

Integrating Non-Economic Concerns in International Economic Organizations: Learning from the International Financial Institutions' Approach to Sustainable Development

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*I remain convinced that the gradual opening of domestic markets to international trade, with justifiable exceptions or with adequate flexibilities, allows the achievement of sustainable development, raising people's welfare, reducing poverty, and fostering peace and stability.*¹

-- Pascal Lamy

(Director-General, World Trade Organization (2005 – 2013))

Adopted by the UN General Assembly in 2015, the Sustainable Development Goals (SDGs) affirm that *sustainability* has emerged as a broad-based global commitment of political and legal significance.² Nation-states and non-state actors alike have taken this commitment seriously, and began to pursue activities that balance and integrate the economic, social, and environmental dimensions of development. Even international financial institutions (IFI), which are traditionally perceived as being solely concerned with economic matters, have made organizational and operational changes towards realizing the global sustainability commitment. As international economic organizations, the World Trade Organization (WTO) and the World Bank share the experience of being persistently criticized for their market-oriented, growth-focused policies that, some observers argue, harm the environment, people, and overall social welfare.³ From the perspective of environmental and human rights advocates, these international institutions have a similar narrow conception of development that fixates on economic growth and disregards the social and environmental dimensions of sustainability.

This paper extracts lessons from the experiences of the IFIs, particularly the multilateral development banks (MDBs) and most notably the World Bank, in incorporating non-economic concerns into their development mandates. It offers a pathway that the WTO might analogously pursue in putting *sustainable development* at the heart of its mission and in undertaking and supporting efforts to make trade and climate change policies mutually supportive. These lessons are ones the WTO must learn if it is to achieve a transformation to a multi-dimensional vision, centered not just on trade liberalization and open markets, but on sustainable development as set forth by Pascal Lamy, the former WTO Director-General.

The IFIs' response to criticisms involves gradual reforms from within the organization crucially aimed at opening up its processes and operations to non-state actors. These changes promote wider knowledge and greater acceptance of the positive synergies or mutual supportiveness among economic growth and environmental and human rights protection. The section following this Introduction describes the IFIs' ongoing climate change-related efforts to illustrate the substantial evolution of their mandates and their growing sustainability orientation. The next section emphasizes *initiative*, analyzing the importance of internal reforms in the IFIs' policies and organizational structure. The following section highlights *involvement*, elaborating on how accountability mechanisms implement sustainable development through public participation. The penultimate section focuses on *information*, explaining the IFIs' use of their technocratic background to foster greater understanding of complex sustainability issues and overcome resistance to the merging of economic and non-economic concerns.

Each of these sections ends with ideas about how similar reforms – concerning institutional initiative, public involvement, and information dissemination – could work in the multilateral trading system, and particularly how the WTO can modify its policies and practices

to facilitate innovations needed in the trade-environment-climate change context and in its overall pursuit of sustainability. The paper concludes that the effectiveness of IFIs' approach to integrating environmental and other non-economic concerns into their mandates lies in strategically recasting the member states' stakes, exploring creative means to enable less antagonistic interactions among states and with relevant non-state actors, and highlighting the commonality of interests between developed and developing countries by suggesting concrete means to operationalize the integration or balancing of the economic, environmental, and social dimensions of sustainable development.

IFIs and Climate Change

IFIs are now participants in climate change action.⁴ Their involvement – from direct financing of technological innovations for greenhouse gas reduction to mobilizing the private sector's financial and technical resources to doing their own research on making development projects supportive of mitigation and adaptation efforts – demonstrates how the various reforms discussed here are being jointly applied to the case of climate change. Many IFIs construe “green growth” based on the particular needs of developing countries, which require funding for disaster risk management-related projects and other adaptation measures.⁵ All the major MDBs are Accredited Entities of the Green Climate Fund, the financial mechanism of the United Nations Framework Convention on Climate Change (UNFCCC),⁶ that pools public money, i.e., states' contributions, and catalyzes private sector lending to enable the developing countries' shift towards low-emission and climate change-resilient development. Another UNFCCC financial mechanism is the Global Environment Facility, for which the World Bank acts as trustee. These

mechanisms are expected to incentivize mitigation and adaptation activities, including the implementation of the nationally determined contributions under the 2015 Paris Agreement.

The World Bank has incorporated climate change action into its developmental mandate by framing climate change as a poverty issue and an opportunity to spur investment, innovation, and growth.⁷ During the 24th meeting of the UNFCCC’s Conference of Parties (COP24), the World Bank Group stated its plan to “significantly boost[...] support for adaptation and resilience, recognizing mounting climate change impacts on lives and livelihoods, especially in the world’s poorest countries.”⁸ The Group consequently announced its approximately \$200 billion investment: \$100 billion in direct finance from the World Bank – substantially increasing direct adaptation finance to reach around \$50 billion over 2021-2025⁹ – and \$100 billion in direct finance from its private sector arms, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency, combined with mobilized private capital.¹⁰ The Asian Development Bank (ADB) likewise considers climate change as a determinant of sustainable development in the Asia-Pacific region, “which has the largest number of climate-vulnerable people and the highest overall potential for reducing greenhouse gas (GHG) emissions.”¹¹ Similarly, the vulnerability of Latin American and Caribbean countries to climate change motivates the Inter-American Development Bank’s activities: funding emissions reduction projects, encouraging the formulation of policies/regulations that encourage climate-friendly business models, training finance and planning ministers who are in charge of their countries’ public investments and development plans, and raising awareness among citizens and governments about climate change adaptation and mitigation possibilities in the region.¹² Particularly relevant to this paper, the Climate Risk Management and Adaptation Strategy of the African Development Bank Group begins by recalling the 2005 Gleneagles Summit, where

the G8 states called upon the IFIs “to prepare specific proposals on three interrelated challenges: increasing access to quality energy supplies especially for the world’s poor; reducing global emissions of greenhouse gases, mainly by promoting clean energy development; and adapting to increasing climate variability and extreme weather events.”¹³

Apart from these financing and technical assistance activities, there are other IFI efforts – systematically addressing development-related environmental and social issues – that receive limited public (and even scholarly) attention. These efforts include policies and procedures, which require transparency and public participation, and mechanisms that ensure that the Bank’s rules and requirements are followed. These provisions lend insights to the WTO for integrating non-economic concerns into its actions and decisions.

