

Baylor University High School Model United Nations  
Fall 2009 Conference



*World Trade Organization  
Background & Preparation Guide*

\_\_\_\_\_, Chair  
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Dear Delegates,

It is my distinct pleasure to welcome you to the Baylor University High School Model United Nations conference (BUHMUN). Together with your Assistant Chairs, I look forward to working with you on the World Trade Organization (WTO) Committee the fall.

Since 1994 the Baylor Model United Nations team has sponsored a High School Model United Nations Conference each fall. Beginning with only six schools and 94 students representing 8 countries in 1994, the conference has grown considerably. By 1997, the team hosted a 300 student, 21 school and 51 country conference. Model UN team members host the conference, serving as members of the Secretariat, committee chairs, judges, expert witnesses, conference coordinators, and faculty-student liaisons. Through preparation for and participation in our simulation, students develop expertise in research, writing, public speaking, and the art of negotiation as they fight for the interests of countries they represent on every conceivable topic relevant in today's global community.

This year's topics are:

1. Piracy and the WTO, forcing nations to honor international exchanges and property rights.
2. The Relationship between WTO Rules and Multilateral Environmental Trade Agreements.

The WTO is an international organization that regulates world trade. As a member of this organization, recognize that you are dedicated to cooperating and working together to solve complex international issues, while working towards liberalizing trade. Also, keep in mind that in addition to being a place to settle trade disputes, it is above all a negotiating forum. While the WTO makes no claim at being able to solve all the world's problems, it is nevertheless a highly relevant body in the international system today. As delegates acting in the role of WTO Member States and Observers, you have already put a great amount of work into researching and preparing. Continue to remain abreast of current events in international trade, as your committee will be affected by these current events. This guide will assist you in both understanding and delving further into research on your topics.

As a WTO delegate at BUHMUN 2009, you will experience a number of challenges. The hard work that you have put in and will continue to do is admired and respected. We strongly encourage you to bring your questions to us. Good luck, and we look forward to seeing you in Waco this fall!

Sincerely,

\_\_\_\_\_, Chair

Baylor University High School Model United Nations 2009

## **History of the World Trade Organization**

*"Success or failure depends very much on how far all are prepared to cooperate with each other on the fundamentally important issues, and whether we are each prepared to act with the interests of the broader membership, and of the benefits to the system as a whole, uppermost in our minds." - Director-General Pascal Lamy of the WTO*

### ***Introduction***

The World Trade Organization (WTO) stands as the only international organization dealing with the global rules of trade between nations. It functions to ensure the smooth, predictable, and free flow of trade. The World Trade Organization is the most powerful legislative and judicial body in the world. By promoting the "free trade" agenda of multinational corporations above the interests of local communities, working families, and the environment, the WTO has systematically undermined democracy around the world. Unlike United Nations treaties, the International Labor Organization conventions, or multilateral environmental agreements, WTO rules can be enforced through sanctions. This gives the WTO more power than any other international body. The WTO's authority even eclipses national governments. In the ten years of its existence, WTO panels composed of corporate attorneys have ruled that: the US law protecting sea turtles was a barrier to "free trade"; that US clean air standards and laws protecting dolphins are too; that the European Union law banning hormone-treated beef is illegal. According to the WTO, our democratically elected public officials no longer have the rights to protect the environment and public health.

