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**REPORT OF THE EXPERT MEETING ON
ENVIRONMENTAL REQUIREMENTS AND INTERNATIONAL TRADE**

Held at the Palais des Nations, Geneva
from 2 to 4 October 2002

CONTENTS

<i>Chapter</i>	<i>Page</i>
I. Chairperson's summary	2
II. Organizational matters	8
<i>Annex</i>	
Attendance	10

Chapter I

CHAIRPERSON'S SUMMARY

1. Environmental and health requirements play an increasingly important role in the international marketplace. Environmental requirements take the form of product standards and regulations, voluntary measures, standards set by the private sector, buyers' requirements and supply chain management, which may involve non-product-related production and process methods (PPMs), such as recycling requirements.

2. Experts discussed both the effects of environmental requirements and the opportunities these requirements presented. Experts from developing countries emphasized the need to address capacity and institutional constraints in their countries to allow the latter to respond to environmental requirements in international markets and to take advantage of new production and export opportunities. Experts also suggested ways to improve information flow and communication between importing and exporting countries.

3. As countries seek to enhance environmental protection and promote sustainable development, environmental requirements are expected to become more frequent, including in sectors that are dynamic and a source of growth in developing countries. Such requirements respond mainly to local environmental concerns. Environmental requirements are also becoming more stringent, as a result of factors such as growing evidence of the harmful environmental effects of certain substances, consumer preferences and the development of equipment that allows better testing. While the regulations and standards themselves may be based on genuine environmental concerns, their application and interpretation could be discriminatory for exporters, especially those from developing countries. Some experts expressed concern that recent tariff liberalization had coincided with increasing environmental and health regulations affecting products of export interest to developing countries.

4. Experts expressed the view that since science, technology and consumer preferences were continuously evolving, environmental requirements and sanitary and phytosanitary (SPS) measures were constantly moving goalposts in the international marketplace. This situation necessitated repeated investment to meet changing requirements and complicated the process of international standard setting in dynamic markets and sectors.

5. The variation across countries of regulations and standards, as well as conformity assessment requirements, increases the complexity of meeting requirements for exporters and raises compliance costs. Mutual recognition and equivalence would be an appropriate conceptual basis for addressing such variations, but in reality both are very difficult to achieve. Sometimes equivalence of standards, regulations and conformity assessments is interpreted to mean that they must be identical. However, as the example of sustainable forest management labelling highlighted, the actual specifications in the standard are extremely important because they must be suited to local conditions (e.g. forest types, soil characteristics, land rights). Although an international label for sustainable forest

management that replaces many different national labels may facilitate international trade, it will not necessarily achieve the public policy objective that it was created to address if the specifications are not appropriate. Therefore, technical equivalence agreements concerning standards might be a better approach.

6. While environment- and health-related measures are different, in practice it is often difficult to distinguish between the two because meeting legitimate health standards in the consuming countries often requires changes in PPMs and environmental policies in exporting countries. In other words, health concerns in consuming countries are often tied to environment-related problems in exporting countries. Furthermore, SPS measures (such as those established to limit human exposure to pesticide residues), in addition to protecting human health, are sometimes also motivated by broader concerns related to the effects of pesticides on the environment.

7. Environment- and health-related requirements both generate the same kinds of adjustment problems for developing-country exporters. Experts therefore felt that both could be studied with a view to finding solutions. While it may be important for trade negotiations to distinguish conceptually between environmental and health standards, for the market the distinction is not important.

8. The environmental requirements of importers and buyers are often more stringent than those of regulatory agencies. Many transnational corporations (TNCs) and other large buyers impose strict requirements throughout the supply chain. Buyers' requirements and voluntary eco-labelling and standards are proliferating. However, supply chain management also provides opportunities for cooperation between companies in importing and exporting countries.

9. Some experts expressed concern that assistance and subsidies provided to local firms in developed countries for implementing new environmental measures could put exporting firms from developing countries at a further competitive disadvantage.

10. Case studies have shown that meeting standards in export markets can have both positive and negative effects, both at the enterprise and national levels. Generally, costs increase significantly in the short term, although in some cases these can be partly or fully offset by cost savings in the medium term through better housekeeping or managerial practices resulting in reduced use of energy and other inputs as well as less waste generation.

