

TRADING SHORT-SIGHTEDLY: DFAIT ON THE ENVIRONMENT

Robert B. Gibson

The Department of Foreign Affairs and International Trade is proposing new assessment procedures for evaluating trade agreements. It is promising a degree of openness and a level of attention to environmental considerations previously unknown in Canada's trade negotiations. On the other hand, the proposed framework constrains assessments to look only at the biophysical effects on Canada of predefined negotiating positions, mainly using only internal expertise and existing information.

Le ministère des Affaires étrangères et du Commerce international propose l'instauration de nouvelles procédures pour l'évaluation des accords commerciaux. En matière de protection de l'environnement, il promet un degré d'ouverture et d'attention inconnu, jusqu'ici, dans les négociations commerciales du Canada. Mais le cadre proposé impose des limites précises : d'une part, les évaluations devront prendre en compte seulement les effets biophysiques que des positions de négociation prédéfinies entraînent pour le Canada; d'autre part, ces évaluations reposeront principalement sur l'expertise interne et sur les renseignements existants.

In 1999, during preparations for the ill-starred Seattle gathering of the World Trade Organization, Canadian officials agreed to begin assessment of "the domestic environmental implications of a new round of trade negotiations." Initially, the work was to be focused on the WTO's global plans for expanded trade liberalization. When those plans slid off the rails, the Department of Foreign Affairs and International Trade (DFAIT) refocused the initiative to serve particularly Canadian needs—broadening the scope to cover negotiation of bilateral and regional as well as global agreements, and narrowing it to consider only effects on Canada.

Some such refocusing might have been required in any event. In addition to its commitment to the WTO's efforts, DFAIT is subject to the federal government's expressed devotion to sustainability and the 1999 Cabinet Directive requiring assessments of proposed policies, plans and programmes that might have important environmental effects, positive or negative. Back in the days of the Canada-US trade negotiations, Canadian officials asserted that trade deals were not about the environment. This is no longer a viable fiction. DFAIT, to its credit, has recognized the potential envi-

ronmental significance of trade agreements and is now moving to discharge its policy-level assessment obligations.

This past September, after consulting with a variety of stakeholders inside and beyond government, DFAIT sought public comment on a draft document setting out its proposed approach. On February 5, International Trade Minister Pierre Pettigrew released the final version—"Canada's Framework for Conducting Environmental Assessments of Trade Negotiations" (which is available from DFAIT's Environmental Services Division, tel. (613) 944-0956, e-mail aes@dfait-maeci.gc.ca or on the Web at: <http://www.dfait-maeci.gc.ca/tna-nac/social-e.asp#environment>.)

The document is admirably concise—14 pages plus sundry appendices—and contains some welcome substance. In particular, it embodies a level of anticipatory deliberation and transparency not evident on these matters in the past. And in accord with the Cabinet Directive, it recognizes the importance of seeking environmental benefits, rather than just trying to avoid serious additional abuse. Arguably these are modest steps over low hurdles. Nevertheless the improvements merit recognition.

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The chief disappointment is that the framework lags significantly behind enlightened international, national and even DFAIT thinking on environmental assessment and sustainability.

DFAIT's policy writers careful to reiterate the main articles of faith among conventional trade negotiators. They assert that there is "no contradiction between liberalized trade and environmental protection," that global environmental concerns are best dealt with through multilateral environmental agreements outside trade negotiations, and that negative social, economic and ecological effects of economic activities should be addressed through domestic policy, not through restrictions in trade agreements.

But DFAIT also recognizes a need to reassure non-believers and to minimize conflicts between trade and environmental agreements. Accordingly, the document identifies two objectives for environmental assessment of trade negotiations:

- "to help Canadian negotiators integrate environmental considerations into the negotiating process by providing information on the environmental impacts of trade agreements," and
- "to address public concerns by documenting how environmental factors are being considered in the course of trade negotiations."

The proposed framework anticipates assessments "on an agreement-by-agreement basis"—that is, on the proposed contents of individual anticipated agreements as Canada prepares for new bilateral negotiations (such as with Costa Rica) or regional ones (such as the hemispheric FTAA initiative). There is no suggestion of an overall review of Canadian options for trade negotiations.

An interdepartmental federal government committee, led by DFAIT, will supervise implementation by Environmental Assessment (EA) Committees appointed for each proposed negotiation. These committees, with representatives of the negotiators, Environment Canada and the Canadian Environmental Assessment Agency, and other relevant departments and agencies, will determine the level and scope of the assessment in each case, and co-ordinate the actual work. Prior to the start of negotiations, individual trade agreements will be subject at least to "initial assessments" that "scope out the main environmental issues likely to arise." In cases where significant environmental impacts are expected, further assessment work will be done prior to and perhaps also during the negotiations.

