

Multilateral Trade Measures in a Post-2012 Climate Change Regime?: What Can Be Taken from the Montreal Protocol and International Negotiations on Climate and Trade?¹

Dr. ZhongXiang Zhang 张中祥

Senior Fellow, Research Program, East-West Center, Honolulu, Hawaii, USA
Tel: +1-808-944 7265; Fax: +1-808-944 7298; Email: ZhangZ@EastWestCenter.org

1. Trade Measures in the Montreal Protocol

The Montreal Protocol (MP) uses trade measures as one enforcement mechanism among several policy instruments in achieving its aim of protecting the ozone layer. Parties to the treaty are required to ban trading with non-parties in ozone-depleting substances (ODS), such as CFCs, in products containing them, such as refrigerators, and potentially, in products made with but not containing CFCs, such as electronic components. The last provision has not yet been implemented primarily because of problems of detection, and also because of the small volumes of CFCs involved. These trade measures have been gradually extended to all the categories of ozone-depleting substances covered by the Montreal Protocol. Moreover, these trade measures are accompanied with finance and technology transfer mechanisms. Under the MP, the Multilateral Fund for the Implementation of the Montreal Protocol was established in 1990 to meet the incremental costs of developing country parties (the so-called Article 5 countries) in complying with the MP requirements. Since its operation in 1991, the Multilateral Fund has received contributions totaling over US\$ 2.3 billion from 49 industrialized countries and supported about 5,700 projects and activities in 146 developing countries. The implementation of these projects will result in the phase-out of the consumption of more than 249,577 ODP tonnes and the production of about 174,206 tonnes of ozone depleting substances. As a result, developing countries are no worse off as parties than they are as non-parties. The MP is now 20-year old with 191 Parties. It has achieved 95% of its objective of phasing out the ODS and put the ozone layer on the path to recovery.² Accompanied with this effective financial mechanism, the first of this kind from an international treaty, the MP trade measures have in fact hardly ever been used, because almost every country is now a party to the treaty.

Lesson learned from the MP: trade measures can be incorporated in multilateral environmental agreements (MEAs) and works effectively in practice only if they are accompanied with effective finance and technology transfer mechanisms.

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² See the Multilateral Fund web site at: <http://www.multilateralfund.org> (accessed on August 29, 2008).

2. The combined pledged and estimated funding from the funds under the UNFCCC and its KP are too little to make trade measures work effectively, even if they were incorporated in a post-2012 climate regime.

The Kyoto Protocol (KP) establishes a clean development mechanism (CDM). It serves as a channel to provide finance and technology transfer to developing countries. The CDM market increased from 563 million tons of certified emission reductions (CERs) and €3.9 billion in 2006 to 947 million tons of CERs and €12 billion in 2007. The astonishing increase in value terms is due mainly to dramatic growth in the secondary market with about 300 million CERs traded over the course of 2007 (Point Carbon, 2008). While the CDM has emerged as a financing mechanism to mitigate greenhouse gas emissions as the implementation of CDM projects has progressed, it still does not work to full potential scale. To that end, change needs to take place both at national and international levels. At the national level, for those developing countries that have not truly benefited from the CDM, they need to put in place clear institutional structures, streamlined and transparent CDM procedures and sound governance of clearer lines of responsibility and functions to facilitate the smooth implementation of CDM projects in their countries. At the international level, post-Kyoto climate negotiations need to reform the CDM to overcome its current structural limitations and to make it accommodate those players and types of small projects that have been left out to date. When taken together and combined, they will help to expand the number and geographical reach of the CDM, thus spreading its benefits to more countries (Zhang, 2008a). Nevertheless, markets cannot deliver miracles. Market instruments like CDM, as useful as it may be, must therefore be complemented with traditional fund solutions that provide a stable source of funding.