11. At the macroeconomic level, there can be changes in industrial structure in favour of large enterprises. Difficulties in meeting environmental and health requirements in export markets often force small- and medium-sized enterprises (SMEs) to shift to production for the domestic market or for export markets with less stringent requirements.

12. In addition, regulatory changes can lead to more stringent domestic environmental regulations and standards. At the same time, there is the risk that standards, in particular when copied, may not be appropriate for domestic production conditions. Unless a balance

suited to the domestic context is maintained, environmental regulations may emphasize environmental conservation at the cost of sustainable social and economic development in developing countries. Also, efforts to meet stringent standards in export markets may divert much-needed investment from social services. Most of these problems are related to the fact that developing countries are standard takers, instead of standard setters, even with regard to products for which they account for a large share of the world supply.

13. Developing countries face a number of significant capacity constraints in meeting environmental requirements. These include a lack of infrastructure, such as internationally accredited and recognized laboratories with advanced testing equipment; poor legislative capacity; limited skills and training; and a lack of engagement in international standard-setting processes that is largely attributable to the small size of these countries' scientific and business communities and to limited government resources.

14. Insufficient information and its dissemination to producers in developing countries constitute a major constraint. It was noted that while the system of notifications in the World Trade Organization's (WTO's) SPS and technical barriers to trade (TBT) Agreements had produced a list of notifications on products of export interest to developing countries, not all Enquiry Points in developing countries were functioning well in reacting to relevant notifications and disseminating the information to exporters. While some private-sector initiatives disseminate notifications and other relevant information, serious gaps remain in information gathering and dissemination and in capacity to respond adequately. Moreover, there is no obligation to notify WTO of voluntary standards and buyers' requirements, and information clearing-house services for these do not yet exist, though they are urgently needed. Some recent initiatives mentioned in the meeting (e.g. the Center for the Promotion of Imports from Developing Countries in the Netherlands, CBI and its AccessGuide, and the Sustainable Trade and Innovation Centre (STIC)) aim to help fill such information gaps.

15. It was also pointed out that in some cases new technologies were necessary for meeting environmental requirements. Some of these technologies may be under intellectual property protection and therefore less accessible to developing countries, or they may require transfer of technology.

16. Experts focused their discussions on effects and opportunities involving environmental (and health-related) requirements in three sectors: electronics, forestry products and agricultural and fisheries products.

17. The electronics sector illustrated the implications of environmental requirements, emerged largely in the context of integrated product policy (IPP) on a range of issues (e.g. producer responsibility and recycling legislation affecting materials, energy, packaging and hazardous substances) as well as the need to be more innovative in product design. It also demonstrated that product-related specifications require process-related changes – for example, lead substitution is likely to require substantial retooling and replacement of capital equipment. This is easier for new industries than for older ones, because the technology can be integrated from the beginning. Generally, in developing countries, there is little awareness

of these issues, including awareness among producers of impending new regulations in export markets. One expert described a project in Thailand to examine the implications of responding to new market requirements. Since manufacturing of electronics components and other products is being increasingly outsourced to developing countries, companies and Governments in these countries need to promote proactive policies with regard to information gathering and management and product engineering and design. Developing-country companies should also seek cooperation with transnational corporations and obtain information on new consumer requirements.

18. Producer responsibility legislation is also being implemented in other sectors, such as packaging and automotives. Early consultation between suppliers and major importers is very important, especially for products with a high share of imports.

19. The case of labelling of sustainably produced timber clearly illustrated the complex economics behind the various schemes. Labelling can be a useful commercial tool for sustainable producers. It should be voluntary and market-based. However, only 3 per cent of world's forests are currently certified, and 90 per cent of these are located in developed countries. The market for certified timber seems to be driven more by retailers than by clearly expressed consumer preferences. Price premiums are generally difficult to achieve. The multitude of existing certification and labelling schemes seems to confuse producers, processors, traders and final consumers. Furthermore, in the chain of custody, division of responsibility in certification is often unclear, and bottlenecks in the certification process have been reported.