Initiative

The World Bank pioneered reforms to interpret its wealth-creating, i.e., economic growth-oriented, mandate as including the multi-dimensional concept of sustainable development. The other MDBs later adopted similar changes and even improved upon some of them.¹⁴ These somewhat informal reforms did not entail treaty renegotiation, i.e., amending the IFIs’ constituent instrument. Instead, the IFIs initiated gradual revisions to their “internal law,” more specifically their operational policies, which technically address only the duties of bank management and staff, and not of the borrower or any other member state.¹⁵ As tensions among the economic, social, and environmental dimensions of sustainable development were presented to IFIs through their on-the-ground operations, the key changes pertained to such operations and the banks’ interaction with the borrowing states, the persons residing in those countries, and the

nongovernmental organizations (NGOs) typically representing the project-affected people's interests.

Environmental and Social Sustainability of Development Projects

Partly in response to external censure of its poor handling of development projects, and partly through the urging of its major shareholders (donor countries), who were worried about growing public dissatisfaction, the World Bank incrementally created a “safeguard system” that has two components: a set of environmental and social policies (“safeguards”) and a body called the Inspection Panel, which serves as an independent accountability mechanism, to which project-affected people can complain for harmful violations of relevant policies.¹⁶ The “safeguards” enjoin Bank management and staff to consider non-economic factors – e.g., impact of project activities on the natural environment, on cultural and religious properties, and on indigenous peoples; humane treatment of persons involuntarily displaced and resettled – in the design, appraisal, and implementation of development projects.¹⁷ The policy requiring the borrowing country to conduct an environmental assessment of the proposed project (and the Bank management and staff to assist the borrower and supervise its proper conduct of the assessment) is among the earliest ones formulated, and it has become one of the most important, judging by the frequency with which complaints invoke it.¹⁸ The establishment of the Inspection Panel was a highly applauded and debated innovation, because it was the first time that an international organization, given its privileges and immunities under international law, formally held itself accountable to non-state actors (as opposed to only its member countries), by allowing project-affected individuals to directly submit a request for investigation to an entity that reviews the IFI's compliance with its own policies.¹⁹

Today, all major MDBs, the IFC, and other aid agencies have a safeguard system.²⁰ Notably, some IFIs have exceeded the standards that the World Bank set, by including topics like climate change assessment and labor rights in their safeguard policies.²¹ Following the recent revision of its Environmental and Social Framework,²² the World Bank claims that all its projects are now also screened for climate and disaster risk.²³ The ADB's efforts to mainstream climate change considerations into its operations similarly include "embedding climate and disaster risk screening and assessment in country analysis and project preparation."²⁴ The IFI-supported projects and programs have thus arguably moved in step with the states' international commitments outside the global financial system, including those relating to environmental protection and climate change.

Evolution through Interpretation

The World Bank's alignment with the global community's commitment to climate change action derives from the evolutionary re-interpretation of its core mission, i.e., redefining "development" as "sustainable development."²⁵ Just as other IFIs have now adopted this refocusing on sustainable development, so too might the WTO. The inclusion of "sustainable development" in the WTO Agreement's preamble constitutes a crucial element of an evolutionary redefinition of the international trading system's fundamental principles and mission. The Appellate Body *Shrimp Turtle* decision²⁶ sketches how this shift toward accepting sustainable development as a core principle can impact actual trade disputes. Its clarification – that trade measures with coinciding environmental and social objectives may be justified as exceptions under the Global Agreement on Tariffs and Trade (GATT) Article XX or other provisions – created space for rules and procedures that support climate change action. Robert Howse aptly observes, "This

kind of interpretation tends to integrate the GATT treaties into a dynamic system of international law as a whole.”²⁷

A similar interpretive approach can be used to endorse or allow some “nontariff barriers,” whose definition and scope have been broadening to cover a number of domestic regulations that are mainly intended for environmental protection or social welfare and are only indirectly related to trade or the economy as a whole. As Daniel Esty explains, “Public health standards, food safety requirements, emissions limits, waste management and disposal rules, packaging and recycling regulations, and labeling policies all may shape trade flows.”²⁸ It would thus reasonably fit within the scope of the Trade Policy Review Body’s mandate, as discussed below, to examine certain measures being implemented and/or considered to address climate change that also affect a Member State’s competitiveness (more specifically, its industries’ competitiveness or market access).

Sustainability-Oriented Trade Policy Reviews

Sustainable development issues may arise in the trade context when national programs and practices are challenged as inconsistent with WTO rules and disciplines, i.e., when there are apparent conflicts between domestic environmental and social policies and international trade commitments. While this situation differs from how sustainability issues manifest before the IFIs, the WTO can still benefit from implementing similar internal and incremental modifications of its rules and procedures through its Trade Policy Review Mechanism.²⁹ This Mechanism, which “enables the regular collective appreciation and evaluation of the full range of individual Members’ trade policies and practices,” has presently unrealized potential to persuade states to more systematically consider and discuss how their trade and environmental

policies can be mutually supportive and responsive to sustainability challenges in general and to climate change-related activities in particular.³⁰ The Mechanism can be instrumental in maintaining WTO's relevance amidst the emergence of new international economic issues, such as the coordination and harmonization of the Member States' different regulations for controlling greenhouse gas emissions, to the extent that such measures affect the international competitiveness of domestic industries.³¹

Relatedly, a forum where WTO Members can deliberate in a non-adversarial and less formal manner would be useful, given the sluggish negotiation rounds and the legal and political constraints currently saddling the Dispute Settlement Body. The Trade Policy Review Body, constituting the WTO General Council, can serve such function by conducting reviews that are "essentially peer-group assessments" intended to exert collective pressure on nations to ensure their enforcement of WTO law.³² The trade policy review rules should, however, be clarified to enable and encourage this Body to provide supplemental interpretation of WTO law in the course of reviewing the Member States' trade policies, thereby harnessing the creative aspect of its function.³³ Moreover, refining the rules for conducting trade policy reviews to include a preliminary assessment of trade-related environmental measures can help minimize friction among states, clarify matters for all relevant stakeholders or potential challengers (e.g., businesses, NGOs, et al.), and possibly avoid the elevation of cases to the dispute settlement bodies.