The document promises public notice and

solicitation of views on "environmental matters relating to the proposed negotiations" before an individual assessment begins. As well, the results of initial assessments and any more detailed assessments conducted prior to negotiations will be made public, and comments sought, through the *Canada Gazette* and/or DFAIT's web site. When the negotiations are done, a final environmental assessment report will be posted, documenting as well any assessment re-evaluations undertaken during the negotiations.

All this points to a degree of openness, and probably a level of attention to environmental considerations, previously unknown in Canada's trade negotiations. That is the good news. The bad news is that the proposed framework carefully constrains assessments so that only biophysical effects in Canada are to be considered, only the predefined negotiating position for each agreement is to be examined, and reliance on internal expertise and existing information is to be favoured.

Environmental assessment is essentially a means of fostering more enlightened decision-making by ensuring attention to environmental factors along with the usual financial, technical and political considerations. In most jurisdictions, environmental assessment arose to address the inadequacies of pollution control laws that were typically focused on particular receptors (air, water) or sectors (waste), designed to respond to problems after they had emerged, and implemented through closed scientific, technical and economic bargaining. Accordingly, environmental assessment processes have tended to reflect the opposite approach. The good ones are designed to be comprehensive and integrated, anticipatory, and open to public scrutiny and participation.

Some assessment processes have been narrowly applied as means of identifying and mitigating significantly adverse biophysical effects. However, the strongest assessment processes have been broader and more ambitious. The original environmental assessment law—the US *National Environmental Policy Act of 1969*—adopted a comprehensive definition of "environment" including interactions among social, economic and cultural as well as biophysical effects, and its fundamental wisdom has been consistently confirmed by subsequent research and experience. Similarly, the strongest assessment regimes have been dedicated to improving overall public well-being by identifying the most desirable options, rather

than merely seeking ways to mitigate the damage from already selected undertakings.

Neither of these qualities is incorporated in the DFAIT framework. The framework's definition of "environment" includes only biophysical effects, and there is no serious opening for consideration of alternative trade arrangements.

The framework's narrow focus on biophysical effects is unrealistic and in conflict with DFAIT's expressed commitment to sustainability objectives. The concept of sustainability, popularized by the World Commission on Environment and Development (the Brundtland Commission) in 1987 and widely adopted since, is built on recognition that practical initiatives to improve long-term well being must respect the essential inseparability of the social and the ecological. The Government of Canada was among the many governments that quickly expressed support for the Brundtland Commission's insights and claimed commitment to sustainability. While implementation has been slow, the 1995 amendments to the *Auditor General Act* required federal departments to prepare sustainable development strategies reflecting a broadly integrative approach.

DFAIT has such a strategy and is now working on a revision. The Department's August 2000 draft strategy is remarkable for emphasizing the three usual pillars of sustainability—economic, environmental and social—and for applying this understanding to all departmental matters except one. The single and very obvious exception is the negotiation of trade agreements. Only in this area is there an evidently resolute determination to avoid integrated consideration of the three pillars and to assess only environmental effects, narrowly (biophysically) defined. In effect, trade liberalization is treated as the only area of DFAIT activities where sustainability effects do not matter.

According to DFAIT's own summary of public comments on its draft framework document, "more than three-quarters of the respondents addressed this issue, identifying DFAIT's sustainable development commitments that call for an integration of all three 'pillars'." The Department was nevertheless unmoved. Claiming that "more study and understanding is needed" on how to do integrated assessments, DFAIT held resolutely to its narrowly biophysical approach, conceding only that including social considerations is imperative "in the long term."

It is certainly true that there is need for more study and understanding of how to do integrated

assessments. But is it not entirely uncharted territory. We've done integrated assessments at the major project level for as long as we've done narrowly biophysical ones. More importantly, we have no good reason to imagine that the social implications of trade can be safely neglected until some time in the undefined long term.

The essential message of the Brundtland Commission, and many other investigations before and since, is that economic business as usual is not viable over the long term. There are already unmistakable signs of serious disruptions of regional and global ecological functions—major changes in atmospheric chemistry, depletion of groundwater, and losses of species, forest cover, coral reefs and fisheries, and so on. It is also evident that dangerous social divisions are building within and between nations. Liberalized and expanded trade is likely to have some beneficial effects, ecologically as well as socially, through increased efficiencies and wealth generation. But, if pursued in the established manner, it is also almost certain to increase overall energy and material use, further disrupt essential ecological functions and widen gaps between rich and poor. While net sustainability gains from trade agreements may well be possible, they are certainly not assured.