Can the funds established within the climate regime deliver as the Multilateral Fund under the MP did? The Special Climate Change Fund, and the Least Developed Countries Fund are established under the UNFCCC. The contributions from these two funds are expected to be US\$227 million a year (UNFCCC, 2007). The only fund under the KP is the Adaptation Fund. The level of its funding depends on the quantity of CERs issued and their prices. Assuming annual sales of 300-450 million tons of CERs and a market price of US\$24 per ton of CERs, the Adaptation Fund would receive US\$80-300 million per year for the period 2008-2012 (UNFCCC, 2007). By contrast, according to the Stern Review (Stern, 2007), the incremental costs of low carbon investments in developing countries are likely to be at least US\$20-30 billion a year. This is a very conservative estimate. The UNFCCC (2007) Secretariat puts the investment estimates for climate change adaptation in developing countries in the range of 28-67 billion a year. So, **the contributions from all these three funds only amount to less than one percent of the anticipated needs from developing countries.** If the funding available under the financial mechanism of the UNFCCC remains at its current level and continues to rely mainly on voluntary contributions, it will not be sufficient to address the future financial flows estimated to be needed for climate change adaptation in developing countries, not to mention investment need for climate change mitigation. **If a success of the MP could be considered as some kind of predictor for a post-2012 climate regime, the combined pledged funding from the funds under the UNFCCC and estimated funding from the fund under its KP are nowhere near to make trade measures work**

effectively, not to mention whether they can be incorporated in a post-2012 climate regime in the first place.

3. The findings of WTO Appellate Body in the Shrimp-Turtle dispute: Can they be interpreted as future WTO panels may favor measures that are explicitly mandated and multilaterally agreed upon by the post-Kyoto climate change regime?

The WTO Appellate Body decisions on the Shrimp-Turtle dispute have been interpreted as implicitly permitting trade measures pursued through MEAs. To address the decline of sea turtles around the world, in 1989 the U.S. Congress enacted Section 609 of Public Law 101-162 to authorize embargoes on shrimp harvested with commercial fishing technology harmful to sea turtles. The U.S. was challenged in the WTO by India, Malaysia, Pakistan and Thailand in October 1996, after embargoes were leveled against them. The four governments challenged this measure, asserting that the U.S. could not apply its laws to foreign process and production methods. A WTO Dispute Settlement Panel was established in April 1997 to hear the case. The Panel found that the U.S. failed to approach the complainant nations in serious multilateral negotiations before enforcing the U.S. law against those nations. The Panel held that the U.S. shrimp embargo was a class of measures of PPMs type and had a serious threat to the multilateral trading system because it conditioned market access on the conservation policies of foreign countries. Thus, it cannot be justified under GATT Article XX. However, the WTO Appellate Body overruled the Panel's reasoning. The Appellate Body held that a WTO member requires from exporting countries compliance, or adoption of, certain policies prescribed by the importing country does not render the measure inconsistent with the WTO obligation. Although the Appellate Body still found that the U.S. shrimp embargo was not justified under GATT Article XX, the decision was not on ground that the U.S. sea turtle law itself was not inconsistent with GATT. Rather, the ruling was on ground that the application of the law constituted "arbitrary and unjustifiable discrimination" between WTO members (WTO, 1998). The WTO Appellate Body pointed to a 1996 regional agreement reached at the U.S. initiation, namely the Inter-American Convention on Protection and Conservation of Sea Turtles, as evidence of the feasibility of such an approach (WTO, 1998; Berger, 1999). Here, the Appellate Body again advanced the standing of multilateral environmental treaties (Zhang, 2004; Zhang and Assunção, 2004). Thus, it follows that this trade dispute at the WTO may have been interpreted as a clear preference for actions taken pursuant to multilateral agreement and negotiated through international cooperative arrangements, like the Kyoto Protocol and its follow-up regime in the case of dealing with the global climate change problem. However, this interpretation should be with great caution, because there is no doctrine of *stare decisis* (namely, "to stand by things decided") in WTO. Put another way, the GATT/WTO panels are not bound by previous panel decisions (Zhang and Assunção, 2004).

4. What Can We Take from the Lessons from the MP and the Findings of WTO Appellate Body in the Shrimp-Turtle Dispute?³

³ This section draws heavily on Zhang (2004).

