

REPORT ON TRADE AND ENVIRONMENT WORKSHOP
FIDA and CARI
Buenos Aires, August 13-14, 2001

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The Inter-American Forum on Environmental Law (FIDA) and the Consejo Argentino para las Relaciones Internacionales (CARI) hosted a workshop on Trade and Environment, which took place in Buenos Aires in August 2001. The purpose of this workshop was to foster a dialogue among FIDA and Mercosur countries about trade and environment issues, as well as to deepen FIDA's understanding of the region's priorities, interests and concerns in order to better support OAS member states in MERCOSUR as they understand and address environmental issues in the context of trade liberalization.

The workshop provided basic background and training on Trade and Environment issues for government technical officers that belong to environmental agencies of Mercosur members, and Bolivia. The panelists were chosen from varied sectors to offer different perspectives. Thus, for example, representatives from the Argentine Ministry of Foreign Affairs, the Environmental Secretary, the Argentine Export Chamber, academics and representatives of nongovernmental organizations (NGOs) participated in the dialogue. (a list of participants is attached as Annex B below). The following issues were discussed:

- the connection between trade and environment;
- trade and environment in relation to integration processes;
- trade liberalization and its effects on the environment;
- risks and opportunities of certification; and
- the benefits of ISO 14.000 implementation.

This report describes the main topics of discussion. Section I discusses the main theories that address the relation between trade and environment and the speakers' opinions. Section II offers a description of Mercosur's legal status, institutions and the private sector position. Section III provides the conclusions and an analysis of the areas that participants considered are a priority for the region.

I) The Connection between Trade and Environment

The panelists reviewed the main trends in the debate about trade and environment: both the environmentalist and the trade perspective, many times divergent, and the conflict of rules and impacts derived from such debate. However, there was general agreement that extreme positions are no longer valid, and that other viewpoints should be explored in order to find adequate solutions.

An intermediate position should be open-minded and consider the historic, economic, geographic and social factors in the decision-making process so as to achieve sustainable

development. The dialogue about trade and environment between environmentalists and the trade sector is still a pending issue of the public agenda in developing countries; although it is well installed within the private sector priorities.

The speakers discussed some ideas on how to shift the debate to a more positive approach:

- i) increase enforcement and transparency;
- ii) institutionalize new rules for international trade;
- iii) intensify civil society participation in the law-making process;
- iv) eliminate market distortions;
- v) offer economic incentives; and
- vi) incorporate economists into environmental negotiations

II) Mercosur and the Environment

a) Institutional Status

The “Treaty of Asuncion” created the *Mercado Común del Sur* (Mercosur) in 1991, and its preamble contains environmental principles. As further legislation was necessary to implement those principles, the country members signed the “Treaty of Canelha” and created the “Environmental Meetings” (*Reuniones de Medio Ambiente – REMA*). Afterwards, the environmental institutionalization process in Mercosur moved on from the “Environmental Meetings” to the creation of Sub-Group 6 on Environment (“*Las Leñas Agreement*”). Thus, progress was made at the institutional level, and environmental concerns now enjoy a stronger status within Mercosur. Sub-Group 6 depends on the Common Market Group (CMG) to give instructions and provide a list on working priorities (as do the other Sub-Groups).

b) Legal Instruments

A legal instrument, the “Environmental Protocol” was drafted by Sub-Group 6. However, it was never ratified by any Mercosur member and therefore was without legal effect. Another instrument was enacted later, the “Environmental Framework Agreement,” (EFA) which was passed by the CMG in 2001. Domestic ratification is still pending.

The EFA sets broad principles that must be further implemented by sectorial instruments. It includes a list of working areas for action at the domestic level where trade and environment can be effectively harmonized. In this sense, the EFA provides a somewhat general framework instrument rather than a stringent legal tool that members might find difficult to implement.

At the national level there are asymmetries among Mercosur countries in their legislative frameworks for the environment. While Brazil’s national environmental legal framework can be characterized as broad and fairly comprehensive (the Brazilian Constitution, for example, is has a number of environmental provisions), Argentina, Paraguay and Uruguay

lack many of the same instruments. However, the four countries share similar challenges in the area of implementation and enforcement.

c) The Private Sector Opinion

The private sector is concerned about Mercosur's future. Some in the private sector believe that Mercosur is moving forward, though slowly, at the political level, but is not opening enough to the global market. Some also believes that a weak position would have a negative impact on Mercosur once ALCA begins. They indicate that there is a strong need to create and implement some institutions, such as a dispute resolution procedure, that could help to strengthen the integration process.

What kind of action is the private sector undertaking? Businessmen in Argentina created the Sustainable Development Business Council, an initiative followed later in Brazil. The Councils of both countries frequently work together in the following activities: i) debating environment and trade issues; ii) lobbying to include environmental issues in the public agenda; and iii) encouraging civil society participation.