### ***History of the World Trade Organization***

The World Trade Organization (WTO) is a successor of the 1947 General Agreement on Tariffs and Trade (GATT). The GATT was originally instituted to support the first international attempt at creating a viable trade organization, the International Trade Organization (ITO). The ITO failed to come to fruition due to the opposition of key Member States, but the GATT continued to exist as a provisional agreement. The GATT helped to establish a strong and prosperous multilateral trading system that became increasingly liberal through rounds of trade negotiations. There have been numerous trade rounds that have occurred since the founding of the GATT. The various rounds have addressed important trade topics such as tariff, anti-dumping, and non tariff barriers to trade. The most recent trade round that has been conducted by the WTO is the Doha Round, which has covered a wide range of topics—from agriculture subsidies, to pharmaceuticals, and special and differential treatment, among others. The Uruguay Round, which lasted from 1986 to 1994, was the first multinational trade negotiation that resulted in an agreement that extensively involved developing countries in a multilateral trading system. With the fundamental goal of international cooperation, the Round incorporated developing countries by expanding the multilateral trading system to include agriculture and services. At the conclusion of the Uruguay Round the Marrakesh Declaration of 15 April 1994 was adopted. This document formally established the WTO—headquartered in Geneva, Switzerland—on January 1, 1995, and outlined the framework in which it would operate. The WTO replaced GATT as an international organization, but the General Agreement still exists as the WTO's umbrella treaty for trade in goods and was updated as a result of the Uruguay Round negotiations. Acting as a forum for trade negotiations between its members, or "custom territories," the organization operates under the principles set forth by the GATT, as modified by the Uruguay Round, and the 1994 Agreement on Trade Related Aspects of Intellectual Property Rights,

Including Trade in Counterfeit Goods (TRIPS). Guided by these agreements, Member States negotiate to foster and administer international trade. As recognized instruments of international trade, these agreements and all others adopted by the WTO include a timeline for implementation of the various rules delineated.

### *Functions of the World Trade Organization*

The WTO has six basic functions: “administering WTO trade agreements, [serving as a] forum for trade negotiations, handling trade disputes, monitoring national trade policies, [providing] technical assistance and training for developing countries, and [promoting] cooperation with other international organizations.” The WTO administers trade agreements through its rules, which are negotiated between Member States. Rules require Member States to be transparent in their trade policies. This transparency requires Member States to give notifications of changes in trade policy to the WTO via periodic reports to the Secretariat. As a recognized instrument of trade liberalization with broad influence, the organization administers a successful dispute resolution process through its Dispute Settlement Body (DSB). The WTO handles many of the trade disputes through mediation; however, if mediation fails, countries can then take their dispute to the DSB to be adjudicated on. This mediation process prevents a very long DSB panel review process that can last anywhere from sixty days to six months. If mediation fails and the dispute heads to the DSB, either side can choose to accept the findings or appeal the decision; if the finding is accepted the party that is found to be in violation of WTO rules must change their laws to comply with the WTO standards. Appeals have to be based on points of law such as legal interpretation — they cannot reexamine existing evidence or examine new issues. Each appeal is heard by three members of a permanent seven-member Appellate Body set up by the DSB. The appeal can uphold, modify, or reverse the panel’s legal findings and conclusions. After being voted on by a consensus the report is adopted as a ruling and recommendation.

To further facilitate the liberalization of international trade the WTO monitors the national trade policies of the custom territories through the use of a Trade Policy Review Mechanism, which permits a policy review board to review national trade policies to ensure their consistency with WTO rules. The board periodically reviews the national policies of Member States based on their amount of trade, which is measured monetarily. The four Members States with the highest rates of trade are examined once every two years, the following sixteen once every four years, and the others are examined once every six years or less based on the development status of the country. These reviews are conducted with transparency to further promote transparency within the organization. Member States that fail a review by the board can face a monetary fine and are required to conform to the ruling of a review panel.

The WTO provides technical assistance and training—partially funded by the WTO budget—to developing countries. The WTO organizes 500 technical cooperation activities annually, primarily consisting of workshops and training seminars in developing countries, particularly those in Asia, Latin America, the Caribbean, the Middle East and Africa. The goal of these trainings and cooperation activities is to provide developing states with the information and skills necessary to foster sustainable development. For example, in May 2008, the WTO assisted “China’s capacity building at the provincial level” by holding two training events, which addressed topics from Technical Barriers in trade to Anti-Subsidies and Anti Dumping.