The lesson from the MP suggests that trade measures can be incorporated in MEAs and works effectively in practice only if they are accompanied with effective finance and technology transfer mechanisms. However, given that the combined pledged funding from the funds under the UNFCCC and the estimated funding from the fund under its KP are far from the anticipated needs from developing countries, it is conceivable that developing country parties would not agree on incorporating trade measures against them in any post-2012 climate regime in the first place. Moreover, even if they were incorporated, they will not work.

Can a post-2012 climate regime incorporate trade measures as an enforcement and compliance mechanism for a set of countries, say, Annex II countries under the UNFCCC? In my view, trade measures should, at the very least, be contemplated for this set of countries as part of the evolving climate regime. It may be not expected to be an issue for the majority of Annex II countries to agree on trade measures in a post-2012 climate regime. The real issue is whether trade measures, if were incorporated, can be upheld if challenged by the U.S. under WTO?

The WTO Appellate Body decisions on the Shrimp-Turtle dispute have a bearing on this issue and relevance to the Kyoto Protocol. Some analysts (e.g., Ahn, 1999) suggest that the Appellate Body's ruling implies that requiring other WTO members to adopt a comparable regulatory program may not be inconsistent *per se* with the WTO obligation, if serious efforts were made to reach an international agreement with states whose WTO rights might be affected by an environmental policy measure. This represents a fundamental shift in WTO jurisprudence. The dispute settlement reasoning, if sustained, would permit members to invoke the Article XX exemptions to regulate imports on the basis of non-product related PPMs to accomplish environmental objectives both outside their jurisdiction and in the global commons -- and perhaps to achieve other social objectives (Morici, 2002).⁴ Along this line, Buck and Veheyen (2001) argue that rejecting the Kyoto Protocol, the U.S. resists or even obstructs international cooperation on climate change, and violate its international obligations to cooperate in this field. Thus, the U.S. loses some of its legitimacy to challenge climate change policy measures adopted by more constructive and progressive governments as WTO-incompatible. This does raise an important point in its references to international obligations. Article 18 of the Vienna Convention on the Law of Treaties is relevant in that regard and states as follows:

“A state is obliged to refrain from acts which would defeat the object and purpose of a treaty when:

⁴ It should be pointed out, though, that there is no universally accepted interpretation of the Appellate Body decision (IPCC, 2001). Other analysts (e.g., Jackson, 2000) argue that such a conclusion that PPMs no longer violate WTO by their very nature is premature legally or has been insufficiently debated and tested in the scientific literature. The WTO Director General Lamy (2008) warns not to take this decision out of context.

(a) it has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval until it shall have made the intention clear not to become a party to the treaty...”⁵

This Article requires that a non-ratifying treaty signatory communicates its withdrawal or is held to not violate the treaty’s object and purpose. This is why the U.S. withdrew from the International Criminal Court (ICC) – U.S. could have its standing challenged, for example, not to surrender to the ICC any wanted American servicemen.⁶ Similarly, this means that unless the U.S. takes a formal step to withdraw from the UNFCCC, the U.S. could lose some of the protections afforded it under WTO rules in any WTO dispute brought by the EU or other Kyoto Parties.⁷ A WTO Dispute Panel or the Appellate Body could, in keeping with the Vienna Convention and customary international law, deny the U.S. legal standing to challenge, for example, EU measures to enforce Kyoto (Horner, 2002; USCIB, 2002).

Provided that the U.S. takes a formal step to withdraw from the UNFCCC, would trade measures be upheld if challenged by U.S. under WTO? It has been argued that in dealing with transboundary and global environmental problems such as climate change, policies and measures adopted through multilateral negotiation processes have better chances to be WTO-consistent and thus avoid unnecessary conflicts and trade disputes. However, this does not in itself resolve the legal difficulties, especially vis-à-vis non parties. The question remains on how the WTO would apply its rules with respect to specific trade-related measures in MEAs when one WTO member country is not a party to such MEAs but is affected by these measures. Could the country affected use WTO rules to overrule the trade measures? This is an issue that need to be clarified under WTO.⁸ The WTO members remain divided over this issue.

⁵ The Vienna Convention on the Law of Treaties Available at: <http://www.un.org/law/ilc/texts/treaties.htm>.

