TRADE AND ENVIRONMENT

Statement by the Delegation of Uruguay

For GATT to deal with a question that is so important, so wide-ranging and in a sense so nebulous, as well as so fatal and tragic, as the environment and its deterioration, there has to be a convergence of views among contracting parties leading to a global, fair, coherent and rational approach. That is why we must discuss this matter without losing time but also without undue haste.

This debate, then, is a stage in a process that is still only beginning, with a view to tackling a complex, many-sided issue. In this connection, we are grateful for the contributions that have been made, in particular those of ASEAN, the EEC and EFTA, which provide very useful insights concerning these problems.

Since August 1990 the Preparatory Committee for the World Conference on the Environment to be held in Rio de Janeiro in 1992 has been hard at work, and has held two sessions. The GATT secretariat has participated in this work, without as yet being requested by the contracting parties to report in detail on the proceedings.

Our delegation now requests the GATT secretariat to report within the shortest possible time on what has taken place in the Preparatory Committee with regard to all aspects of the trade and environment nexus. In so doing we endorse the request made by the ASEAN countries. This document will be a useful and indeed highly necessary contribution to our future work.

Unlike GATT, UNCTAD has already received a mandate from the Preparatory Committee and at its Third Session will submit a report on the present situation and future trends of the relationship between environmental issues and international trade.

We must ask what contribution GATT for its part, can make, to the run-up to the Rio Conference. I would point out that so far there has been no formal debate whatsoever in GATT on this issue: in other words, we are lagging far behind the other intergovernmental organizations.

By its Resolution 42/186, the United Nations General Assembly welcomed the document entitled "Environmental Perspective to the Year 2000 and Beyond". In this 120-paragraph document, we find in paragraph 68(g) the reference mentioned by the Ambassador of the European Communities in his
recent statement. It establishes that international trade and commodity agreements should provide environmental safeguards, where applicable. They should also encourage producers to take a long-term view and provide for assistance for diversification programmes. It stresses that governments should study the environmental impacts of their trade practices and make the findings available to their agencies responsible for trade negotiations, which should take them into account. UNCTAD and GATT should develop and apply effective policies and instruments to integrate environment and development considerations in international trade.

This is not the only quotation we could cite: in Chapter F, on international economic relations, there are other important elements, such as the objective of establishing an equitable system of international economic relations aimed at achieving continuing economic advancement for all States, based on principles recognized by the international community, in order to stimulate and sustain environmentally sound or sustainable, rational and human development, especially in developing countries.

Without labouring other quotations, I shall merely point out that there are many references both in that resolution and in other declarations by the General Assembly and other organs of the United Nations system, to the need to take account of the special problem of developing countries. In many cases these refer to economic relations, and thus to trade.

Meanwhile, the countries of Latin America and the Caribbean have adopted at Ministerial level what is known as the "Tlatelolco platform" on environment and development. In it they declare that environmental issues must not serve as a pretext for creating barriers to international trade. This is certainly a fundamental point of departure for any consideration of the environment and trade nexus in GATT.

It would be most contradictory, as well as quite unjustified, if the whole international effort to protect the environment were to lead, as a pernicious collateral effect, to a kind of "ecological protectionism" which would contain a great deal of "protectionism" and little "ecological" protection, and whose negative consequences would undoubtedly fall primarily on the developing countries. Our Ministers also stated that, since the developed countries continue exporting to developing countries dangerous or harmful substances, products, processes and technologies that are prohibited in their countries of origin, a mechanism should be established to prohibit such sales. This calls for the rapid adoption of an additional Protocol to the Basel Convention, establishing clear and appropriate procedures with regard to responsibility and compensation for damage resulting from the cross-border movement and handling of hazardous wastes.

So far, GATT has not dealt with these issues, except in the Working Group on Export of Domestically Prohibited Goods and Hazardous Substances. The Working Group's terms of reference are to examine trade-related aspects in the light of GATT obligations and principles and having regard to the
work of other international organizations. Under these terms of reference
of July 1989, the Group has already held twelve formal and a number of
informal meetings, and drawn up a draft decision on this question, which
has not yet been adopted.