In addition to its relations with individual Member States, the WTO cooperates extensively with

other international organizations. The stated goal of this cooperation is to increase the coherence of international economic policies. Collaboration between the WTO and other international organizations is aimed at assisting Member States who are members of other international organizations in the implementation of WTO rules and international standards. The WTO Director General sits on the Chief Executive Board, the WTO's principle organ of coordination with the United Nations. The WTO participates in the High Level Segment of the Economic and Social Council of the UN to assess the implementation of the United Nations Millennium Development Goals as they relate to international trade. Furthermore, the WTO has official agreements for continuous cooperation with the World Bank and the International Monetary Fund and the International Trade Centre, which is a subsidiary organization of both it and the UN Conference on Trade and Development; cooperation with these organizations enables all three organizations to identify mechanisms through which coherence in international economic policies can be increased. It also works with regional organizations, such as the Organization of American States, and topic-specific organizations, such as the International Grains Council. Additionally, the WTO maintains observer status in over 30 institutional organizations, including the Pacific Islands Forum, the Office of the United Nations High Commissioner for Human Rights, and numerous other bodies that have a seemingly slight relation to international trade. WTO's relative with these organizations focus on activities like research, training, and setting international standards.

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## Topics

### **I. Economic Consequences of International Product Counterfeiting On United States**

*"Protection is not a principle but an expedient" - Benjamin Disraeli*

#### ***Introduction***

Piracy and counterfeiting is defined as the sale of copies of products without the permission of the owner of the rights to those products. Piracy usually refers to the sale of unauthorized copies, without necessarily claiming that it is an authorized copy. Counterfeiting is the intentional and calculated reproduction of a genuine article for the purpose of misleading the recipient or buyer into believing he or she is receiving or buying the genuine article itself. The items exploited through piracy and counterfeiting are entitled intellectual properties. Intellectual properties is the documented or undocumented knowledge, creative ideas, or expressions of human mind that have commercial or monetary value and are protectable under copyright, patent, service mark, trademark, or trade secret laws from imitation, infringement, and dilution. Intellectual property includes brand names, discoveries, formulas, inventions, know how, registered designs, software, and works of artistic, literary, or musical nature. A problem faced by the international community in developing domestic policy toward piracy and counterfeiting of intellectual property is the absence of an official agreed upon standard in defining these practices. Practices identified as pirating include an extensive list which is comprised of the following: illegal selling of video games, movies and music, along with taking satellite signals off the air, free internet, movie and television websites, copying software programs, reverse engineering of chips, counterfeiting designer clothing, etc.

#### ***The Issues of International Piracy and Counterfeiting***

Developing countries tend to be singled out as the perpetrators of these intellectual property rights while developed countries tend to be the victims in most cases. The importance of this issue has become more apparent due to the rise in legislation and negotiation pertaining to strengthening the advancement

of protection of intellectual property on the part of various trading partners. Although some developing nations, such as Taiwan and Singapore, have enacted laws to curb the expansion of this piracy, others remain heavily engulfed and have seen problems become worse. Despite the newly enacted laws the problems still persist in Singapore and Taiwan. Some in these developed nations have suggested that foreign aid sent to developing nations be tied to programs that promote the enhancement of intellectual property protection systems in these countries. This shows the apparent reprisal being contemplated by these governments. This is a problem for the interest in promoting economic and political stability in these developing countries. Developed nations have to contemplate whether a good strategy for enforcing these developing countries to respect their intellectual property rights is through reprisal due to the lack of enforcement on intellectual property rights protection, although it may interfere with furthering the development of these nations.