⁶ The ICC was formally launched in March 2003 in The Hague. Unlike the International Court of Justice, also in The Hague, the ICC is designed to deal with crimes by individuals, not disputes between states. So, for example, whatever the outcome of the dispute within the United Nations Security Council, the ICC will not be able to rule on the legality of invasion of Iraq. The U.S. has campaigned against the court for fear that it will be used to mount politically motivated prosecutions of American government officials (The Economist, 2003).

⁷ This is because the U.S. has signed the UNFCCC, even if it has not ratified the Kyoto Protocol to the Framework Convention.

⁸ In preparing the WTO ministerial conference at Doha, the European Union (2001) “wants to clarify that measures taken to tackle environmental problems under Multilateral Environmental Agreements (MEAs), such as the Kyoto Protocol on Climate Change, are not contrary to WTO rules. For example, problems could arise if a country imposed a trade measure for environmental purposes on another WTO Member that had not signed the MEA. Could the country affected use WTO rules to overrule the trade measures? The EU wants WTO Members to agree that this should not be allowed to happen.” (European Union, 2001).

5. Developing Country Commitments Are Most Unlikely to Go Beyond Policies and Measures in a post-2012 climate Regime⁹

The U.S. commitments at Kyoto and diplomatic and public pressure on China had put great pressure on China to take on some kind of commitments. In expectation that the U.S. would take on the more stringent commitments subsequent to the first compliance period (namely, far below its 1990 level), I envisioned a decade ago the following six proposals that could be put on the table as China's plausible negotiation position, which is each described in ascending order of stringency (Zhang, 2000).¹⁰

“First, China could regard its active participation in CDM as “meaningful participation”.

Second, just as Article 3.2 of the Kyoto Protocol requires Annex I countries to “have made demonstrable progress” in achieving their commitments by 2005, China could commit to demonstrable efforts towards slowing its greenhouse gas emissions growth at some point between the first commitment period and 2020. Securing the undefined “demonstrable progress” regarding China's efforts is the best option that China should fight for at the international climate change negotiations subsequent to Buenos Aires.

Third, if the above commitment is not considered “meaningful”, China could go a little further to make voluntary commitments to specific policies and measures to limit greenhouse gas emissions at some point between the first commitment period and 2020. Policies and measures might need to be developed to explicitly demonstrate whether or not China has made adequate efforts. Such policies and measures might include abolishing energy subsidies, improving the efficiency of energy use, promoting renewable energies, and increasing the R&D spending on developing environmentally sound coal technologies.

Fourth, China could make a voluntary commitment to total energy consumption or total greenhouse gas emissions per unit of GDP at some point around or beyond 2020. In my view, carbon intensity of the economy is preferred to energy intensity of the economy (i.e., total energy consumption per unit of GDP) because all the efforts towards shifting away from high-carbon energy are awarded by the former...

The fifth option would be for China to voluntarily commit to an emissions cap on a particular sector at some point around or beyond 2020. Taking on such a commitment, although already burdensome for China, could raise the concern about the carbon leakage from the sector to those sectors whose emissions are not capped.

⁹ This section draws heavily on Zhang (2000 and 2008b).

¹⁰ Zhang (2000) was originally prepared for the United Nations Development Programme in 1998. When the draft of my paper was ready, the Washington DC-based Resources for the Future made a press release titled “Is China Taking Actions to Limit Its Greenhouse Gas Emissions?”, September 15, 1998.

This leads to **the final option** that China could offer: a combination of a targeted carbon intensity level with an emissions cap on a particular sector at some point around or beyond 2020. This is the bottom line: China can not afford to go beyond it until its per capita income catches up with the level of middle-developed countries.”

It looked like China would be pressured to take on commitments at much earlier date than what China wished. This situation has changed once the U.S. withdrew from the Kyoto Protocol.

A decade later, we see that the carbon intensity and sectoral approaches-based commitments, which were discussed in the academic literature ten years ago, are formally incorporated into the Bali roadmap that aims to reach an agreement to successor to the Kyoto Protocol, with a clear deadline for the conclusion by 2009. This is a very positive development, and clearly indicates the policy relevance of the once-sound-theoretical ideas. However, I really doubt that developing countries may go beyond the aforementioned third option between 2013 and 2020 for several reasons.

