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ПРОГРАММА ОРГАНИЗАЦИИ ОБЪЕДИНЕННЫХ НАЦИЙ ПО ОКРУЖАЮЩЕЙ СРЕДЕ

UNEP-MEA Meeting on Enhancing MEA and WTO Information Exchange

Palais des Nations, Geneva
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CHAIRMAN'S SUMMARY

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Introduction

This meeting, co-sponsored by UNEP and a number of multilateral environmental agreements (MEAs) on 11 November 2002, was organised to explore ways to enhance information exchange and achieve reciprocal observer status between the WTO, MEAs and UNEP. It was held immediately prior to the CTE Special Session MEA Information Exchange Session, with the aim also of contributing additional perspectives and ideas to that meeting.

The goal of this UNEP-MEA meeting was to provide opportunities for trade and environment officials to explore how information exchange and reciprocal observer status could help develop synergies between MEAs and the WTO. The meeting brought together trade and environment officials from capitals and Geneva-based missions, as well as representatives of the WTO Secretariat, UNEP, seven MEA Secretariats, other intergovernmental bodies and NGOs. Briefings on trade-related environmental measures and the role of MEAs in regulating trade were made by the Secretariats of the Convention on Biological Diversity (CBD), its Biosafety Protocol, the UN Climate Change Convention and the Basel Convention in the morning. Presentations by the last two of these MEA Secretariats, the Ramsar Convention, the WTO Secretariat and UNEP in the afternoon, focused on information exchange and reciprocal observer status.

This meeting builds on a process facilitated by UNEP since 1997 that has focused on enhancing the synergies between WTO, MEAs and UNEP. This process is founded on UNEP's mandate, formulated at its 21st Governing Council, which includes further analysis of the relationship between MEAs and the WTO, with a view to making trade and environment policies mutually supportive (GC 21/14). It also reflects the renewed emphasis on cooperation between trade and environment institutions given by trade ministers at the WTO's Ministerial Conference in Doha, and by Heads of State and Ministers at the World Summit on Sustainable Development in Johannesburg.

- In Doha, Ministers welcomed "the WTO's continued cooperation with UNEP and other inter-governmental environmental organizations" and "encouraged efforts to promote cooperation between the WTO and relevant international environmental and developmental organizations."
- At the recent World Summit on Sustainable Development (WSSD) the Plan of Implementation agreed by Heads of State identifies the need to "strengthen cooperation among UNEP and other United Nations bodies and specialized agencies, the Bretton Woods institutions and WTO, within their mandates."

Information exchange and cooperation are keys to developing practical tools for enhancing synergies between the multilateral trade and environment regimes. Consequently, the meeting was structured to provide opportunities for focused dialogue between governments, the WTO, MEA and UNEP secretariats, and other stakeholders. UNEP gratefully acknowledges funding from the Department of Foreign Affairs and International Trade of Canada and Environment Canada that supported the presence of 14 officials from developing country capitals at the meeting and the subsequent CTE Special Session. Their participation brought new perspectives to the discussions, and contributed to policy coordination and information exchange at national and international levels.

This document represents a Chairman's summary of the meeting. Without attempting to itemize the many important contributions made, it provides an overview of the main issues raised by participants and a list of future work that were suggested by some government representatives. This summary does not represent a consensus document by Governments attending the meeting. Rather, it is offered by the Chair as a source of information for Governments, and to seek their further input and guidance as part of an ongoing, informal and collaborative initiative to foster synergies between trade and environment policies, rules and institutions.

MEA briefings on trade-related environmental measures and implementation issues

The morning session was dedicated to briefings by three MEA Secretariats on trade-related environmental measures and trade implications of the agreements.

Convention on Biological Diversity and Cartagena Protocol on Biosafety. The briefings of the CBD Secretariat on the Convention on Biological Diversity and its Biosafety Protocol focused on trade-related measures used in the implementation of these agreements. In relation to the Convention, it was noted that while there were no trade measures in the agreement, trade-related measures would include measures related to identification, monitoring and policy responses; incentives – positive, negative and indirect – for conservation and sustainable use of biodiversity, including the removal or mitigation of perverse incentives; measures to control alien invasive species; issues relating to benefit sharing and traditional knowledge; and technology transfer. In relation to the Protocol, the presentation focused on measures and their potential trade implications relating to transboundary movements, handling and use of living modified organisms.

Questions from participants focused on the status of implementation of the Biosafety Protocol, including when trade-related provisions would come into force, what capacity-building is available to developing countries for implementation, and the nature of work being done on incentive measures for sustainable use of biodiversity. The Secretariat's responses emphasised that the implementation-related activities of the Biosafety Protocol are mainly related to its Biosafety Clearing House, focusing on the development of national biosafety frameworks and national level implementation projects; and that in the CBD most emphasis on incentive measures was being placed on positive incentives as well as perverse incentives and their removal or mitigation.