### *Impacts on Developed Nations*

Economic impacts of the various practices differ considerably in some cases along with the fact that practices labeled as piracy, for some, might be labeled as legitimate by others. This makes it difficult to gauge the importance of each practice and how much. The impact of piracy varies so significantly across sectors of the economy and depends on long-run flexibility of supply and demand that broad-based trading policies may hurt certain sectors while helping others. The impact on the economy and the prevalence and creation of new practices due to the advancement in technology make this more difficult for those nations being exploited in their bid to prevent violations of intellectual property. While studies on the economic impacts of international piracy all differ they all tend to conclude that foreign counterfeiting has ambiguous overall welfare effects for the economies of developed nations. Overall welfare effects are even more ambiguous when considering the world economy. One of the nations experiencing major concerns due to these problems is the United States of America. Macroeconomic viewpoints of the effects of international piracy on the U.S. show a scale of benefits and costs for consumers and producers of the U.S. A distinguishable benefit to domestic consumers now is the increase in consumer surplus. This can be associated with lower price imports that sometimes are acceptable substitutes for the higher priced domestic goods. Potential cost to domestic consumers can be damages to one's health resulting from the use of inferior copies of legitimate products. Consumers purchasing original goods can sometimes find themselves paying more to the extent that the higher fees include the cost associated with monitoring and preventing piracy which are passed on in price increases. U.S. consumers also suffer long-run contractions in benefits associated with lower rates of new product information.

In conjunction with the consumers of the U.S., producers of U.S. products, when competing with imported counterfeits, suffer a loss in profits. The loss in profit stems specifically from sales forgone to pirates along with cost incurred to prevent counterfeiting. These costs can sometimes be so much that raising the prices on consumers does not have an impact. What has become even more prevalent in recent years is the potential pirates have, in taking away profits, associated with the introduction of new and improved products. The incentive for U.S. producers to invest in costly innovations has been reduced. However producers of goods that compliment the imported counterfeit items tend to find an increase in profits. A more in-depth analysis of the cost shows that an indirect toll to producers can be that U.S. exports have decreased leading to lost jobs domestically along with higher interest rates. Participants within the U.S. economy are not the only ones experiencing the effects of piracy. Foreign economies have also become majorly impacted by piracy along with these nations as a whole not just within their

economies. Economic development in these emerging countries maintains a role in broad U.S. foreign policies.

Since the U.S. is a capitalist nation, this problem brings up a large amount of issues of how and if the government is obligated to get involved, along with whether the government needs to become even more involved than they are now. In terms of leaving governmental legislation out as a helping hand, it is apparent to most who keep an eye on the economy that the bulk of product imitation cost are related to prototype construction of pilot plants, investment in equipment and construction along with manufacturing and marketing start-up. Although the cost for these on foreign nations are relatively low the U.S., companies tend to have an advantage, meaning that they can place attention more so on efficiency and productivity. Moving U.S. plants to foreign nations counteracts the buildup of counterfeit plants. U.S. companies have begun building more flexible distribution techniques and which can mitigate piracy problems. U.S. companies have had to develop and implement more effective products as well as selling techniques because of the competition of counterfeit products which brings out the best in some companies. Other U.S. companies have decided to invest in preventing piracy rather than invest in being a more efficient competitor to the counterfeit products.

### ***Impacts on Developing Nations***

The effects of piracy remain ambiguous on the developing nations more so than the developed nation. The benefits and costs all vary across the countries depending on what sector each practice of counterfeiting each item is classified in. The primary effect on the economies of developing nations is the replacement of sales and profits away from companies within developed nations to locally owned companies. This becomes a short-run gain in business activity for the developing nations, meaning that local consumer will enjoy increased access to cheaper goods. Also, employment rates will boost while these locally owned companies have to hire more workers to produce a greater amount of products. Another employment rise comes from if a company outsources to a developing nation. The economy of that developing nation gets a boost from the new jobs. These new jobs employ people who then return money back into the economy with their newly earned wages.

Piracy has been known to encourage the creation of indigenous industry through supplying local producers, the capital, and experienced help to train locals. Also, employees are shipped from the developed nations to these developing nations, which provide a trained labor force if it is not already developed, that aid the local company to become a legitimate producer. These are just a few benefits received by developing nations that participate in piracy. Along with these benefits, complications arise as well. Similar to the consumers within a developed nation who may purchase counterfeit products, consumers in developing countries may similarly do so resulting in the same effects of harming their health because of the illegitimacy of the products. Also local producers are sometimes punished by trade restrictions imposed to oppose counterfeiting.