First, given the very short timeframe to conclude the negotiations, it would in all likelihood not be possible to reach the necessary agreement on the rules, countries and sectors covered and the levels of ambitions for developing countries, especially due to the amount of the data that would be required (Sterk, 2008). As it has been indicated by the Asian-Pacific Economic Cooperation (APEC) Leaders Summit in September 2007, setting a carbon intensity target, even if it is not binding, is not that easy. Australia, the host country, proposed that all 21 APEC economies, regardless of whether they are developed and developing economies, agree to reduce energy intensity by at least 25% by 2030, but in the end the leaders only agreed to work towards achieving an *APEC-wide* (emphasis added) aspirational goal in energy intensity by at least 25% by 2030, relative to 2005 levels. This should not come as a surprise because energy use per unit of GDP, a key indicator of patterns of energy use, is still high in many developing Asian countries, and even increased in countries such as Brunei, the Philippines, Malaysia, South Korean and Thailand between 1990 and 2004. Indonesia and Pakistan consumed almost the same amount of energy per unit of GDP as they were in 1990 (Figure 1). Even the rate of energy efficiency improvement in IEA countries has been less than 1% per year since 1990 – much lower than in previous decades.

Second, it is inconceivable that developing countries would ever go beyond the aforementioned third option between 2013 and 2020 without an effective financial mechanism. Market instruments like CDM, as useful as it may be, must be complemented with traditional fund solutions that provide a stable source of funding. However, the pledged funding from the funds under the UNFCCC and KP are far from the anticipated needs from developing countries. Unless this funding situation changes significantly, which is mostly unlikely to happen, developing countries cannot afford to make commitments beyond the third option above-envisioned a decade ago.

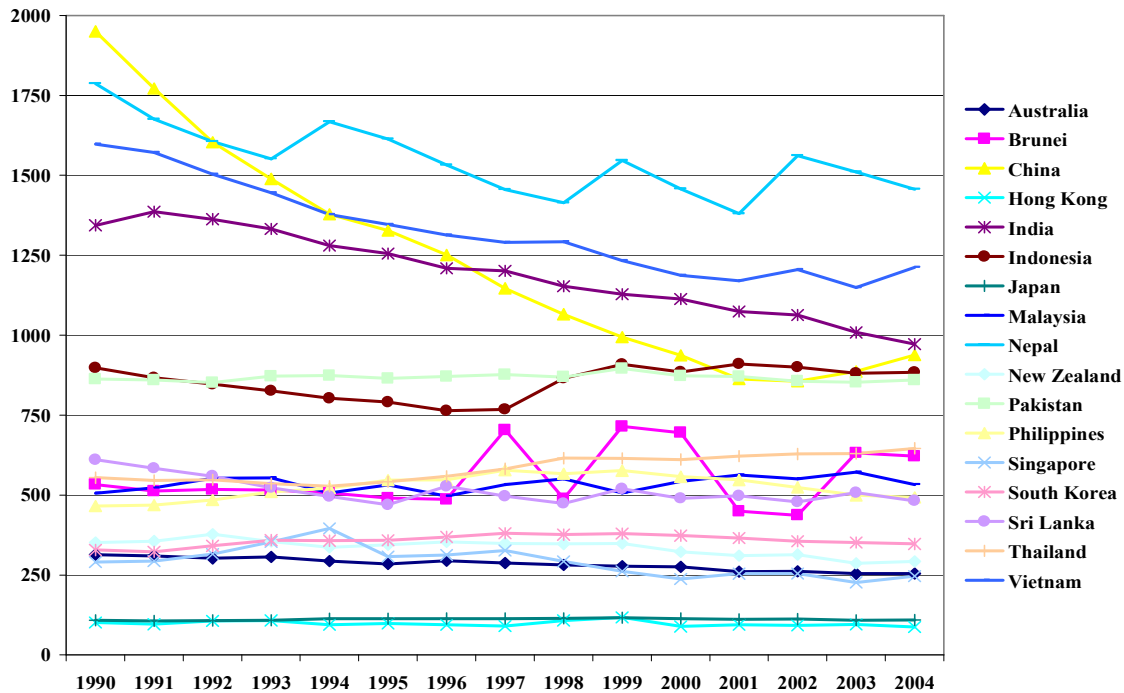


Figure 1. Energy use per unit of GDP in the selected Asia Pacific countries, 1990-2004 (Tons of oil equivalent/million 2000 US\$).