I propose that the Trade Policy Review Body should issue clear and more carefully analyzed statements about the conformity of Members' trade policies and practices with not just WTO rules and disciplines, but also the climate change commitments in relevant agreements. The review and analysis should concentrate on specific policies that advance environmental (or

social) objectives but potentially impact trade. This refocusing can be justified through the expressly *holistic* approach embodied in the Marrakesh Agreement (Annex 3), which provides that reviews are to take place “against the background of the wider economic and developmental needs, policies, and objectives of the Member concerned, as well as of its external environment.”³⁴ Otherwise stated, the Body should comprehensively examine a Member State’s trade policies and practices in the context of its position in the global economy and the developmental implications of such position.

My recommendation aligns with the internal, informal, and non-confrontational approach that IFIs have taken in establishing their safeguard systems, since a trade policy review only “provides the background upon which a country’s trade policies can be made more GATT-compliant, but does not in itself consist of *ex ante* control over national trade policies.”³⁵ Significantly, internal revisions and initiatives are not entirely unfamiliar within the WTO. Indeed, it has become the practice – characterized by Andrew Lang and Joanne Scott as “strongly reflexive” and critically self-aware – of the WTO Sanitary and Phytosanitary Measures Committee to regularly revisit its procedures and decisions and to amend and improve them based on lessons drawn from the committee’s operations.³⁶

Involvement

The principle of public participation underpins the IFIs’ sustainability-oriented efforts. This principle is endorsed in the 1992 Rio Declaration and presently implemented by both states and international organizations in distinct but related instances.³⁷ The IFIs’ “bottom-up” orientation translates to increased public involvement in formulating and applying their safeguard policies, as well as a clearer specification of states’ duty to consult with non-state actors about the

environmental and social impacts of economic activities, such as the construction of dams, roads, and power plants. The procedural involvement of project-affected people, according to a former World Bank General Counsel, serves not only to protect their rights and interests that may be undermined by Bank actions or omissions, but also to “improve the very process of environmentally and socially sustainable development, which is at the center of the Bank’s mandate as interpreted at present.”³⁸

Participatory Rulemaking, Development Decision Making, and Dispute Settlement

The safeguard policies operationalize the concept of sustainable development by ensuring that in the design, appraisal, and implementation of development projects, the relevant social and environmental factors are evaluated vis-à-vis economic growth in an integrated and holistic manner. In the different circumstances below, a citizen-driven approach and an emphasis on non-state actor participation can be observed in the IFIs’ operations and pursuit of sustainable development.³⁹

The MDBs have been taking a multi-stakeholder approach to their formulation of internal reforms: whenever they amend or make new environmental and social policies, they publish and disseminate drafts, which are then subjected to public consultation before being finalized and issued.⁴⁰ Many of these safeguard policies require borrowing countries to engage their constituencies, especially the project-affected people, in meaningful consultation throughout the project cycle. Hence, states become legally (contractually) obligated to perform activities, e.g., environmental and social impact assessment, requiring the inclusion of non-state actors in the development decision making process. The independent accountability mechanisms, whose *raison d’être* is the public participation principle, are triggered by complaints from project-

affected people claiming to have been harmed by the IFIs' violation of their operational policies. As part of their compliance review function, the mechanisms interpret the IFIs' environmental and social policies and thus clarify and elaborate on the concept of sustainable development.

Standardized Acceptance and Consideration of Amicus Curiae Submissions

In the multilateral trading system, as in other international economic regimes, an alleged disregard of people and the environment exists.⁴¹ This issue has manifested in WTO cases, through the question of whether to allow participation by non-state actors in the proceedings, particularly via submission of *amicus curiae* briefs.⁴² The theory is that some trade disputes have environmental and social aspects that the WTO in general, and its Dispute Settlement Body in particular, might ignore, wittingly or otherwise, given their predominantly economic expertise and perspective.⁴³ Non-state entities, acting as “friends of the court,” can remedy the deficiency by shedding light on those trade-related non-economic concerns. An *amicus curiae* brief serves as a “bridge between a court and the society,” because, Petros Mavroidis explains, it “sensitize[s] [the adjudicatory body] about the interest that a particular case might have for the wider public.”⁴⁴ Another commentator portrays *amicus curiae* participation as a cure for the “democracy deficit” at the WTO, because it provides “access to individual interests, the protection of which is ... fundamental to the achievement of the underlying purposes and goals of the WTO.”⁴⁵ A more predictable and principled approach to accepting and considering *amicus curiae* briefs enables trade disputes to be decided in a bottom-up fashion, tempering the much-criticized top-down decision making by the WTO panels and Appellate Body. As one scholar relevantly notes, the deepening conversation about compliance with human rights obligations vis-à-vis WTO obligations is largely “attributable to the capacity of non-State actors as well as

Member States to engage the issue systematically through different levers of WTO governance.²⁴⁶

While there have been a few cases affirming the legality of – or at least the lack of prohibition against – accepting and considering *amicus curiae* briefs, the legal status of such participation remains uncertain, especially because some Member States oppose it, arguing that the WTO was intended to be an exclusively inter-governmental organization.⁴⁷ Other objections invoke due process, which several authors address by suggesting procedural guidelines,⁴⁸ such as requiring *amicus curiae* submissions to be confined to legal issues (meaning, no new facts can be presented),⁴⁹ limiting the length and timing of the submissions, and affording the disputing parties adequate opportunity to respond.⁵⁰ Another recommendation is for reports to merely acknowledge the submissions without necessarily passing upon and discussing the briefs' contents.⁵¹ These proposals indicate considerable support, at least from scholars, for enabling greater non-state participation in the WTO dispute settlement proceedings.⁵² Yet, it also bears acknowledging the apprehension about the limited or narrow interests of the entities who can, and usually do, submit *amicus curiae* briefs – a situation that can undermine the objectivity of the dispute settlement organs should they decide to accept and consider such briefs.⁵³

To answer these objections, I draw from Daniel Esty's point on the value of deliberative democracy and intellectual competition in developing a broader knowledge base for decision making.⁵⁴ I submit that *amicus* briefs should be viewed and accepted simply as additional sources of information or knowledge⁵⁵ and perspectives that would assist decisionmakers in holistically considering, balancing, and rationally integrating the economic, environmental, and social concerns surrounding a dispute. For additional protection, and recognizing the importance of transparency to the decision making process, the panels and the Appellate Body should ensure

that disputing parties and all relevant stakeholders have timely and reasonable access to these inputs.⁵⁶

Information

The World Bank eases the North-South tensions regarding sustainable development issues through an informative, research-backed approach, which expounds how recognizing, or sometimes prioritizing, non-economic concerns, such as environmental and human rights protection, makes “good economics.” This strategy entails using technical expertise and state-of-the-art knowledge to adapt its activities to its clients’ particular needs and publishing studies regarding the coherence and interrelationship among the economic, environmental, and social dimensions of development.