### ***Current Issues***

One of the latest cases brought before the World Trade Organization (WTO) has been between China and the United States. Both are two of the world's major traders. The WTO ruled that some practices utilized by China were illegal while exonerating it from others. Despite the mixed verdicts and comments made by both nations toward one another, they both showed their commitment to working

within the international rules based system to resolve rows even if the economic crisis is increasing protectionist pressures. The WTO's dispute settlement body adopted a January 26 ruling in the case brought by the United States against China for failing to protect and enforce intellectual property rights, such as copyrights and trademarks, on a wide range of goods. The membership of the WTO agreed that China must bring its intellectual property rights enforcement regime into conformity with its WTO obligations. Three main arguments the U.S. used against China were that China had violated WTO rules by barring copyright protection for films, music and books that had not been approved by state censors for legitimate sale. It is impermissible for China to allow the public auction of counterfeit goods seized by Chinese customs authorities, with the requirement that fake brands or trademarks be removed and that Chinese copyright pirates and counterfeiters have no fear of criminal prosecution because the government's threshold for bringing a case is too high. The WTO ruled the U.S. was right about the first two requests but gave the third issue a verdict in favor of China. Although with this ruling the U.S. is still in need of answers pertaining to how to stop piracy.

### ***Solutions to the Issues***

Reliance on organizations such as the WTO has helped bring justice to nations being deprived of profits and other benefits because of piracy. However, nations such as the U.S. have also realized that the prevention of piracy is not just in enforcing trade regulations or taking issues up to the WTO but also through legislation aimed at the domestic consumer, such as laws against selling and buying of counterfeit items. The problem the U.S. and other nations face is determining how much involvement the government should have in regulation of intellectual property rights and if the benefits outweigh the cost, especially when developing nations are receiving a boost in their economy from counterfeit products. Another problem is whether or not these products should be considered counterfeit and not merely competition. If the products are not considered counterfeit, then what are the standards that make them different from counterfeit products and do they help develop more efficiency and productivity because of the need for companies to upgrade their products to remain more appealing?

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## **II. The Relationship between the World Trade Organization Rules and Multilateral Environmental Trade Agreements**

### ***Introduction***

With much international influence, the World Trade Organization (WTO) seeks to keep a balance between existing international trade agreements and its rules. The rules of the WTO have affected an array of existing multilateral agreements, including Multilateral Environmental Agreements (MEAs). WTO and its Committee on Trade and the Environment (CTE) has fervently discussed the relation of trade to the environment, however, the role that international trade plays in determining environmental outcomes is yet to be defined.

One of the main objectives of the WTO is to protect the environment while ensuring sustainable development. As stated in the perambulatory clauses of the 1994 *Marrakesh Ministerial Declaration*, which established the WTO, WTO Member States are dedicated to preserving the environment while



sustaining global development, “recognizing that their relations in the field of trade and economic endeavor should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand in accordance with the objective of sustainable development, seeking both to protect and preserve the environment.” Furthermore, WTO does not give limits on governments implementing environmental policies within their borders. The WTO understands the significance of state-centered environmental laws and respects Member States’ sovereignty. In addition, Member States are allowed to adopt environmental protection trade-related measures that comply with several conditions set by the WTO. All members are guaranteed equal rights under these trade conditions. For example, the condition created to terminate the most favored nation (MFN), which is a status given by one state to another that confers upon the latter more advantageous terms in trading agreements than what the first state grants to other states. Created to deter the misuse of such measures for protectionist ends, these conditions must be followed by all Member States.