Source: Zhang (2008a).

Third, the U.S. factor will continue to play a role in affecting developing country's willingness to take on commitments and the stringency of that commitments. Let's look at the Lieberman-Warner Climate Security Act of 2008 (S.3036), the most detailed bipartisan bill to date to require domestic, mandatory and economy-wide GHG emissions reductions in the U.S. beginning January 1, 2012. On June 6, 2008, the U.S. Senate debated and held votes on S.3036. While it failed to secure the 60 votes needed to close debate on the bill and move to a final vote (i.e., to "invoke cloture"), this bill has made more headway than any of its precursors because it was the first time that a GHG cap-and-trade bill had ever come to the floor of the U.S. Senate through regular order—that is, having been debated and voted out of a committee. Therefore, this Act is likely to serve as a template for any future bill. Under this Act, 87% of the U.S. GHG emissions are estimated to be subject to the emission caps that are set 19% below the 2005 level by 2020 (Pew Center on Global Climate Change, 2008). However, the U.S. GHG emissions were 16.8% higher in 2005 than that in 1990 (EIA, 2007), and not all emission sources are capped under the Act. As a result, even if the Act becomes law, the U.S. GHG emissions in 2020 are probably still above its 1990 level. This is far short of a 7% reduction of the U.S. GHG emissions during the period 2008-2012 required by the Kyoto Protocol. In expectation that the U.S. would take on the more stringent commitments subsequent to the first compliance period (namely, far below its 1990 level), I envisioned a decade ago that developing countries may go beyond the aforementioned third option. However, the U.S. emissions in 2020 are at best kept at its 1990 level as estimated under

the Lieberman-Warner Climate Security Act. This is far from the point where it is likely that developing country would do that.

6. Focus on Carrots, Rather Than Sticks, as the Main Means of Encouraging Developing Countries to Do More

Understandably, U.S. and other industrialized countries like to see developing countries, in particular large developing economies, to go beyond that. They are considering unilateral trade measures to “induce” developing countries to do so. WTO members have rights to do that because they are free to unilaterally decide what measures to take and under what conditions. But once they have made such a choice, then and only then the WTO rules apply. For example, a variety of measures have been put forward for the U.S. legislators to consider, falling into the three broad categories: border adjustments, performance standards and carbon market design (Subcommittee on Energy and Air Quality of the U.S. House of Representatives, 2008). Such measures can only go ahead firmly if they withstand challenges before the WTO. To date, there is a considerable disagreement as to what measures would be most likely to pass muster under the WTO. Therefore, from the perspective of the WTO consistency, industrialized countries need to focus on carrots, assisted with sticks, as a means of encouraging developing countries to do more domestically than what are internationally agreed on.

However, measures as proposed in the Lieberman-Warner Climate Security Act of 2008 hold out more sticks than carrots to developing countries. Its original version had already threatened to punish energy-intensive imports from developing countries by requiring importers to obtain emission allowance, but only if they had not taken comparable actions by 2020. The current version has brought the deadline forward to a rather unrealistic 2014. The bill has also dramatically expanded the punishment scope: almost any manufactured product would now qualify. Moreover, developing countries will have to take comparable actions as the U.S. does in order to avoid this punishment. Having one country to define whether other countries have made comparative efforts to its own can hardly be objective. If strictly implemented, this will pose an impossibly high hurdle for developing countries (The Economist, 2008). Such measures, if undertaken, would be counterproductive.