Knowledge Banks on Sustainable Development

The IFIs’ production of development data and research is geared towards enabling policymakers to “share an evidence-based view of the world” that makes possible “real advances in social and economic development.”⁵⁷ As part of its “knowledge for change” initiative, the World Bank addresses the theme of international cooperation and global public goods, which include trade liberalization and climate change.⁵⁸ By characterizing these issues as being of common concern, the Bank’s research alleviates the apparent conflict between these goals and attempts to reconcile the often-diverging priorities of developed and developing countries. Likewise, ADB’s “Inclusive Growth Green Index” responds to the need of states and their development partners for “a new metric to comprehensively measure and monitor progress on achieving the development agendas set out in international agreements.”⁵⁹ This index uses indicators

incorporating economic growth, social equity, and environmental sustainability to reflect the paradigm shift – emphasizing the quality rather than quantity of growth and the importance of national development priorities – embodied in the SDGs and the Paris Agreement.⁶⁰ Further, the IFIs’ increasing involvement in knowledge generation modifies the perception of international economic organizations as providers of information (not just funds), which is necessary in sustaining international cooperation on shared objectives like climate change action and trade liberalization.

Understanding Sustainability through the Committee on Trade and Environment

The intellectual component of the IFIs’ approach to sustainability resonates with some proposed WTO reforms emphasizing the value of “information, knowledge, and understanding of the effects of trade and regulatory policy” in fostering international cooperation at various stages (agenda-setting, negotiating, and implementation-cum-monitoring) of trade agreements.⁶¹ In the trade and environment context, focused research is necessary for better understanding, and hopefully greater acceptance, by states and business enterprises, of measures that have multiple objectives. For instance, the so-called green industrial policies – i.e., those that genuinely aim to protect the environment by supporting the production of “green” (low-carbon) goods, but simultaneously enhance the competitiveness of certain industries and thereby create unintended trade-distorting effects – are potential subjects of disputes under WTO law.⁶² Defusing the tension surrounding these policies requires a firmer grasp of how, if at all, they actually impact trade and simultaneously achieve their environmental goals.

In this regard, the WTO’s Committee on Trade and Environment is mandated to recommend “modifications of the provisions of the multilateral trading system” that might be

necessary for “enhancing positive interaction between trade and environmental measures for the promotion of sustainable development” and conducting “surveillance of trade measures used for environmental purposes, of trade related aspects of environmental measures that have significant trade effects, and of effective implementation of multilateral disciplines governing those measures.”⁶³ Discussions and deliberations in the Committee have helped to develop a common understanding among WTO Members on the positive interaction between trade and environment and to “smoothen the fault lines between them in a gradual and inconspicuous manner.”⁶⁴ This observation affirms that the Committee’s role lies in “continu[ing] to build trust based on the synergies between trade and environmental policy-making,” for the purpose of identifying and facilitating necessary changes in the WTO rules to enable greater but more responsible use of trade measures for environmental and social purposes.⁶⁵ Complementarily, the Special Session of the Committee on Trade and Environment, which was set up to execute the Committee’s mandate under the Doha Development Agenda, conducts negotiations focused on, among others, “the relationship between the existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs).”⁶⁶

A recommendation made when the Committee was first created thus remains relevant today: “An important task of the committee will be to maintain close contact and cooperative links with other international organizations carrying out trade and environment work ... to avoid duplication of research.”⁶⁷ Carrying on this task, I suggest that the Committee should increase, and possibly formalize, coordination with the IFIs to tap into and improve upon the latter’s database and research, which address sustainability concerns that overlap with or relate to trade policymaking. The Committee can then introduce this knowledge to WTO Members to facilitate their negotiations and, in the long run, enable them to agree upon possible environmental and

climate change-related measures that would be consistent with WTO law. Alternatively, and perhaps more optimistically, a better understanding of the interrelationship between international environmental and trade obligations might result in the signing of a new WTO treaty, such as the currently stalled Environmental Goods Agreement. Many contentious negotiating points in this agreement, such as the definition of “environmental goods,” could benefit from the expertise and intellectual guidance of international economic organizations by enabling states to better appreciate the implications of potentially broadening the scope of negotiations.⁶⁸

Beyond Review: Further Research on Domestic Trade and Environment Policies

The Trade Policy Review Mechanism, the primary purpose of which is to “achiev[e] greater transparency in, and understanding of, the trade policies and practices of Members,” could – consistently with my earlier proposal – enhance its intelligence and informational function by broadening the scope of the trade policy reviews to include Members’ trade-related policies intended to pursue sustainable development. Beyond regularly issuing trade policy review reports, the Trade Policy Review Body – together with the Secretariat, which does the factual legwork during trade policy reviews – should conduct special (stand-alone) research and more detailed economic analysis regarding the impacts of Members’ environmental and social policies on the international trading system.⁶⁹ My proposal has parallels from earlier recommendations for overall WTO reform – advising the Secretariat to provide intellectual leadership in the organization, undertake policy analysis, and facilitate better access to data – and applies them specifically to trade and environment issues and to the Mechanism’s activities.⁷⁰ Notably, there is already some headway towards this direction. The WTO Director-General’s Trade Monitoring Report, which supplements the trade policy review reports, has been evolving “in terms of the

coverage and analysis of trade-related issues,” with the Members’ discussions in the Trade Policy Review Body contributing to the evolution.⁷¹