This is not a view unique to the pepper-sprayed opponents of market globalization. Consider, for example, the points made by Charles Arden-Clarke, head of the United Nations Environmental Programme's Economics and Trade Unit, at a UNEP consultative meeting with executives of global industry associations (Paris, 21 September 2000). Arden-Clarke noted many potential benefits of trade liberalization but also listed the following potential costs:

- increased resource use and ecological impacts (increased CO₂ emissions, deforestation, soil degradation, etc.),
- structural changes that damage established economic centres and bring workforce dislocations,
- additional trade in and use of damaging products, with associated wastes,
- undermining of regulatory controls,
- health and sanitation problems, and
- deepening of inequities within and between countries.

Concerning the final point, Arden-Clarke noted that the ratio between the wealth of the top fifth of the world population and that of the lowest fifth rose from 30:1 in 1960 to 80:1 in

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1995. While this is not attributable only to market globalization, it is clear that trade liberalization can deepen inequities and has done so. At least since the work of the Brundtland Commission there should be no doubt that worsening inequity is an environmental as well as economic, social and moral issue.

Arden-Clarke's list of potential costs (and, for that matter, his list of potential benefits) reflects the intertwined character of ecological, social and economic effects. It suggests that an exclusive focus on narrowly defined environmental effects is unrealistic, as well as incomplete from a sustainability perspective. UNEP has, accordingly, adopted an integrated approach to the strategic assessment of trade policies and is currently preparing a manual to guide such assessments.

The DFAIT approach, in contrast, appears to assume that assessment with a narrowly environmental focus can satisfy sustainability obligations. Disregarding the interrelationships among the three pillars of sustainability, DFAIT promises no attention to equity effects or other socio-economic implications within the environmental assessment process (except insofar as they may result from biophysical effects), and gives no indication that some other reasonably rigorous and public process will be instituted to address these matters.

This deficiency is deepened by DFAIT's insistence on considering only effects on the biophysical environment in Canada. DFAIT recognizes, mildly, that "many environmental issues should be examined in the global context to be most completely understood" but claims that "limited data, sovereignty issues, limited resources, and practicality" demand a focus on Canadian effects. These are at best weak excuses. Trade liberalization efforts are meant to reinforce the mutual economic interdependence of nations. It is absurd to pursue this reinforcement while acting as if Canada were, environmentally, an island.

The second serious failing of the DFAIT framework is that it is not well designed to consider alternative possible trade arrangements and select the ones that best serve sustainability objectives. This is due in part to the individual agreement approach, the narrow biophysical effects focus and the failure to integrate overall sustainability considerations. But it also due to the framework's basic design.

DFAIT asserts that the environmental assessments "will be initiated as part of the process for

developing Canada's negotiating objectives." But the document makes it clear that the main components of the anticipated negotiating position will be largely set before assessment work begins and that the role of the assessments is chiefly to identify "mitigation and enhancement options."

The 1999 Cabinet Directive on the Environmental Assessment of Policy, which provides the directly applicable guidance for the DFAIT initiative, lists "examine alternatives" as one of the seven key principles of assessment. The Directive is less than clear about what this entails and environmental assessment literature and practice offer a range of possibilities. But proper consideration of alternatives certainly goes beyond assessing a single set of trade objectives and weighing the mitigation and enhancement options that may be needed to improve the predetermined elements. Given the evidently problematic and controversial role of trade liberalization as a tool for sustainability, provision for careful consideration of a sizable range of alternative trade arrangements would seem to be an appropriate, indeed crucial, component of any framework for the environmental assessment of trade.

Unfortunately, this is not what seems to be intended under the DFAIT framework. The framework centres on a four-stage process. In stages one and two, the negotiators determine the main components of the anticipated agreement, describe the resulting "economic effect" and identify the likely environmental effects of the anticipated changes. In stage three, the significance of the likely environmental effects is determined. The fourth stage is devoted to "identification of enhancement/mitigation options to inform the negotiations." Throughout, the assessment efforts are to be subject to scoping efforts to ensure that the assessment focuses only on impacts judged to be "likely and significant."

While the tightly scoped initial environmental assessment work may well affect the substance of some negotiating positions, it will not be an evaluation of broad alternatives. The framework document suggests that the assessment findings could result in abandonment of an initial position and development of a new one, but no criteria are provided for judging how bad the findings would have to be to justify abandonment of a working position just before or during negotiations, and in any event the result would be successive evaluation of positions, not comparative assessment of options.