For GATT to be able properly to take up the analysis of the present
nexus between trade and environment, we will have to define very carefully
its sphere of action, which to a large extent depends on the actions all
our governments have undertaken in other forums. International action can
only be made most effective, in our opinion, in so far as "grey areas" as
to the responsibilities and activities of the various organizations dealing
with the issue can be avoided. That is why we stress the need to define a
reference framework that is as clear and precise as possible for the tasks
that can be undertaken in GATT.

Any work which we undertake in GATT on this issue must take account of
the interests of developing countries as fully and emphatically as has been
the case in other international organizations. The various international
institutions must provide equivalent treatment for the special
characteristics of developing countries in this collective effort to
preserve the quality of the environment.

The points we shall have to study so as to decide what GATT should or
should not do, within a global and coherent approach, must include the
following:

1. Prohibition of the use of environmental criteria to limit trade and
   justify protectionism.

2. Recourse to differentiation between domestic and foreign products as a
   mechanism of protection must be avoided.

3. Prohibition of the use of alleged shortcomings in the developing
countries' environmental conservation policies in order to apply trade
   restrictions; we would recall that protection of the environment
cannot become an impediment to the rational struggle of developing
countries to achieve economic and social development. The destruction
of the ecological equilibrium is essentially a consequence of the
policies of indiscriminate and often uncontrolled growth of the
industrialized countries. This naturally entails a responsibility and
also implies that the right of developing countries to environmentally
sustainable development must be clearly recognized.

4. Particular account must be taken of the enormous technological
imbalance between developing countries and the more advanced
countries, as well as the extra costs arising for developing countries
from the redeployment or diversification of industries in order to use
new and environmentally less harmful technology.
Thus, a long-term reconversion policy should not entail a comparative disadvantage for developing countries that would adversely affect their production and export conditions.

The reduction in developed-country import barriers might therefore be considered the necessary and direct counterpart to the new requirements that might be formulated with respect to food production and processing technology, as a means of providing some financial compensation for exporting developing countries. There are also industrial sectors of interest to developing countries for which this treatment would be possible in view of the high level of effective protection in developed countries.

5. Insofar as existing trade barriers distort cost levels and resource allocation, they will hinder the objective of sustained development. In other words, the trade barriers which harm free trade and efficient use of resources must be eliminated. At the same time, the use of sustainable resources based on the trade principle of equal treatment for domestic and foreign suppliers must be emphasized.

5. Recognize that trade must respond to the objectives of sustained development of developing countries.

7. Harmonization of the intergovernmental agreements which include specific commitments having directory repercussions on trade in specific products, with the GATT commitments, so as to ensure that no contracting party may apply measures unilaterally.

8. A strict system of exceptions for any action taken by a contracting party on environmental grounds.

9. Developing countries should be authorized to use export taxes in order to cover the cost of management of sustainable resources in the light of whatever new requirements and conditions may be agreed at intergovernmental level.

10. The above elements, together with others that will certainly be proposed by other delegations, should lead to a thorough study of the existing GATT provisions and an evaluation of how best to establish a legal basis for the trade and environment nexus in the framework of the General Agreement.

It should be clear from the foregoing that we do not consider it desirable to revive a Working Group set up twenty years ago with terms of reference and a membership that do not respond to our present needs, as indicated by the vitally important events that have taken place in recent years. However far-sighted the CONTRACTING PARTIES may have been in 1971, it is hardly surprising that they were unable to foresee the entity which has become responsible for protection of the environment and its relationship with GATT. A new problem therefore calls for a new solution. The 1971 terms of reference provide for fragmented and even perhaps sporadic action lacking the global approach to substantive and institutional factors without which GATT's response might well prove
inadequate in the face of a singularly complex problem with unforeseeable ramifications. Furthermore, the Group’s membership as established in 1971 comprises 7 developing countries and 21 industrialized countries, which is not acceptable since this gives a majority to precisely those countries that are most responsible for the deterioration of the environment.

On the other hand, we believe that today we can decide to begin work along the guidelines I have described above. Having posed the problem in this way, we shall proceed within the framework of the General Agreement, in full awareness of the economic and trade realities worldwide and the responsibility with which the question of environmental protection must be tackled today.