As a starting point, the Trade Policy Review Body can examine more closely the “specific trade concerns” that, according to the Technical Barriers to Trade (TBT) Committee and the Sanitary and Phytosanitary (SPS) Measures Committee, have an environmental component. A thematic analysis can also be explored in cases where policies or measures cut across multiple WTO agreements. Significantly, the number of TBT and SPS measures that states regularly notify to the respective committees seems correlated to the number of new specific trade concerns raised each year – perhaps signaling the WTO Members’ growing preference to avoid formal disputes and instead resolve trade concerns non-litigiously.⁷² The Trade Policy Review Body should endeavor to build upon this database of notifications and more intensively analyze measures whose WTO conformity may become particularly questionable. Further, while the Trade Policy Review Mechanism operates in a distinct but complementary fashion to the Dispute Settlement Mechanism, the Trade Policy Review Body can and should analyze the measures that were (or are being) challenged as WTO-inconsistent before the panels and the Appellate Body.⁷³ With a growing number of potential disputes concerning “green” policies that are perceived to conflict with WTO law, knowledge generated by the Trade Policy Review Mechanism as herein proposed would be valuable both to the disputing parties in fleshing out their issues and to the panels and the Appellate Body in adjudicating upon such issues.⁷⁴

The foregoing suggestions also respond to the criticism that the Mechanism falls short of its role as a source of information regarding Members’ trade policies and that trade policy reviews do not address the issues of concern to Members’ trade partners.⁷⁵ For example, the

WTO Director-General has recently noted some Members' demand for more information regarding the European Union's climate change actions.⁷⁶ In this respect, Chaisse and Matsushita previously proposed vesting the Trade Policy Review Mechanism with a coordination function that entails "activities characterized by data collection, recommendation and regular monitoring of trade policies of WTO Members for the necessary improvement of the international trading system."⁷⁷ Their non-formalistic approach additionally involves the Mechanism's cooperation with the Trade and Environment Committee in collecting information about Members' divergent environmental policies and laws.⁷⁸ This point corroborates my prescribed designation of key roles to the Trade Policy Review Mechanism and the Committee on Trade and Environment as part of the WTO's intellectual approach to fulfilling sustainability commitments.

Conclusion

Historically, the IFIs shared with the WTO the public perception and condemnation of being anti-environment and anti-people – and therefore, anti-sustainability – due to their perceived excessive concentration on economic growth at the expense of the social and environmental dimensions of development. As this paper illustrates, however, the IFIs have endeavored to address such criticisms by undertaking reforms that re-center their missions on sustainable development. These reforms implement important principles of sustainable development: (1) integration of environmental and social goals with the original economic mission, and (2) a commitment to transparency and public participation. Following this lead, other international economic organizations, including the WTO, can and should adjust their activities to contribute to the broad-based global commitment to sustainability and the specific climate change action goals that have been established. The WTO's contribution can begin with institutional changes

that might subsequently urge the Member States to better align their trade priorities and domestic interests with their climate change-related activities.

By harnessing and optimizing the inherent and implied powers of the Trade Policy Review Body and the Committee on Trade and the Environment, the WTO could ensure much greater alignment between the international trading system and the global climate change regime. The admission of *amicus curiae* briefs during trade dispute settlement proceedings offers another means of implementing the public participation principle at the WTO in support of a greater focus on sustainable development. These reforms track what the IFIs have analogously undertaken through their safeguard systems. A strategy for institutional reform that uses existing WTO organs and builds on “pragmatic, incremental changes in procedures and practices” would provide a meaningful way to ensure better alignment of the trading system with the climate change regime.⁷⁹ Indeed, changes in the international legal and political system, such as greater non-state actor participation, appear less objectionable to states when modifications are incremental and do not present highly significant encroachment into their discretion as sovereigns.⁸⁰ This truism has directed the IFIs’ internal reforms and would also be a prudent guide for the WTO.

The proposals outlined here do not require treaty amendments that might entail potentially protracted negotiations among states, but rather focus on what has already been agreed upon in the WTO’s constitutive treaty and in the covered agreements. From a realistic perspective, the proposed approach takes into account the fact that many WTO Member States are not inclined to amend the GATT/WTO rules, believing that “there is already scope under the WTO provisions to use trade measures for environmental purposes, including in [multilateral environmental agreements],” and any potential perceived inconsistency “could be dealt with on a

case-by-case basis through recourse to the waiver provisions provided for in Article IX of the WTO Agreement.”⁸¹ At the end of the day, therefore, the WTO, as an international organization, could still do more to enhance its contribution to sustainable development. The experiences of its kindred institutions, the IFIs, should be good sources of inspiration for reform.

Notes

¹ Pascal Lamy, “Strengthening the WTO as *the* global trade body,” Statement to the General Council, April 29, 2009,

https://www.wto.org/english/news_e/news09_e/tnc_chair_report_29apr09_e.htm.

² UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development A/RES/70/1*, (New York: United Nations General Assembly, October 2015).

³ See, e.g., Gregory C. Shaffer, “The World Trade Organization Under Challenge: Democracy and the Law and Politics of the WTO’s Treatment of Trade and Environment Matters,” *Harvard Environmental Law Review*, 25 (2001): 1; and John Williamson, “A Short History of the Washington Consensus,” *Law and Business Review of the Americas*, 15 (2009): 13-15.

⁴ The World Bank Group, together with eight other MDBs, “issued a declaration announcing a joint framework for aligning their activities with the goals of the Paris Agreement, reinforcing their commitment to combat climate change.” See World Bank, “Stepping Up on Climate at COP 24,” December 18, 2018, <https://www.worldbank.org/en/news/feature/2018/12/18/leading-on-climate-at-cop24>.

⁵ Asian Development Bank, “ADB Support for Climate Change,” accessed November 28, 2018, <https://www.adb.org/themes/climate-change-disaster-risk-management/adb-support-climate-change>.

⁶ United Nations Framework Convention on Climate Change, *Governing Instrument for the Green Climate Fund, annex, Decision 3/CP.17, FCCC/CP/2011/9/add.1* (Durban, South Africa: Green Climate Fund, December 11, 2011).

⁷ World Bank, “Overview: Climate Change,” last updated April 2, 2019, <https://www.worldbank.org/en/topic/climatechange/overview>.

⁸ World Bank, “Stepping Up on Climate at COP 24,” Dec. 18, 2018, <https://www.worldbank.org/en/news/feature/2018/12/18/leading-on-climate-at-cop24>.

⁹ World Bank, “Stepping Up on Climate at COP 24.”

¹⁰ Dave Keating, “U.N. Climate Summit Kicks Off With \$200 Billion Pledge From World Bank,” *Forbes*, December 3, 2018, <https://www.forbes.com/sites/davekeating/2018/12/03/un-climate-summit-kicks-off-with-200-billion-pledge-from-world-bank/#3e4397a34935>.