20. Forest certification was considered to be a relatively more important issue for timber-exporting developing countries. Some experts argued that, while the drive for certification had initially been motivated by concern over deforestation in tropical areas, it had increasingly become a marketing tool used mainly by developed-country producers and retailers. Constraints reported by timber exporters included the high cost of certification, complex compliance procedures with rigorous standards and poor access to certification services. Certification can enhance market access or restore markets that would otherwise decline as a result of negative publicity campaigns targeting unsustainable production methods. Mutual recognition of standards was deemed particularly important, although existing in practice only under the Pan-European Forest Certification (PEFC) system.

21. In the food sector, the cost of compliance with standards can be very high. Keeping testing and compliance costs low is often a decisive factor in competitiveness. Meeting standards in this sector was considered to be a critical issue because of its great importance in developing-country exports, and because of the perishable nature of the products. Various experts also reported difficulties in meeting packaging and labelling requirements. Several experts emphasized that higher testing and adjustment costs were difficult to pass on to consumers in the short term because of falling commodity prices, stiff competition among suppliers and prevailing highly concentrated market structures. It is, however, possible that in the medium and long terms higher average testing and adjustment costs might be partly reflected in market prices.

22. The role of SMEs in export-related production should not be underestimated. SMEs face particular problems in complying with environmental requirements. These problems are caused by constraints such as lack of specific information, lack of technical and managerial skills, inadequate financing, dated equipment and inadequate infrastructure. Several best-practice cases of compliance with environmental standards were discussed. In this context, UNIDO has played an important role in facilitating the transition to cleaner production by SMEs, particularly through its global network of Cleaner Production Centres. It was pointed out that moving to cleaner production to respond to domestic environmental problems might not necessarily respond to requirements in export markets. Initiatives such as STIC, on the other hand, were focused on promoting exports of sustainable goods and services, particularly from SMEs in developing countries. Reference was also made to other initiatives, such as public-private partnerships and regional cooperation.

23. There is broad consensus that science must be used as a basis for setting standards. Both the science on which standards are based and the equipment used for testing may, however, evolve rapidly; this is one reason why standards change frequently and vary across countries. In addition, in some cases variations in standards result from political considerations and consumer interests. Whereas countries have the right to choose their level of protection and acceptable risk, one can ask questions such as: What is the right balance between the risk addressed by higher standards and the costs of complying with those standards? This question is usually addressed at the national level, but there is little or no experience in addressing it at the international level, where the developmental impacts of higher standards on exporting countries are assessed.

24. Some experts felt that in complying with standards it was important to consider the proportionality of environmental benefits and costs, both domestically and abroad. For example a recent World Bank study predicts that the implementation of a new aflatoxin standard in the European Union will have a very negative impact on African exports of cereals, dried fruits and nuts. On the basis of an econometric model, it is estimated that the EU standard, which would reduce health risks by approximately 1.4 deaths per billion a year, will decrease African exports of these products to the EU by 64 per cent, or US\$670 million.¹

25. Developing countries can strengthen their national capacities to meet environmental requirements by participating in technical assistance programmes offered by bilateral agencies and international organizations that are designed to build human and institutional capacities. The activities of these programmes assist Governments with policy development and implementation. Through multi-stakeholder approaches, they can also help developing-country producers, in particular SMEs and small agricultural producers, meet environmental requirements and take advantage of new market opportunities for environmentally preferable products. A number of such programmes were presented and discussed, including those of CBI in the Netherlands; the UNCTAD/FIELD project on Building Capacity for Improved

¹ Otsuki T, Wilson JS and Sewadeh M (2000). *Saving Two in a Billion: A Case Study to Quantify the Trade Effect of European Food Safety Standards on African Exports*. Washington, D.C., Development Research Group (DECRG), The World Bank.

Policy Making and Negotiation on Key Trade and Environment Issues; the UNEP-UNCTAD Capacity Building Task Force on Trade, Environment and Development (CBTF); and UNCTAD's TrainForTrade Programme. Recognizing the value of these programmes, a number of experts recommended that they be offered more intensively and to a wider set of countries in the future.

26. Science is playing an increasingly important role in the WTO, especially in the context of the TBT and SPS Agreements and the Dispute Settlement Understanding (DSU), where it has become the legal test in disputes. There is also a trend towards using science in the context of provisions for nondiscrimination – for example, in cases dealing with toxicity. A comprehensive approach incorporating risk assessment, risk management and risk communication is needed. However, science does not provide definitive answers to several issues and questions involving how to balance majority and minority opinions within the scientific community in the WTO, especially in the context of TBT and SPS.

