering NAFTA Chapter 11 provisions on investment and investment-environment, with two issues. The first is the right of national and subnational governments to regulate environmental protection in ways that are protected against broad definitions of the property rights accorded foreign investors in international or national instruments. The second is providing mechanisms, beyond NAFTA’s to protect against countries luring “pollution haven seeking” FDI by lowering their environmental regulations and enforcement. There are further issues relating to the role of multinational corporations (MNC’s) in the transfer and diffusion of environmentally friendly or harmful production processes, in the transfer of environmentally-friendly technology, and in employing and spreading environmentally friendly management practices.

10. Linkages to Other Social Dimensions

A further emerging issue is the “lateral” linkage of environmental disciplines with other “social” dimensions such as labour and human rights. Here many of the core principles of sustainable development accepted as part of the environmental dimension of trade regimes are common to, and can serve as an easy way of moving toward these sometimes more difficult-to-incorporate rights. They have proven easier to robustly include in trade agreements than their labour and human rights counterparts. There are important questions as to whether there should be separate environmental agreements and institutions as part of trade regimes (as opposed to comprehensive “civil society” bodies), and how directly they should be designed to promote labour and human rights (as opposed to more narrowly conceived ecological values).

11. Civil Society Engagement

The existing trade liberalization regimes are increasingly giving greater participation to civil society actors, but doing so slowly and in widely varying ways. The key issues which arise are: who constitutes civil society? How can such groups or individuals best be involved from the start

in the negotiation of trade liberalization agreements? What role should they play in the ongoing governance of the regime?

A Potential Role for the NRTEE

The absence of adequate mechanisms to engage civil society, and the debate in trade liberalization negotiations about which actors should be included in such civil society forums stands in marked contrast to the proven record of the NRTEE in over a decade of work at the national level in successfully operating through inclusive, multistakeholder, consensus-oriented forums to identify ways to advance sustainable development. Its involvement in the trade-environment issue, first at the national and perhaps subsequently at the international level could provide a valuable model and practical analytic resource to overcome this current impediment.

Furthermore, there is a striking lack, both at the national and international level, of bodies or forums where the trade community and environmental community can meet as equals to discuss and advance their many joint concerns. At the international level, even within the relatively well developed NAFTA regime, where both trade ministers and environment ministers have each recurrently called for a joint meeting, after almost five years of operation no such meeting has taken place. The trade community lacks a Secretariat to conduct such a dialogue with that of the CEC. The trade-environment work of the CEC has been marked by a continuing suspicion between the two communities, and a reluctance to move boldly and independently to address the major issues in the trade environment debate. The CEC's Joint Public Advisory Committee (JPAC), while affirming the importance of trade-environment issues, has done little work in this area, and contains few members of the trade policy community. The same is true of the government and national committees to the CEC within Canada and its two NAFTA partners. Moreover, within the FTAA and APEC processes, there are virtually no mechanisms for injecting environmental expertise into the trade liberalization negotiation that are rapidly moving to deliver important results.

Within Canada, the general consultative and analytic bodies of the trade and sustainable development communities, broadly defined, also lack the requisite interest and balance. Canada's International Trade Advisory Committee (ITAC) has only very selective representation from parts of the environmental community within its membership. Other analytic bodies in Canada, such as the North South Institute, the International Development Research Centre, the International Centre for Human Rights and Democratic Development, FOCAL, the Asia Pacific Foundation of Canada and its APEC Study Centre are occasionally active on the trade liberalization issue but have only a marginal interest, and virtually no analytic capacity, in the environmental dimensions of this process. The International Institute for Sustainable Development, through its trade program, continues its emphasis on applying a set of principles devised in 1993, to the work of the WTO in particular. It is not currently focused on identifying alternative approaches and priority provisions for the major regional trade negotiations currently underway, notably in the FTAA and APEC.

Over the past decade the NRTEE itself has demonstrated a proven capacity to deal effectively and influentially with the trade-environment issue, in ways that have consequentially shaped the Canadian position and the resulting trade liberalization regimes. Through its work since 1992 it has a respected legacy of developing and forwarding to the Prime Minister and relevant cabinet ministers advice on how best to incorporate environmental provisions into the trade

liberalization agreements that Canada was helping launch or finalize at that time. Separate studies and recommendations were forwarded in regard to the environmental provisions and side agreement of NAFTA, APEC, the FTAA, the Uruguay Round of MTN and WTO, and the Halifax G7 Summit. Senior figures in both the trade and environmental communities found this a valuable contribution, as a consequence of the analytic resources, policy sensitivities and multistakeholder clarification of issues that the NRTEE could uniquely provide. The NRTEE contribution was often consequential in shaping the Canadian position and resulting international process and agreement.

At present, the NRTEE, perhaps working with partner institutions such as FOCAL, the APFC, and other bodies could usefully mount a balanced, multistakeholder effort to clarify options and identify emerging consensus on several central issues in the regional trade negotiations in which Canada is currently involved, and the multilateral process that will in substantial part flow from these. The purpose of such an effort, unfolding from the perspective of Canadian and sustainable development interests, would be threefold:

1. to identify the priority environmental issues in such agreements;
2. identify an acceptable and feasible minimum set of environmental principles and provisions for them (building in part on the earlier work of the IISD);
3. identify an agenda where further analysis is needed

Such an effort could begin by clarifying the options for strengthening the NAFTA trade-environment regime as its five year anniversary approaches, as a recently launched broader review by the trade policy community moves into its key phase, and as the three countries' foreign ministers begin the task of developing a stronger trilateral community. On this basis it could examine how the NAFTA model can be adapted and extended to meet the sustainability needs of the FTAA and APEC trade liberalization regimes.

Among the issues identified above, priority could be given to the following questions, where the NRTEE can best add value:

- What are the environmental consequences of further trade and investment liberalization involving Canada? In particular, does liberalization place downward pressure on the environmental regulations, practices and quality of wealthy countries such as Canada, and can such pressures be alleviated by including strong mechanisms to induce upward movement in the environmental standards of poorer prospective trading partners?
- What are the best mechanisms for civil society participation in trade negotiations and institutions?
- How can trade liberalization instruments best be used for environmental enhancement (for example, producing an environmentally sound definition of the environmental products industry for use in APEC's accelerated trade liberalization process)?
- What is the best means to ensure, through the FTAA and APEC processes, provisions for foreign direct investment that enhance the environment?
- At the regional level, where there are virtually no dedicated environmental institutions for the Americas or Asia-Pacific, how should one construct such institutions and how should

they relate to the regional trade bodies? Multilaterally, can the United Nations Environmental Program (UNEP), the United Nations Commission on Sustainable Development (UNCSD), the International Standards Organization (ISO) and other bodies adequately perform this role?

- How does one create stronger enforcement mechanisms within trade agreements to secure improved environmental standards?
- How should one best define, develop and apply scientifically sound standards that take full account of potential environmental consequences throughout the life cycle of a product?
- How can the dispute resolution mechanisms for trade at the regional and multilateral levels be reformed to accord greater sensitivity to environmental considerations, and take environmental impacts into account in the remedies they prescribe?