### *History*

Prior to the establishment of the WTO, the General Agreement on Tariffs and Trade (GATT) acknowledged the relationship between trade and the environment. In 1971 the *Industrial Pollution Control and International Trade* was compiled and presented at the United Nations by the secretariat of the GATT and later, in 1972, Conference on the Human Environment in Stockholm. This study gave way to the creation of the GATT Group on Environmental Measures and International Trade. Though many gathered in 1971 to examine the implications of environmental policies on international trade, it was not until the early 1990s that the European Free Trade Association put forth a request. As the request was put forth, the Association looked to the GATT to contribute at the 1992 *United Nations Conference on Environment and Development (UNCED)*. Great attention was given to developments in environmental issues related to trade from 1971 to 1991. By the end of the Uruguay Round of the Multilateral Trade Negotiations (1986-1994), the WTO was created with environmentally conscious sustainable development as one of its foundations. A viable balance between equitable multilateral trade and environmental protection was later established in the 1994 *Decision on Trade and Environment*. Although established with an environmentally conscious foundation, the GATT/WTO strayed from its foundation and overlooked key environmental issues such the implication of trade on the climate. The Uruguay Round, which excluded trade and the environment from its agenda, exposed a lack of environmental concern by the GATT and the WTO. Minimal participation by the WTO in UNCED also further attracted negative attention. To correct this omission the WTO General Council created the CTE in 1995, the year after it was adopted by the Ministerial Decision on Trade and Environment in Marrakesh. The main agenda items of the CTE are addressing the relationship between the requirements of trade and international environmental stipulations. Specifically, the committee addresses multilateral environmental agreements have to do with issues such as technical regulations, environmental charges, and taxes. The complex items before the committee have proven to be very difficult to find viable solutions, but still the committee works toward an environmentally conscious, trade-expanding outcome.

### *The Doha Development Agenda*

Created by the WTO to boost negotiations, the Doha Development Agenda (DDA) commenced in 2001 in Doha, Qatar. DDAs main focus was to lower trade barriers around the world and permit free trade between countries of varying prosperity. Aside from working on international trade, the DDA also strives to enhance the relationship between agriculture and development, among other issues. A complex

negotiation round, the DDA provides an equal negotiations platform where developing countries may participate fully in multilateral trade negotiations. The DDA served as a catalyst for the establishment of a relationship between MEAs and WTO rules. This was specified in Clause 31 of the Doha *Ministerial Declaration*, WT/MIN(01)/DEC/1, which states: “31. With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome, on: (i) the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). The negotiations shall be limited in scope to the applicability of such existing WTO rules as among parties to the MEA in question. The negotiations shall not prejudice the WTO rights of any Member that is not a party to the MEA in question; (ii) procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status; (iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.” However, an internationally recognized and agreed upon definition for environmental goods and services is yet to be reached. Although the DDA has made tremendous strides by presenting an equal negotiations forum, the gap between developing and developed countries impedes the success of the round as was evident in the break down of the Fifth WTO Ministerial Conference held in Cancun in 2003. Even so, the international community continues to stay optimistic that the DDA will successfully achieve its goals.

### ***Multilateral Environmental Agreements***

International agreements are rapidly gaining importance as in the world is becoming more interconnected. These agreements address trade, mitigation, environment, and security. International collaboration is vital particularly when combating environmental issues such as the depletion of the ozone layer, the spread of pollutants, and the transboundary movement of wastes. Each have effects reaching beyond borders. It is due to the aforementioned effects that multilateral environmental agreements exist and continue to grow.

Multilateral environmental agreements have been divided into three main categories. First is the core environmental conventions combined with related agreements that are associated with the United Nations Environment Programme’s (UNEP) work which includes regional seas conventions and action plans. Under this category are atmospheric conventions, such as the *Kyoto Protocol to the United Nations Framework Convention on Climate Change* (1997), and biodiversity, chemical and land conventions such as the *United Nations Convention to Combat Desertification* (1992). Next, there is the global conventions concerning the environment, but not related to UNEP. This category includes regional fisheries conventions, which lack the institutional characteristics of regional seas conventions. Lastly, is the category largely defined by scope and geographic range. Many of the existing conventions from the three categories of MEAs such as the 1973 *Convention on International Trade in Endangered Species* (CITES), the 1990 *Montreal Protocol on Substances that Deplete the Ozone Layer* (*Montreal Protocol*), the 1989 *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal* (*Basel Convention*), the 2004 *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade* (*Rotterdam Convention*), and the 2004 *Stockholm Convention on Persistent Organic Pollutants* (*Stockholm Convention*) are either focused solely or partially on trade. Although, it is MEAs trade focus that could lead to possible conflict with the trade rules of the WTO, as the MEA and WTO often have differing trade agendas and objectives. While addressing different issues, there are commonalities that link all MEAs together like use and protection of natural resources and the environment. Moreover, all MEAs, among other goals, make every effort to