27. In food safety, it is important that products be evaluated individually with regard to their health benefits and risks. A view was expressed that biotechnology products in general are neither inherently safe nor inherently unsafe and therefore should not be evaluated as a group. Products derived from biotechnology may have consequences for public health and the environment. On the positive side, they can alleviate allergenicity, natural toxicity and nutritional deficiencies. On the negative side, they can alter natural patterns of biodiversity, transfer genes to other living organisms, cause allergenicity and have other unintended deleterious effects. It is important to differentiate between potential effects on health and those on the environment. It was pointed out that developing countries choosing to produce food containing genetically modified organisms (GMOs) could risk losing certain export markets because of import bans imposed by some countries and prohibitively costly traceability and labelling requirements in other markets.

28. Some experts felt that the importance of standards developed by Codex, the World Organisation for Animal Health (OIE) and the International Plant Protection Convention (IPPC) was likely to increase. Others pointed out that numerous national food safety standards exceeded international standards and that it was these national standards and buyers' requirements that exporters had to meet in the marketplace. Codex has recognized that the needs and concerns of developing countries should be duly reflected in future revisions and development of standards.

29. Policy makers and trade officials increasingly need to be able to tap scientific expertise. UNCTAD's recently launched Science and Technology Diplomacy Initiative can help improve understanding of the role of science in standard setting and of technology transfer issues. This can be particularly important in the context of environmental and health requirements in international trade.

30. Niche markets for environmentally preferable products can create opportunities for developing countries. However, price premiums for such products may be difficult to obtain. The World Summit on Sustainable Development (WSSD), held earlier this year in

Johannesburg, South Africa, called for the promotion of markets for environmentally preferable goods and services, including organic agricultural products, from developing countries. UNCTAD has undertaken efforts to promote trade and development opportunities derived from the sustainable use of biodiversity resources, in particular through its Biotrade Initiative. Similarly, it has been exploring opportunities for promoting production and trade in organic products – for example, through the UNEP-UNCTAD CBTF. In both cases, it has developed partnerships, which were presented at the WSSD.

Recommendations

31. Developing countries need support for:

- More effective awareness raising, notably among producers in least developed countries, particularly SMEs, of existing and upcoming standards and regulations;
- Effective communication with Governments and standard-setting bodies in importing countries on the impact of environmental requirements on the compliance costs and profitability of producers in developing countries;
- Informed participation in standard-setting bodies related to products of particular export interest;
- Institutional and infrastructural capacity building;
- Transfer of environmentally sound technologies; and
- Training staff members in companies to assist with compliance.

32. Efforts should be made to reduce the costs of (multiple) conformity assessment and certification. These efforts should include building cost-effective infrastructure – for example, through group certification and the creation and accreditation of national and regional certifying bodies and laboratories.

33. As adjustment to standards was particularly difficult for SMEs, some experts felt that extended adjustment periods for developing countries, and particularly for SMEs, should be considered under WTO rules and by standard-setting countries, notably in cases where standards higher than internationally recognized ones are used, and where health considerations do not make such standards imperative. Longer adjustment periods could also be linked to technical assistance, particularly from standard-setting developed countries. One expert remarked that it might be difficult to determine internationally which companies should benefit from such an approach.

34. To address information gaps in developing countries, introduction of the following measures was recommended: (i) an information clearing house for voluntary standards, labels and buyers' requirements; (ii) notification of environmental requirements to the WTO at an early stage of their development, including within the Code of Good Practices; and (iii) early warning systems for forthcoming standards and regulations at the international, regional and national levels. Some experts stressed the need for more proactive efforts to extend national transparency mechanisms to foreign suppliers, particularly in developing countries.

35. There is a need to develop best practices in developing and implementing environmental regulations and standards. These could include the following:

- Increased transparency, including with regard to the scientific basis for regulations/standards; conformity assessment procedures; and accreditation processes for certification bodies;
- Prior consultation between standard setters in importing countries and exporters in developing countries at the international and regional levels, particularly in the early stages of development of national standards;
- A more flexible stance towards developing-country exporters as they work towards compliance with standards;
- Anticipation of problems and timely provision of adjustment assistance;
- Creation of an international framework to support technical equivalence agreements; and
- Promotion of effective participation by developing countries in international standard-setting processes.