UN Framework Convention on Climate Change (UNFCCC). The presentation by the Secretariat of the UNFCCC noted that while there were no trade measures in the agreement, some implementation measures such as legally binding emission reduction commitments could have trade effects. The secretariat noted a need for innovation in addressing institutional overlaps between this agreement and the WTO, with the aim of achieving the common goal of sustainable development. Information exchange and cooperation should engage the UNFCCC Conference of the Parties and its subsidiary bodies on the one hand, and the WTO Members, subsidiary bodies and mechanisms such as the CTE and the DSU. More exploration was required of specific issues and policy tools on the interface between the two agreements, including technology transfer, dispute settlement and compliance procedures, and trade effects of implementation measures for the Convention.

Questions from participants focused on the potential effects of implementation measures on competitiveness, whether emission trading is an issue to be considered in the context of future discussions of environmental goods and services developed in the WTO, and whether there are any real conflicts between measures in the UNFCCC or its Kyoto Protocol and WTO rules. It was noted by both the Secretariat and one participant in the meeting that policy coordination at the national level is a key to avoiding tensions or potential conflicts between these agreements.

Basel Convention on Transboundary Movement of Hazardous Wastes. The presentation of the secretariat emphasized that the Convention has successfully put in place a worldwide control system for transboundary movements of hazardous wastes. The 1999 Basel Ministerial Declaration on Environmentally Sound Management has provided a vision and a solid foundation for moving into concrete implementation at the regional, national and international level, of activities to protect human health and the environment from the adverse effects of hazardous and other wastes. The secretariat stressed the pressing need for having comprehensive policies to achieve these environmentally sound management goals taking into account their social, environmental and economic dimensions. Reference was made to particular policy challenges to ensure proper dismantling of ships, the recovery of used lead-acid batteries, the disposal of electronic wastes and cleaning up or removal of asbestos. The potential high economic and developmental costs associated with unsound management of wastes was emphasized. The secretariat further noted that efforts to build the institutional and technical capacity of States to prevent, minimize and manage wastes in an environmentally sound manner should be carried out in phase with the development of the multilateral trade regime.

Questions and comments from participants focused on what measures could be taken under the Basel Convention to address working conditions at the local level, how to control illegal dumping of hazardous waste, the need to reduce the generation of waste rather than dispose of it, and the importance of partnership in establishing ESM of hazardous waste. The Secretariat gave an illustration of the effective cooperation with ILO to address environmentally sound management with a view to improving working conditions at the local level. The secretariat affirmed the importance of governments cooperating with

each other to enhance their capacities to enforce the Convention's provisions, and that multistakeholder partnerships such as the African Stockpiles Project on the clean up and prevention of obsolete stocks of pesticides are potentially powerful tools to achieve environmentally sound management.

The role of information exchange in enhancing cooperation

The afternoon session focused on information exchange and observer status. A first step towards genuine cooperation and collaborative policy making is open information exchange. To facilitate dialogue in the meeting, Annotation I of the agenda posed some questions on the modalities required to achieve this. These included the following issues:

- How information exchange at the international level might stimulate more information exchange and coordination on trade and environment policies at the national level;
- Whether Information Sessions like that of today can be formalized, regularized and increased in frequency;
- How a focus on specific issues might enhance the value of information exchange;
- Whether UNEP, WTO and MEA Secretariats should continue to provide focused background papers to support future information exchange exercises; and
- What opportunities exist to further strengthen cooperation between officials representing the secretariats of the WTO, MEAs and UNEP, and in what areas?

Participants in the meeting raised a number of points including that:

- Back-to-back meetings organised by UNEP and the MEAs have made a very constructive contribution to discussions in the WTO, and could continue to play a useful role in the context of the Doha Work Programme and the WSSD's Plan of Implementation;
- Focusing information exchange and meetings on specific topics, timed to be of relevance to WTO discussions and negotiations, could enhance the value of these meetings. A number of participants cited the example of the meeting organised by UNEP in June 2001 on compliance and dispute settlement in the WTO and MEAs;
- Information exchange is not an end in itself, but should lead to more cooperation between MEAs, UNEP and the WTO; and
- A key objective of these meetings and information exchange at international level is to enhance coordination of trade and environment policies at national level. While governments should take the lead on this issue at the national level, enhanced international dialogue, and capacity building which grows out of information exchange can strengthen national policy coordination.

A number of participants supported the production of more joint papers on specific topics by the WTO, UNEP and MEA Secretariats, as a way of focusing information exchange and deepening analysis of inter-linkages and potential synergies. It was noted that a combination of formal meetings such as this one, exchange of documents, better national level coordination and secretariat-to-secretariat cooperation would also contribute to enhancing synergies. Exchange of papers through web-sites, created by the WTO and MEA Secretariats and UNEP, could also make a valuable and readily accessible contribution to more focused information exchange.