If the U.S. and other industrialized countries really want to persuade developing countries to do more, they should better look into other avenues. An old Chinese saying goes, “Let him who tired the bell on the tiger take it off – whoever started the trouble should end it”. This suggests that they need to first reflect why developing countries are unwilling to and cannot afford to go beyond in the first place. That will require industrialized countries to seriously take developing country’s legitimate demand that industrialized countries need to demonstrate that they have taken the lead in reducing their own greenhouse gas emissions, provide significant funding to support developing country’s climate change mitigation and adaptation efforts and to transfer low or zero carbon emission technologies at an affordable prices to developing countries. Industrialized countries need to provide positive incentives to encourage developing countries to do more. This should serve as the main means. Sticks can be incorporated, but they have to be credible and realistic and

only serve as a useful supplement to push developing countries to take actions or adopt policies and measures earlier than what otherwise have been the case.

In the meantime, current international trade negotiations can also make an important contribution to that end. One area that holds the promise is the opening of environmental goods and services, in particular those directly linked to addressing climate change. The Doha Round Agenda (paragraph 31(3)) calls for liberalization of environmental goods and services (EGS). Agreement on this paragraph should represent one immediate contribution that the WTO can make to fight against climate change (Lamy, 2008). However, negotiations on this EGS agenda have stalled. The OECD has advocated a list-based approach, whereby goods and services on an agreed list will be subject to enhanced market access. Such lists have been produced by the OECD and APEC. The two lists have 54 goods in common. However, 50 goods on the APEC list do not appear on the OECD list, while 68 goods on the OECD list do not appear on the APEC list. The main difference between the two lists is that minerals and chemicals for water/waste treatment are exclusive to the OECD list, while the APEC list includes a relatively more extensive set of goods needed for environmental monitoring and assessment. The OECD list also contains a large number of environmentally preferable goods (Steenblik, 2005). Just prior to the UN climate change conference in Bali, the EU and US submitted a joint proposal at the WTO calling for trade liberalization in climate-friendly goods and services, with an aim to have a zero tariff for 43 climate-friendly goods in the near future but no later than 2013. Many developing countries have consistently expressed concern about using a list of environmental goods slated for expedited liberalization, noting that many products on that list are primarily of export interest to industrialized countries, thus compromising its development dimension. The Indian Ambassador even said that this EU-U.S. proposal was “a disguised effort at getting market access through other means and does not satisfy the mandate for environment.” (ICTSD, 2007a). Another sticking point is related to the issue of “dual use”, in that many goods included on an environmental goods list also have non-environmental uses as well as environmental uses (ICTSD, 2007a).¹¹ In response, some developing countries like India and Argentina have advocated a project-based approach, where EGS required for a particular environmental project would have preferred market access. Brazil suggested that its “request-offer” approach took into account developing country interests more adequately than the common list that was put forward by the EU-U.S. submission (ICTSD, 2007a,b). All these different voices clearly suggest that some WTO members have yet to be convinced of the climate mitigation credentials of some of the products that Europe and the U.S. have put on the table. Moreover, the developing world is in search of both an economic and an environmental gain through these negotiations under the Doha Development Round — and rightly so (Lamy, 2008). Even if these negotiations are on environmental issues, they must

¹¹ For instance, an analysis of the APEC list done by The Energy and Resources Institute of India found that only 16 out of 109 items could be predominately used for environmental purposes. Much of the equipment listed is, to a large extent, used for other purposes. Summary Report from Seminar on Trade Liberalization in Environmental Goods and Services, Organized by UNCTAD, Ministry of Commerce and Industry, and The Energy and Resources Institute, New Delhi, May 16, 2003.

nevertheless deliver a trade gain if they are being conducted under the Development Round roof of the WTO. Europe and the U.S. must turn its attention to these matters in order to proceed further. Clearly, having an agreement on EGS or a subset of EGS such as climate-friendly goods under WTO is the first best choice. However, should WTO members fail to reach such an agreement, then the second-best option needs to be explored. A plurilateral WTO agreement in this area is such an option. It needs not to be extended to non-signatory WTO members on an MFN basis. While such a plurilateral agreement is not ideal, it would still have value, in particular if the key trading parties were involved.

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