The first sentence of the *Framework for Conducting Environmental Assessments of Trade Negotiations* notes the Canadian government's commitment to sustainability. The framework itself, however, does not reflect this commitment. It does not foster integrated consideration of the main components of sustainability and it does not aim to weigh the major, potentially attractive and viable trade options and facilitate pursuit of those that best serve sustainability objectives. As a result, and on balance, it is a disappointment.

DFAIT observes, quite justifiably, that environmental assessment of trade agreements is not easy. The issues are complex, the potential effects intertwined with a host of other influences, the

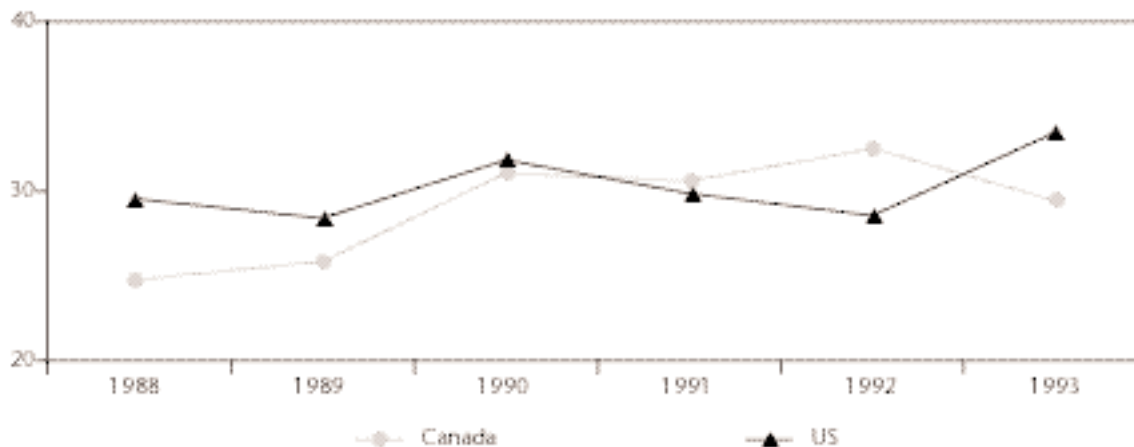
available data limited, and the whole topic globally controversial. But that is the world we face. While DFAIT's attempt to duck to these challenges by adopting a narrowly constrained framework is understandable, it is ultimately unrealistic. Sooner or later we will have to embrace the complexities, address the interrelationships and, with what minimal understanding we can gather, identify and assess the trade options and other arrangements that are most likely to improve our long term prospects on this planet.

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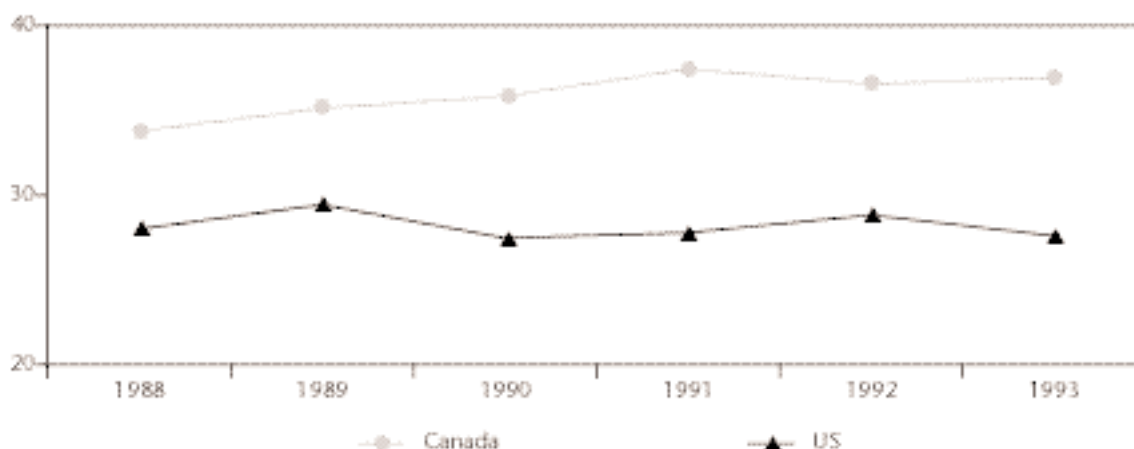
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Who taxes what?

Effective average tax rates on capital income (per cent)



Effective average tax rates on labour income (per cent)



Source: G. C. Ruggeri and Carole Vincent, "Effective average tax rates on capital income and labour income in selected OECD countries," *Canadian Tax Journal* (Spring 2000).