During a discussion of the benefits of ISO certification guidelines, the comment was made that multinational companies, big domestic firms and governments (e.g., the Government of Japan) encourage the adoption of ISO 14,000 certification guidelines in international markets. Multinational corporations are beginning to demand that suppliers gain ISO 14,001 certification (relating to environmental management). Therefore, suppliers, usually Small and Medium Size Business, are indirectly involved and obliged to implement ISO guidelines. However, the high cost of certification, limited economic and human resources and technical barriers can limit or deny small and medium size enterprises access to markets, especially in developing countries.

d) How does Sub-Group 6 address the Trade and Environment Dialogue?

The Region is trying to move forward towards the achievement of a more equitable and sustainable development in its integration process. Sub-Group 6 changed its methodology and now analyzes how to achieve environmental improvement through specific case studies rather than regional reports. There are studies that analyze cases where the environmental factor is beneficial to trade. In that sense, Sub-Group 6 is working on a project with the GTZ that studies the comparative advantages that add an extra value to a product when it is produced in an environmentally-friendly manner.

Participants identified a number of opportunities and challenges for Mercosur in dealing with Trade and Environment.

Challenges:

1. lower environmental standards in Mercosur than in other regions that are undergoing integration;
2. non-fulfillment of environmental standards;

3. manufacturing industries comprise 50% of Mercosur exports;
4. small and medium enterprises often do not benefit from the economic restructuring whereas larger companies do.

Opportunities:

1. there are some improvements derived from the implementation of stringent standards of multinational companies through their subsidiaries located in the Mercosur region;
2. adoption of modern technologies into some specific sectors and activities (e.g. genetically modified organisms and direct crop sowing in the agrarian sector), which reduce natural resources degradation and increase the value of land and soil. (these may be isolated “bubbles” and not the result of regional strategic planning);
3. the schedule for implementation of Sub-Group 6 agenda has been shortened to accelerate its duties.

III) Conclusions

The purpose of FIDA to begin a dialogue with Mercosur countries about trade and environment issues was successfully accomplished during this workshop. It was possible to identify those areas that are a priority and a concern of Mercosur members and require greater attention. A list of these areas is provided below. This list will help FIDA to have a better understanding of the Region and, therefore, support Mercosur countries in strengthening the integration process.

Participants reported that they were generally pleased with the workshop. They also expressed a need for a longer time for dialogue among themselves. Though this conversation took place informally, apparently the time available was not enough and there was a strong interest to continue the dialogue.

Annex A

Areas of interest and priorities for work out in MERCOSUR

The following are the issues in which the participants agreed warrant additional work

1. There is a dissociation between the Environmental Secretaries and the Ministry of Economies of all Mercosur members which strongly affects the decision-making process. Thus, the environmental factor is often not included when economic decisions are made. In some cases, economic officials do not recognize the authority and competence of the environmental officials.
2. Absence of political will to include environmental issues in the public agenda.
3. Mercosur can no longer be addressed and negotiated only as a commercial agenda. The social factor must be acknowledged and incorporated in the negotiations.
4. Insufficient Environmental legislation, implementation and enforcement.
5. Strong need for training and cooperation, not only economic but technical and academic also. There is interest from the participants to exchange information and country case studies.
6. Freedom of Information: access to information regarding trade and environmental priorities and issues should be granted.
7. Dispute Resolution: all participants agreed that a dispute resolution procedure needs to be included in Mercosur legislation.
8. Environmental standards are less stringent than in other regions undergoing integration processes.
9. Encourage civil society participation.
10. Creation of a database and a consulting information net of Sub-Group 6 news.

The following is a list of other issues that the participants wanted to address at the workshop, but were not included in the agenda. Though it is recognized that such issues are of great importance, they were not addressed along the workshop because the dialogue is in a preliminary stage.

1. Economic cost of environmental impacts;
2. Economic value of environmental services (*e.g.* the benefits of National Parks); and
3. Economic value of Intact and Polluted Natural Resources (benefits and costs) of the Mercosur countries.

