

Do the Trade Blocs Provide Sufficient Environmental Protection? The Need for Predictable and Transparent Nondiscriminatory Environmental Standards

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Under the title *The Trade Blocs: A Framework for Global Prosperity* a conference organized by the *Foundation of Student Communication* was held for the fifth time in New York . This organization is made up of a group of graduate students of the University of Princeton who organize every year a 4-day conference to bring together young researchers and business leaders from all over the world to discuss topics that concern them both. This year's conference focused on the possibilities of the development of a new economic world order dominated by three substantive trade blocs (USA/NAFTA, EC/EEA and Japan/ASEAN). The different conference working groups addressed diverse topics such as the environment, agricultural policy and economic cooperation. The environment-related problems of international trade and possible resolutions were one of the most discussed topics of the conference.

Geza Feketekuty, Senior Policy Adviser to the United States Trade Representative, in his inauguration speech, focused on the importance of multilateral cooperation between the trading partners to ensure sustainable development in the future world trade order. As the chairman of the OECD Trade Committee and the OECD Environmental Working Group he described the current approach to environmental standards in the OECD generally from an American perspective. He emphasized the problems the OECD faced in building up a joint environmental commission without the possibilities and scope of economic integration such as in the EC. As a representative of the American Government he claimed the need for common standards to avoid the so-called "ecological dumping", that is the comparative advantage that companies have while operating in countries with low environmental standards. The following discussion showed however that this concept is highly controversial and many specialists see in this concept a danger for the international trade order and a pretext for protectionist domestic policies.¹ Mr. Feketekuty claimed a need for international harmonization of environmental standards. He said the regional trade agreements provided a sufficient environmental protection in their areas but the world trading

¹See also the most recent dispute settlement procedure in the GATT concerning US-sanctions against countries that do not apply the same provisions concerning fishing methods (*Tuna Case*). United States-Restrictions on Imports of Tuna, Report of the GATT Panel (Aug. 16, 1991) in: *International Legal Materials* 30, p. 1594 ff.

system needed harmonized rules in the context of GATT. As many others he insists on the need for an international GATT trade round on environmental questions, if the current Uruguay round should ever come to an end.

Ronnie L. Goldberg, Senior Vice President for Policy and Programs, U.S. Council for International Business, in her speech focused on the environmental aspects of the NAFTA (*North American Free Trade Area*). Both, she and Mr. Feketekuty, compared the NAFTA to the European Community although they have only partly similar aims. The NAFTA treaty contains an important range of provisions relating to the environment. For Mrs. Goldberg only a strong harmonization of environmental standards of all NAFTA members was acceptable. It remained however doubtful to some of the participants whether this was more the argumentation used by the American domestic industry to protect their own interests or whether this need for harmonization was indispensable for a worldwide sustainable development. Most representatives of the private sector underlined their indifference as to whether environmental regulations should be harmonized within regional trade agreements or within multilateral negotiations as for example within the framework of the GATT. But they all underlined the strong need industry has for transparent and consistent rules governing technical standards and environment-related production and product standards.

It seems however, that at the moment only the GATT can provide such worldwide multilateral negotiations that ensure transparency and judicial control through its dispute settlement procedure. While it is doubtful whether we need completely harmonized standards it is important to make the different national standards transparent. National regulations must be predictable for industry and companies must be sure not to encounter discrimination. The level of these environmental standards is a question of national preferences and as long as it is the same for domestic and foreign producers, then there is no reason why national environmental standards should not be upheld at a high level.

Frank Cassidy, a manager with Digital Equipment Corporation, showed his company's experience with differing environmental standards within the United States. He showed that it could be very positive for a company to always bind itself to the most stringent environmental regulations existing. The experience acquired by doing so amounted for him to a future comparative production advantage as it was foreseeable that environmental standards were going to be more stringent worldwide.²

²This argument was also upheld in a paper presented by the author of this article, *see Andreas R. Ziegler, Environmental Challenges for Industry in the Context of International Trade Agreements*, paper presented at 5th Business Tomorrow International Conference, New York, 19-21 November 1992 (unpublished)

In different working groups young researchers and managers tried to elaborate practical concepts for industry and governments. It was shown that trade and environment were not absolutely irreconcilable. Even for companies it can be very interesting to use highly environmental-friendly production processes and bind themselves to high product standards. The label *environment-friendly* can be an important comparative advantage. Governments should give incentives to industry to follow such strategies. The behavior of consumers is very important in this respect. Besides regulating environmental standards on a high level governments should try to inform consumers and to make them aware of their consumer behavior. The question whether environmental standards should be completely harmonized or not is only one aspect of the "trade and environment" debate. For the moment it seems much more important to make the public opinion aware of the problems and to give industry transparent and predictable standards. It would be counterproductive if the dispute about worldwide environmental standards would lead to new trade wars and protectionist measures between the regional trade areas.³

³See Thomas J.Schoenbaum, *Free International Trade and Protection of the Environment: Irreconcilable Conflict?* American Journal of International Law, Vol 86, No. 4, October 1992, pp. 700-727