¹¹ Asian Development Bank, *Climate Change Operational Framework 2017-2030: Enhanced Actions for Low Greenhouse Gas Emissions and Climate-Resilient Development*, (Metro Manila: Asian Development Bank, 2017), 1.

¹² Inter-American Development Bank, “Climate Change - Creating Innovative Development Opportunities,” accessed November 29, 2018, <https://www.iadb.org/en/climatechange>.

¹³ African Development Bank Group, *Climate Risk Management and Adaptation Strategy* (2009), para. 1.1.3. https://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/Climate%20Risk%20Management%20and%20Adaptation%20Strategy%20_CRMA_%20%282%29.pdf.

¹⁴ The existing literature has primarily concentrated on the following: African Development Bank (AfDB); Asian Development Bank (ADB), European Bank for Reconstruction and Development (EBRD); Inter-American Development Bank (IDB).

¹⁵ Benedict Kingsbury, "Operational Policies of International Institutions as Part of the Law-Making Process: The World Bank and Indigenous Peoples," *The Reality of International Law: Essays in Honour of Ian Brownlie*, (Oxford: Clarendon Press, 1999), 324-25.

¹⁶ Kevin Danaher, *50 Years is Enough: The Case Against the World Bank and the International Monetary Fund*, (South End Press, 1994); M. Rodwan Abouharb, and David L. Cingranelli, "The Human Rights Effects of World Bank Structural Adjustment, 1981-2000," *International Studies Quarterly* 50, no. 2 (2006): 233; Kristina Daugirdas, "Congress Underestimated: The Case of the World Bank," *American Journal of International Law* 107, no. 3 (2013): 520.

¹⁷ Not to be confused with the measures that WTO Member States can apply pursuant to the Agreement on Safeguards; World Bank, "Environmental and Social Policies," accessed August 14, 2018, <https://www.worldbank.org/en/projects-operations/environmental-and-social-policies>.

¹⁸ World Bank Independent Evaluation Group, *Safeguards and Sustainability Policies in a Changing World: An Independent Evaluation of World Bank Group Experience*, (Washington, D.C.: The World Bank, 2010), 20.

¹⁹ See World Bank, *Resolution of the Executive Directors (the Board) establishing the Inspection Panel (No. 93-10 for the IBRD and 93-6 for IDA)*, September 23, 1993. See also Shihata, F.I. *The World Bank Inspection Panel: In Practice*. (New York: Oxford University Press, 2000), 28-98; Richard E. Bissell, "Institutional and Procedural Aspects of the Inspection Panel," *The Inspection Panel of the World Bank: A Different Complaints Procedure*, (The Hague: Martinus Nijhoff Publishers, 2001), 111-14; Laurence Boisson de Chazournes, "Public Participation in Decision-Making: The World Bank Inspection Panel," *ASIL Studies in Transnational Legal Policy* 31 (1999): 94.

²⁰ Or, at least either a set of safeguard policies or an independent accountability mechanism. See Harvey Himberg, “Comparative Review of Multilateral Development Bank Safeguard Systems,” (Report to the World Bank, May 2015), https://consultations.worldbank.org/Data/hub/files/consultation-template/review-and-update-world-bank-safeguard-policies/en/phases/mdb_safeguard_comparison_main_report_and_annexes_may_2015.pdf.

²¹ Before the release of *The World Bank Environmental and Social Framework*, the Bank’s operational policies and procedures only mention “climate change” in a footnote in the Environmental Assessment Policy. In contrast, the other multilateral development banks’ safeguards more elaborately discuss this issue. Hence, the proposal submitted by several NGOs during the World Bank Safeguard Policy Review: “Model Proposal: Climate Change Assessment (CCA) Safeguard Policy.”

²² Took effect in October 2018.

²³ World Bank, “Overview: Climate Change,” last updated April 6, 2018, <https://www.worldbank.org/en/topic/climatechange/overview>.

²⁴ Asian Development Bank, *Climate Change Operational Framework 2017-2030: Enhanced Actions for Low Greenhouse Gas Emissions and Climate-Resilient Development*, (Metro Manila: Asian Development Bank, 2017), xi-xii.

²⁵ Johanna Aleria P. Lorenzo, “‘Development’ versus ‘Sustainable Development’?: (Re-)Constructing the International Bank for Sustainable Development,” *Vanderbilt Journal of Transnational Law* 51 (2018): 399.

²⁶ World Trade Organization. *Appellate Body Report, United States – Import Prohibition of Certain Shrimp and Shrimp Products*. WTO Doc. WT/DS58/AB/R (adopted Oct. 12, 1998).

²⁷ Robert Howse, “Democracy, Science, and Free Trade: Risk Regulation on Trial at the World Trade Organization,” *Michigan Law Review* 98, no. 7 (2000): 2339.

²⁸ Daniel C. Esty, “Bridging the Trade-Environment Debate,” *Journal of Economic Perspectives* 15, no. 3 (2001): 114.

²⁹ Agreement Establishing the WTO, Annex 3, para. A(ii): “The assessment carried out under the review mechanism takes place, to the extent relevant, against the *background of the wider economic and developmental needs, policies and objectives of the Member concerned*, as well as of its external environment. However, the function of the review mechanism is to examine the impact of a Member’s trade policies and practices on the multilateral trading system” (emphasis added).

³⁰ Agreement Establishing the WTO, Annex 3, para. A(i). See also para. G: “An annual overview of developments in the international trading environment which are having an impact on the multilateral trading system shall also be undertaken by the TPRB. The overview is to be assisted by an annual report by the Director-General setting out major activities of the WTO and highlighting significant policy issues affecting the trading system.”

³¹ Julien Chaisse and Mitsuo Matsushita, “Maintaining WTO’s Supremacy,” *Centre for Financial Regulation and Economic Development (CFRED)*, 31.

³² Asif H. Qureshi, “Some Lessons from ‘Developing’ Countries’ Trade Policy Reviews in the GATT Framework: An Enforcement Perspective,” *The World Economy* 18, no. 3 (1995): 495.

³³ Petros C. Mavriodis, “Surveillance Schemes: The GATT’s New Trade Policy Review Mechanism,” *Michigan Journal of International Law* 13, no. 2 (1992): 392-93.