36. Bilateral and multilateral assistance for capacity building and technical assistance to developing countries may be necessary when new environmental requirements are introduced. Several experts stressed the importance of special and differential treatment and proposed to move beyond the current best-endeavour clauses in the WTO TBT and SPS Agreements. Multilateral and bilateral funding agencies should, in their technical assistance activities, give priority to the need to enhance capacities to comply with environmental standards, and could earmark more funds for this purpose. Assistance should also be provided for the development of national standardization bodies, conformity assessment services and accreditation agencies in exporting countries.

37. A consultative group could be created for discussing approaches used by developed-country Governments, including in the context of import promotion policies, to help assess the impact on developing countries of proposed environmental measures, to facilitate proactive adjustment strategies and measures in exporting developing countries and to identify examples of best practices that can be applied by importing countries.

Chapter II

ORGANIZATIONAL MATTERS

A. Convening of the Expert Meeting

1. The Expert Meeting on Environmental Requirements and International Trade was held at the Palais des Nations, Geneva, from 2 to 4 October 2002.

B. Election of officers

2. At its opening meeting, the Expert Meeting elected the following officers to serve on its bureau:

Chairperson: Mr. Otto Th. Genee (the Netherlands)

Vice-Chairperson-cum-Rapporteur: Ms. Angelina M. Sta. Catalina (the Philippines)

C. Adoption of the agenda

(Agenda item 2)

3. At the same meeting, the Expert Meeting adopted the provisional agenda circulated in document TD/B/COM.1/EM.19/1. The agenda for the Meeting was thus as follows:

1. Election of officers
2. Adoption of the agenda and organization of work
3. Environmental requirements and international trade
4. Adoption of the report of the Meeting

D. Documentation

4. For its consideration of the substantive agenda item, the Expert Meeting had before it a note by the UNCTAD secretariat entitled "Environmental Requirements and International Trade" (TD/B/COM.1/EM.19/2).

E. Adoption of the report of the Meeting

(Agenda item 4)

5. At its closing meeting, the Expert Meeting authorized the Rapporteur to prepare the final report of the Meeting under the authority of the Chairperson.

Annex

ATTENDANCE *

1. Experts from the following States members of UNCTAD, members of the Board, attended the session:

Angola	Honduras
Argentina	India
Bangladesh	Indonesia
Barbados	Iran (Islamic Republic of)
Benin	Italy
Burkina Faso	Kenya
Cambodia	Lebanon
Cameroon	Madagascar
Canada	Mauritius
Central African Republic	Mexico
Chile	Mongolia
China	Morocco
Colombia	Mozambique
Costa Rica	Myanmar
Croatia	Netherlands
Cuba	Nepal
Czech Republic	Niger
Democratic Republic of Congo	Oman
Djibouti	Pakistan
Dominican Republic	Panama
Egypt	Papua New Guinea
Ecuador	Peru
El Salvador	Philippines
Finland	Russian Federation
France	Senegal
Gabon	Sierra Leone
Gambia	South Africa
Germany	Spain
Ghana	Sri Lanka
Georgia	Switzerland
Greece	Syrian Arab Republic
Guinea	Thailand

* For the list of participants, see TD/B/COM.1/EM.19/INF.1

Togo
Uganda
United Kingdom of Great
Britain and Northern Ireland

United Republic of Tanzania
Yemen
Zimbabwe

2. The following other States members of UNCTAD, not members of the Board, were represented as observers at the session:

Comoros
Rwanda

3. The following intergovernmental organizations were represented at the session:

Common Fund for Commodities
European Community
Organization for Economic Co-operation and Development
Organisation Internationale de la Francophonie
South Centre

4. The following specialized agencies and related organizations were represented at the session:

International Trade Centre
United Nations Industrial Development Organization
World Trade Organization

5. The following United Nations agencies were represented at the session:

Economic Commission for Europe
Economic Commission for Latin America and the Caribbean
United Nations Environment Programme

6. The following non-governmental organizations were represented at the session:

International Union for Conservation of Nature and Natural Resources