strengthen all parties and Member States ability to reach the targets enshrined in the respective MEA, as well as strengthening international partnerships.

### ***The Relationship between the WTO and Multilateral Environmental Trade Agreements***

The root of the conflict between trade policies and the environment stems from fundamental differences in the approach to environmental policy formulation and implementation versus multilateral trade policy formulation and implementation. The nature and extent of government intervention has been a continuous source of conflict between trade policies and environmentalists. Comparative advantage, or the distinct advantage or specialty a state may possess in a specific product, is a factor that drives trade. Trade then becomes a vital source of survival, as a state may lack a necessity that is plentiful in another. Trade due to necessity can turn into the inappropriate use of environmental resources in furtherance of trade. In addition, global competitiveness may lead to trade harmful for the environment. Recognizing the aforementioned environmental issues created by trade, governments create environment protection laws to eradicate trade related environmental issues. Formulation of and environmental policy itself is a very different process. Once formulated, an environmental policy often implement measures such as quantitative restrictions, taxes, and subsidies to enforce application. Conflict then arises as these government implemented measures hamper the spread of international trade. Negotiating international trade agreements with these governments to lessen or eliminate government-imposed restrictions then becomes the responsibility of the WTO, which could deter implementation of environmental policies. Sources of conflict between trade policies and the environment are copious. Though there are too many to individually reference, sources of conflict include: higher environmental standards in an importing Member State then an exporting Member State; regulated pollution havens that attract foreign investments; border adjustment measures to offset environmentally driven taxes conflicting with trade rules; and conflicting obligations in MEAs and WTO trade agreements. One final source of conflict that exists between MEAs and the WTO trade rules has been a topic of great discussion in the WTO, namely that MEAs often allow trading between parties to the agreement and ban trading with non-parties to the agreement. This, in turn, violates the WTO principal of non discrimination. To make sure that no discrimination or favoritism occurs between WTO trading partners, a rule against such acts was instated. According to the first article of the GATT, MFN negates most MEAs that regulate trade as MEAs place restrictions on non-parties.

Acknowledging the importance information exchange as the foundation for cooperation, the CTE has offered MEAs the opportunity to participate in Information Sessions held by the CTE regarding agenda items relating to perspective MEAs. The opportunity to present notes and briefings to the MEAs and also quiz them is awarded to the Secretariats. Furthermore, the WTO organizes workshops, or “side events” as they are known, to further enhance understanding of WTO rules. These side events strive to bridge the information gap between MEAs and the WTO by providing a medium for information exchange. The WTO has also organized regional seminars, particularly for developing Member States, on the relationship between trade and the environment. Also, the WTO organizes regional symposiums with a goal of assisting less developed Member States in implementing both trade and environmental regulations. The WTO explores the relationship between sustainable development, trade, and the environment through dialogue between trade and environmental policy makers, including the sharing of regional experiences. The WTO has further facilitated information sharing by inviting UNEP, MEAs and the United Nations Conference on Trade and Development (UNCTAD) to participate in seminars held. Furthermore the WTO continues to host seminars as well as workshops to further the diffusion of