A number of participants commented on the value of the annotated agenda prepared for this meeting, in stimulating focused discussions. The representative of the UNFCCC Secretariat welcomed WTO side events held in this MEA's COPs. The representative of the CBD Secretariat noted that the TRIPS Council had recently requested a briefing note on the "activities of the Convention on Biological Diversity of relevance to the review of Article 27.3(b) of the TRIPS Agreement, the relationship between the Convention on Biological Diversity and the TRIPS Agreement, and the protection of traditional knowledge and folklore", from the CBD Secretariat. The representative suggested that this could be a useful information exchange mechanism in the context of other WTO bodies.

A number of participants underlined that an innovative approach to information exchange was necessary to make the most of this tool, and that ways should be explored to increase communication between governing bodies and relevant subsidiary bodies of MEAs and the WTO. Some delegations also emphasized that information exchange should focus on issues of particular relevance to developing countries, and that this exchange should also be used to enhance inter-ministerial coordination at the national level.

There was considerable discussion on the issues of regularizing and taking steps to further institutionalise information exchange between MEAs and the WTO. Whereas there seemed to be broad support for more regular information exchange, including through meetings such as this one, opinions differed on whether or not greater formalisation or institutionalisation is necessary. One participant suggested that the views of MEA Secretariats should be sought on the issues of both structuring and institutionalising information exchange.

Substantive areas for information exchange

Discussions at the meeting also explored some of the substantive policy areas that would benefit from further information exchange. A non-exclusive list of areas was provided in Annex I of the annotated agenda, among which the following attracted the interest of participants:

- **Technology transfer.** Some participants noted the value of investigating the potential synergies between provisions on technology transfer in MEAs and the WTO, with a view to enhancing them. Provisions on technology transfer exist in the Basel and Climate Change Conventions, the Montreal Protocol, the Convention on Biological Diversity and the WTO TRIPS Agreement. It was noted that technology transfer will be a theme for in-depth discussion at the next COP of the CBD.
- **Promoting sustainable trade.** The promotion of trade in sustainably produced products was identified by some participants as way both to promote implementation of MEAs, and to enhance the contribution of trade to sustainable development more generally. Information exchange between trade and environment officials could help combine expertise to integrate these policy objectives, and support WTO discussions on the liberalization of trade in environmental goods and services. Information exchange could help identify new market access opportunities in this sector for developing countries. The representative of the Ramsar Secretariat described a number of national level projects (in Brazil, Ecuador, the Comoros, Namibia, Botswana and South Africa), which are promoting trade in sustainably produced products from wetlands, achieving both poverty alleviation and nature conservation objectives.
- **Trade-related measures in MEAs.** Some participants noted that information exchange on the role of trade-related measures in MEAs could contribute to discussions at the WTO, including the negotiation on specific trade obligations in MEAs. It was noted by one participant that trade needs to take place within social and environmental parameters if it is to contribute to sustainable development. Trade-related measures can play an important role in defining those parameters.
- **Integrated assessment.** Some participants noted that cooperation in the area of integrated assessment could assist countries to undertake national assessments of trade policies on a voluntary basis, and to share experiences. Collaboration between MEAs, the WTO and UNEP in this area could deepen the analysis and help spread the experience and expertise more widely, enabling countries to identify important linkages between trade, environment and development. Some participants noted that assessments can be a valuable way to enhance cooperation and coordination between trade and environment officials at the national level.
- **Economic incentives.** The Conference of the Parties to the Convention on Biological Diversity has underlined the need for further work on positive incentives as well as on perverse incentives and their removal or mitigation. It was noted that these substantive initiatives could be served by more detailed information exchange between the CBD and the WTO, raising the potential for closer collaboration on both positive and perverse incentives.

A number of participants stressed that information exchange will need to take place between multiple actors, including ministries at the national level, MEA and WTO negotiators, Secretariats, as well as the

Conference of Parties of MEAs and relevant WTO Committees and Councils. One participant suggested that a collaborative effort by MEAs to compile their respective objectives into a consolidated list, could help identify where measures taken by other institutions might impede the achievement of those objectives.

The role of reciprocal observer status in enhancing cooperation

A second issue addressed by presentations and by participants during the discussion is the role of reciprocal observer status in WTO and MEA bodies in enhancing cooperation. This issue was emphasised by some presenters and discussed by participants. A number of participants felt that reciprocal observer status has a crucial role to play in ensuring accurate, relevant and timely information exchange and cooperation between these bodies. Some also noted that reciprocal observer status would also complement and facilitate national level coordination and cooperation between trade and environment officials.