³⁴ World Trade Organization, *Ministerial Decision on Trade and Environment Annex 3, para. A(ii)*, (Marrakesh: World Trade Organization, 1994).

³⁵ Julien Chaisse and Mitsuo Matsushita, “Maintaining WTO’s Supremacy,” *Centre for Financial Regulation and Economic Development* (CFRED), 24; Petros C. Mavriodis, “Surveillance Schemes: The GATT’s New Trade Policy Review Mechanism,” *Michigan Journal of International Law* 13, no. 2 (1992): 392-93.

³⁶ Andrew Lang and Joanne Scott, “The Hidden World of WTO Governance,” *European Journal of International Law* 20, no. 3 (2009): 608-609.

³⁷ Principle 10 states: “Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”

³⁸ F.I. Shiata, *The World Bank Inspection Panel: In Practice*, (New York: Oxford University Press, 2000), 267.

³⁹ Kristen Lewis, *Citizen-Driven Accountability for Sustainable Development: Giving Affected People A Greater Voice – 20 Years On*, (Independent Accountability Mechanisms Network, 2012).

⁴⁰ “The World Bank, “Review and Update of the World Bank Safeguard Policies,” accessed August 22, 2018, <https://consultations.worldbank.org/consultation/review-and-update-world-bank-safeguard-policies>.

⁴¹ Steve Charnovitz, “Transparency and Participation in the World Trade Organization,” *Rutgers Law Review* 56 (2004): 927; Richard B. Stewart and Michelle Ratton Sanchez Badin,

“The World Trade Organization: Multiple dimensions of Global Administrative Law,”

International Journal of Constitutional Law 9, nos. 3-4 (2011): 560.

⁴² A number of articles have surveyed in varying analytical depth the cases before the panels and the Appellate Body where NGOs or other non-state actors sought to participate as *amici curiae*. See, e.g., Joseph Keller, “The Future of Amicus Participation at the WTO: Implications of the Sardines Decision and Suggestions for Further Developments,” [*International Journal of Legal Information* 33, no. 3 (2005): 449; Jared B. Cawley, “Friends of the Court: How the WTO Justifies the Acceptance of the Amicus Curiae Brief from Non-Governmental Organizations,” *Penn State International Law Review* 23, no. 1 (2004); Petros C. Mavroidis, “Amicus Curiae Briefs Before the WTO: Much Ado About Nothing,” *Jean Monnet Working Paper* 2/01 (2001): 11; Maya El Khoury, “The Role of Environmentalist NGOs in the Democratisation of the WTO Dispute Settlement Procedure,” *Southern Cross University Law Review* 15 (2012): 53.; Jared B. Cawley, “Friends of the Court: How the WTO Justifies the Acceptance of the Amicus Curiae Brief from Non-Governmental Organizations,” *Penn State International Law Review* 23, no. 1 (2004), 60-62.

⁴³ Daniel C. Esty, “Linkages and Governance: NGOs at the World Trade Organization,” *University of Pennsylvania Journal of International Economic Law* 19, no. 3 (1998): 710.

⁴⁴ Petros C. Mavroidis, “Amicus Curiae Briefs Before the WTO: Much Ado About Nothing,” *Jean Monnet Working Paper* 2/01 (2001): 11.

⁴⁵ Joseph Keller, “The Future of Amicus Participation at the WTO: Implications of the Sardines Decision and Suggestions for Further Developments,” [*International Journal of Legal Information* 33, no. 3 (2005), 459.

⁴⁶ Diane A. Desierto, “Public Policy in International Investment and Trade Law: Community Expectations and Functional Decision-Making,” *Florida Journal of International Law* 26 (2014): 100-101.

⁴⁷ Steve Charnovitz, “Opening the WTO to Nongovernmental Interests,” *Fordham International Law Journal* 24, no. 1 (2000): 183-89; Lim, C.L. “The *Amicus* Brief Issue at the WTO.” *Chinese Journal of International Law* 4, no. 1 (2005): 98-100; Joseph Keller, “The Future of Amicus Participation at the WTO: Implications of the Sardines Decision and Suggestions for Further Developments,” [*International Journal of Legal Information* 33, no. 3 (2005), 462-64.

⁴⁸ Other authors also put forward substantive criteria relating to “the character of the *amici* itself, the nature of its submission, and the circumstances of the case.” See Gabrielle Marceau and Matthew Stillwell, “Practical Suggestions for *Amicus Curiae* Briefs Before WTO Adjudicating Bodies,” *Journal of International Economic Law* 4, no. 1 (2001): 179-82.

⁴⁹ A related proposal is to only admit such briefs at the panel but not at the appellate level.

⁵⁰ Georg C. Umbrecht, “An ‘*Amicus Curiae* Brief’ on Amicus Curiae Briefs at the WTO,” *Journal of International Economic Law* 4, no. 4 (2001): 779; Gabrielle Marceau and Matthew Stillwell, “Practical Suggestions for *Amicus Curiae* Briefs Before WTO Adjudicating Bodies,” *Journal of International Economic Law* 4, no. 1 (2001): 181-83; Joseph Keller, “The Future of Amicus Participation at the WTO: Implications of the Sardines Decision and Suggestions for Further Developments,” [*International Journal of Legal Information* 33, no. 3 (2005), 462; See Petros C. Mavroidis, “Amicus Curiae Briefs Before the WTO: Much Ado About Nothing,” *Jean Monnet Working Paper* 2/01 (2001): 14.

⁵¹ Georg C. Umbrecht, “An ‘*Amicus Curiae Brief*’ on Amicus Curiae Briefs at the WTO,” *Journal of International Economic Law* 4, no. 4 (2001): 791; Joseph Keller, “The Future of Amicus Participation at the WTO: Implications of the Sardines Decision and Suggestions for Further Developments,” [*International Journal of Legal Information* 33, no. 3 (2005), 454.

⁵² Jeffrey Waincymer, “Transparency of Dispute Settlement within the World Trade Organization,” *Melbourne University Law Review* 24, no. 3 (2000): 801-802.

⁵³ Yuka Fukunaga, “Civil Society and the Legitimacy of the WTO Dispute Settlement System,” *Brooklyn Journal of International Law* 34, no. 1 (2009): 101-103.