information not only between organizations, but also between Member States on a regional scale. Workshops, such as the WTO Trade and Environment Regional Workshop for Asian and Pacific Economies (2007), focus on developing countries and their transition into environmentally friendly agreements. *MEAs' Observer Status in the WTO* Observer status in the CTE has been granted to many intergovernmental organizations, including UNEP, the Secretariat of the 1987 Convention on Biological Diversity (CBD), the Food and Agriculture Organization (FAO), and the International Monetary Fund (IMF). In addition, MEAs such as CITES, the International Commission for the Conservation of Atlantic Tunas (ICCAT), and the 1994 UN Framework Convention on Climate (UNFCCC), currently have observer statuses. Others, such as the 1989 *Basel Convention*, the 1990 *Montreal Protocol*, pursuant to paragraph 31 (ii) of the Doha *Ministerial Declaration*, are still awaiting replies to requests to join. The sought after status of observer permits organizations such as the ones listed above to obtain WTO documents. Observers may also acquire additional documents pertaining to agenda items or discussions as agreed upon through any formal arrangements to further establish communication between the WTO and observers. A number of organizations and MEAs may also be invited on an ad hoc basis. This group includes, but is not limited to, the *Montreal Protocol*, the *Rotterdam Convention*, and the *Stockholm Convention*. As a catalyst to further the exchange of information and to facilitate cooperation, the WTO maintains observer status at UNEP and has participated in UNEP sessions, as well as meetings of MEAs.

### ***The Future of Multilateral Environmental Agreements and Trade: Integration***

To solve arising problems, several Member States have persistently proposed the integration of MEAs and the trade rules that govern the WTO. Although in agreement that the WTO should not specifically endorse or challenge any environmental agreement, some Member States believe the WTO could ameliorate conflicting obligations in MEAs by amending WTO rules to include environmental trade provisions already established in various MEAs. An alternative approach recommended by some Member States would be to grant waivers on a case-by-case basis rather than amending WTO rules. This could be accomplished under Article XXV of GATT, which grants waivers to GATT obligations. This approach would rely on the level of acceptance of the MEA involved. If the conflicting MEA has broad support WTO Member States may approve the waiver of GATT and WTO rules specifically for the conflicting MEA. Merging the MEAs and trade rules is a continual work in progress.

### ***Conclusion***

While WTO trade policies and environmental agreements have not yet occurred, no one can be assured that the international trade community will not be affected. Though the WTO has taken preventative measures, WTO has recognized that it cannot solely handle this task and cooperates with the UNEP, UNCTAD, and Capacity Building Task Force on Trade (CBTF). Although forms of cooperation between the WTO and other international organizations exist to combat any potential conflicts, the connection between the WTO and MEAs has yet to be fully defined. Even though great strides have been made, the WTO has yet to specifically define its relationship with the MEAs which in turn raises questions about the future. What organizations can the WTO work with to make sure no conflict comes to pass? What are the responsibilities of the MEAs and the secretariats for the WTO? Are those responsibilities currently being upheld by methods of communication? Is the CTE effective? And should its duties be expanded to answer to the questions at hand? Lastly, what relationship should the MEAs and WTO rules have in the future?

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## **Bibliography**

- <sup>106</sup> Sampson, *The Role of the World Trade Organization in Global Governance*, 2001, p.173.
- <sup>107</sup> Barker, *The World Trade Organization: Processes and Rulings*, 1999.
- <sup>108</sup> World Bank, *International Trade and Climate Change: Economic, Legal, and Institutional Perspectives*, 2008, p.7.
- <sup>110</sup> World Trade Organization, *Uruguay Round Agreement: The Marrakesh Ministerial Declaration of 15 April 1994*, 2008.
- <sup>111</sup> Sampson, *Trade, Environment, and the WTO: The Post-Seattle Agenda*, 2000, p.2.
- <sup>112</sup> Jackson, *The World Trade Organization: Constitution and Jurisprudence*, 1998, p.34.
- <sup>113</sup> World Trade Organization, *Trade and Environment*, 2008.
- <sup>114</sup> World Trade Organization, *Principles of the Trading System*, 2008.
- <sup>116</sup> World Trade Organization, *Early Years: Emerging Environment Debate in GATT/WTO*, 2008.
- <sup>119</sup> World Trade Organization, *Early Years: Emerging Environment Debate in GATT/WTO*, 2008.