It was noted by some presenters and participants that the WTO Secretariat already has broad access to international environmental negotiations and deliberations, whereas MEAs and UNEP have yet to be granted observer status to the CTE's Special Session (SS-CTE). A number of participants expressed concern at this situation, especially in the light of the mandated negotiations on the MEA-WTO relationship. However, one other considered it premature to address this issue in the SS-CTE. One participant suggested the granting of ad hoc observer status to the SS-CTE, to those MEAs that are already observers to the regular CTE, or which have pending observer status. Thus, while some participants felt that the question of observer status was an urgent matter for resolution in the context of the SS-CTE, this was not a view shared by all.

The importance of capacity building

A theme that came up consistently in the discussions was capacity building. Participants and presenters noted that converting the opportunities identified through information exchange into reality requires capacity. The importance of capacity building for achieving mutually supportive policies on trade and environment was also recognised by many participants. It was also recognized that capacity building can help to increase the joint contribution of these regimes not only to environmental protection, but also to poverty alleviation. The need for it to occur at all levels – national, regional and international – was broadly recognized by meeting participants. In particular, capacity building can play an important role in:

- Strengthening the coordination of national policy makers and negotiators of multilateral agreements and their capacity to develop mutually supportive policies; and
- Enhancing the ability of the Secretariats and of other relevant bodies, including UNEP, to serve their members.

At a regional level, the value of WTO regional seminars on trade and environment including the participation of MEA Secretariats and UNEP was emphasised by a number of participants. A number of participants noted the value of joining these with back-to-back UNEP-UNCTAD workshops under the auspices of the Capacity Building Task Force on Trade Environment and Development (CBTF).

The design and implementation of collaborative capacity building activities between MEAs and the WTO, to enhance their synergies, was recognised as an important objective by some participants. UNEP believes that these should be developed into a long-term programme, coordinated with the activities of other institutions, designed to respond to developing countries' needs and policy priorities. Such capacity building could more effectively support sustainable development if it goes beyond trade facilitation, to address the environmental and developmental effects of trade.

Potential next steps

In summing up the meeting the Chairman drew attention once again to the fact that the WSSD identified trade as a central means of implementation for sustainable development. Given that recognition, UNEP believes that it is important to work closely with Governments to develop the synergies between the two legal systems, as well as on enhancing our understanding of the linkages between trade, environment and sustainable development. The Chairman remarked that information exchange and cooperation are keys to developing practical tools for enhancing synergies between the multilateral trade and environment

regimes, which continue to operate in relative isolation from each other. Enhancing synergies and cooperation is a key to increasing the joint contribution of these regimes to human wellbeing and to achieving the social, economic and environmental goals set out in Agenda 21 and other international agreements, including alleviating poverty and protecting the environment for future generations.

In light of these challenges, UNEP will continue to work closely with Governments to identify opportunities to enhance cooperation between the WTO, MEAs and UNEP. UNEP is seeking guidance and input from governments and other participants at the meeting on its future work. Possible areas for future work to enhance MEA-WTO synergies that were identified by some participants at the meeting include, but are not limited to, the following:

- Increasing Secretariat-to-Secretariat information exchange and cooperation between MEAs, the WTO and UNEP, including on the timing, organisation and development of agendas for meetings such as this;
- Holding meetings similar in format to this one, back-to-back with Special Sessions of the CTE in 2003, with the aid of annotated agendas and background papers.
- Focusing future meetings on specific issues. Participants raised a number of potential topics for future meetings. These include promoting sustainable trade, technology transfer, trade-related measures in MEAs, and best practices for national-level cooperation between trade and environmental officials;
- Preparing new joint papers, such as that developed for the compliance and dispute settlement meeting in June 2001, including potentially on that issue;
- Developing a web-site on which to place trade-related papers from MEAs, MEA-related papers from the WTO, and papers from other analytical sources on this inter-relationship;
- Holding briefing sessions for Geneva Permanent Missions on these and related issues, to ensure UNEP has access to all relevant perspectives and views;
- In cooperation with MEA Secretariats compiling a list of implementation measures, including trade related ones, so as to develop a reference document which would enable policy makers working in other institutions to avoid designing measures which impede the effectiveness of these measures;
- Exploring ways to enhance information exchange between MEA Secretariats and their subsidiary bodies and those of other relevant WTO bodies, such as the Committees on Agriculture, Technical Barriers to Trade, Trade and Development, Sanitary and Phytosanitary Measures and the TRIPS Council;
- Exploring ways to enhance national level coordination of trade and environment policies, which in turn can feed back into developing synergies between MEAs and the WTO; and
- Undertaking further back-to-back meetings with WTO regional seminars, in collaboration with MEAs, the WTO and UNCTAD.

UNEP looks forward to hearing ideas generated by those reading this summary or the meeting's annotated agenda, or following the subsequent CTE Special Information Session, and to realising opportunities to strengthen information exchange and enhance synergies between MEAs, the WTO and UNEP.