⁵⁴ Esty, Daniel C. “Linkages and Governance: NGOs at the World Trade Organization.” *University of Pennsylvania Journal of International Economic Law* 19, no. 3 (1998): 717-720. See also Robert Howse, “Democracy, Science, and Free Trade: Risk Regulation on Trial at the World Trade Organization,” *Michigan Law Review* 98, no. 7 (2000): 2339; Joseph Keller, “The Future of Amicus Participation at the WTO: Implications of the Sardines Decision and Suggestions for Further Developments,” [*International Journal of Legal Information* 33, no. 3 (2005), 461.

⁵⁵ See Dayna Nadine Scott, “‘We Are the Monitors Now’: Experiential Knowledge, Transcorporeality and Environmental Justice,” *Social & Legal Studies* 25, no. 3 (2015): 261.

⁵⁶ Joachim Delaney and Daniel Barstow Magraw Jr., “Procedural Transparency,” *The Oxford Handbook of International Investment Law*, (New York: Oxford University Press 2008), 777-78. [Posited in the investment context, but reasonably applicable also to this paper's topic as well: “meaningful participation depends on adequate transparency, because participation requires information.”]

⁵⁷ The World Bank, *2018 Atlas of Sustainable Development Goals From World Development Indicators*, (Washington, D.C.: The World Bank, 2018), vi.

⁵⁸ World Bank, “International Cooperation and Global Public Goods,” last updated December 8, 2017, <https://www.worldbank.org/en/programs/knowledge-for-change/brief/Int-Coop-Global-Goods>.

⁵⁹ Shikha Jha, Sonia Chand Sandhu, and Radasiri Wachirapunyanont, *Inclusive Green Growth Index: A New Benchmark for Quality of Growth* (Metro Manila: Asian Development Bank, 2018), vii.

⁶⁰ Jha et al. *Inclusive Green Growth Index*, 1.

⁶¹ Bernard Hoekman, “Proposals for WTO Reform: A Synthesis and Assessment,” *Minnesota Journal of International Law* 20, no. 2 (2011): 362.

⁶² Aaron Cosbey, “Green Industrial Policy and the World Trading System,” Issue Brief, October 30, 2013, Stockholm: ENTWINED, https://www.iisd.org/sites/default/files/publications/entwined_brief_green_industrial.pdf.

⁶³ World Trade Organization, *Ministerial Decision on Trade and Environment* (Marrakesh: World Trade Organization, 1994).

⁶⁴ Manisha Sinha, “An Evaluation of the WTO Committee on Trade and Environment,” *Journal of World Trade* 47, no. 6 (2013): 1315.

⁶⁵ Sabrina Shaw and Risa Schwartz, “Trade and Environment in the WTO: State of Play,” *Journal of World Trade* 36, no. 1 (2007): 153-54.

⁶⁶ Doha Ministerial Declaration, “Doha Development Agenda,” paras. 31-32.

⁶⁷ Jennifer Schultz, “The GATT/WTO Committee on Trade and the Environment – Toward Environmental Reform,” *American Journal of International Law* 89, no. 2 (1995): 438.

⁶⁸ Miles McKenna, Jaime de Melo, and Mariana Vijil, “The WTO Environmental Goods Agreement: Why Even A Small Step Forward Is a Good Step,” *The Trade Post*, September 22, 2014, <https://blogs.worldbank.org/trade/wto-environmental-goods-agreement-why-even-small-step-forward-good-step>; Mark Wu, “Why Developing Countries Won't Negotiate: The Case of the WTO Environmental Goods Agreement,” *Trade, Law and Development* 6, no. 1 (2014):152-74.

⁶⁹ World Trade Organization, “Overseeing national trade policies: the TPRM,” Updated, https://www.wto.org/english/tratop_e/tpr_e/tp_int_e.htm.

⁷⁰ Peter, Sutherland, *The Future of the WTO: Addressing institutional challenges in the new millennium*. Report by the Consultative Board to the Director-General Supachai Panitchpakdi (Geneva: World Trade Organization, 2004): paras. 365-66; Pascal Lamy, “Strengthening the WTO as *the* global trade body,” Statement to the General Council, April 29, 2009, https://www.wto.org/english/news_e/news09_e/tnc_chair_report_29apr09_e.htm.

⁷¹ WTO, *Overview of Developments in the International Trading Environment: Annual Report by the Director-General*, 3.

⁷² World Trade Organization, *Overview of Developments in the International Trading Environment: Annual Report by the Director-General*, (Geneva: World Trade Organization, November 2017), WT/TPR/OV/20, p.52.

⁷³ See, e.g., Arunabha Ghosh, “Developing countries in the WTO Trade Policy Review Mechanism,” *World Trade Review* 9, no. 3 (2010): 440. [The author, who studied trade policy review reports to expose the critical and salient trade and trade-related issues and evaluate the Trade Policy Review Mechanism’s performance, used the disputes initiated by a Member “as proxy indicators of the most important trade concerns for that country.”]

⁷⁴ Mark Wu, and James Salzman, “The Next Generation of Trade and Environment Conflicts: The Rise of Green Industrial Policy,” *Northwestern University Law Review* 108, no. 2 (2014): 403; Jeffrey Waincymer, “Transparency of Dispute Settlement within the World Trade Organization,” *Melbourne University Law Review* 24, no. 3 (2000): 813-14.

⁷⁵ Arunabha Ghosh, “Developing countries in the WTO Trade Policy Review Mechanism,” *World Trade Review* 9, no. 3 (2010): 420.

⁷⁶ World Trade Organization, *Overview of Developments in the International Trading Environment*.

⁷⁷ Julien Chaisse and Mitsuo Matsushita, “Maintaining WTO’s Supremacy,” *Centre for Financial Regulation and Economic Development (CFRED)*, 34.

⁷⁸ Chaisse and Mitsuo, “Maintaining WTO’s Supremacy,” 34.

⁷⁹ Bernard Hoekman, “Proposals for WTO Reform: A Synthesis and Assessment,” *Minnesota Journal of International Law* 20, no. 2 (2011): 327.

⁸⁰ Lucas Bastin, “The Amicus Curiae in Investor-State Arbitration,” *Cambridge Journal of International and Comparative Law* 1, no. 3 (2012):230-33. [“If individuals want to participate in the system, they must do so in ways which states will tolerate.”]

⁸¹ Sabrina Shaw and Risa Schwartz, “Trade and Environment in the WTO: State of Play,” *Journal of World Trade* 36, no. 1 (2007): 134-35.