**Annex B
Participants**

Lista de capacitados

País	Nombre y datos	Nro. de Pasaporte
Chile	<p style="text-align: center;">Alvaro Sapag Rejevic Fiscal Comisión Nacional del Medio Ambiente (CONAMA)</p> <p>Tel: (562) 240-5622</p> <p>Fax: (562) 240-5788</p> <p>Obispo Donoso #6 Providencia, Santiago de Chile</p> <p>Email: asapag@conama.cl</p>	<p>Pasaporte No. 8.535.777-4 (Chileno)</p>
Bolivia	<p style="text-align: center;">Dra. Gisella Panzone <u>Reinaga</u> Abogada Unidad de Análisis Jurídico del Ministerio de Desarrollo Sostenible y Planificación,</p> <p style="text-align: center;">Casilla Postal: 2062 Correo Central La Paz – Bolivia</p> <p>Tel: (591-2)330540</p> <p>Email: brunok@zuper.net</p>	<p>Pasaporte No. 2336248 (Boliviano)</p>
Uruguay	<p style="text-align: center;">Marcelo J. Cousillas Asesor Jurídico de la Dirección Nacional de Medio Ambiente Ministerio de Vivienda, Ordenamiento Territorial y Medio Ambiente</p> <p>Edificio de la Ciudadela</p>	<p>Pasaporte No. 1.803 562-9 (Uruguayo)</p>

	<p>Juncal 1327 "D" of. 704 CP 11000, Montevideo- Uruguay</p> <p>Tel/fax: (598-2) 917-0333</p> <p>Mcabogad@adinet.com.uy</p> <p><u>Rossana Rubiños</u> Cancillería Dirección de Asuntos Políticos (enviar pasajes a la misma dirección de Cousillas)</p>	<p>Pasaporte No. 2.518 958-4</p>
<p>Paraguay</p>	<p>Carlos Andres Couchonnal Zeiser Asesor Juridico Ministerio de Medio Ambiente</p> <p>Comandante Luis Gonzalez No. 422 casi Agustin Barrios Barrio Las Carmelitas Asuncion, Paraguay</p> <p>Miguel Carlos Elias Rolon Coordinador Interagencial de la Direccion de Planificacion Estrategica (misma dirección)</p>	<p>Cedula de Identidad N° 1.620</p> <p>Cedula de Identidad N°653.262.115</p>

Argentina		
Brasil	<p>Carlos Alberto Morato Baddini Junior Gerente de Normalizacao e Gestao Ambiental CETESB</p> <p>Av. Prof. Frederico Hermann Junior, 345 Predio 02 – DDPN – Alto de Pinheiros Sao Paulo, SP Brasil CEP 05489-900</p> <p>Tel: (55-11) 3030-6492</p> <p>Email: carlosbj@cetesb.sp.gov.br</p>	<p>Pas. No. CE174186 RG (Registro Geral): 14.009.239-0</p>

Annex C

Agenda

TEMARIO: TALLER SOBRE “COMERCIO Y MEDIO AMBIENTE” ORGANIZADO POR FIDA Y CARI A REALIZARSE EL 13 Y 14 DE AGOSTO DE 2001 EN BUENOS AIRES

Lunes 13 de Agosto

16.00 hs.: Bienvenida y palabras introductorias: a cargo del Dr. Carlos González Guerrico

16.10 hs.: Presentación: La Conexión entre Comercio y Medio Ambiente

Embajador Raúl A. Estrada Oyuela, Representante Especial para Asuntos Medioambientales Internacionales, Ministerio De Relaciones Exteriores y Culto.

Dr. Félix Peña, Director de la Escuela de Comercio Exterior, Fundación BankBoston

18.00 hs.: Recepción en el CARI

Martes 14 de Agosto

08.30 hs.: Primer panel:¹

“Comercio y medio ambiente en las negociaciones multilaterales”: 1) Aspectos ambientales contemplados en los acuerdos comerciales multilaterales. 2) Aspectos comerciales contemplados en los acuerdos ambientales multilaterales.

Expositores: Daniel Ryan, FARN

Mauricio López Dardaine, Director, Cámara Argentina de Exportadores

10.00 hs.: Debate y Preguntas

10.30 hs. Intervalo

11.00 hs. Segundo Panel:

“Relación entre la política ambiental, la competitividad y el comercio”. 1) Diferencias entre las políticas ambientales de los países del MERCOSUR que implican o resultan en diferencias de competitividad: 1.a. Consideración de las medidas ambientales como barreras no arancelarias. 1.b. Posible impacto sobre el sistema de las exportaciones. 2) Efectos directos e indirectos del comercio sobre el medio ambiente: 2.a. Interacción entre la inversión externa directa y el medio ambiente. 2.b. Influencia de las políticas ambientales en los flujos de inversión y alteración de éstos en los padrones de producción y del comercio en el MERCOSUR. 2.c. Intensificación de la explotación de los recursos

¹ En cada panel se menciona el título general y se hace un desglose en temas y subtemas.

naturales en los países del MERCOSUR. Utilización de formas de más avanzadas de gerenciamiento y de producción, que contribuyen positivamente en el control ambiental.

12.30 hs.: Debate y Preguntas

13.00 hs.: Almuerzo

15.00 hs.: Tercer panel:

“Medidas comerciales con objetivos ambientales aplicadas a países del MERCOSUR”. 1) Conflictos comerciales y análisis de los impactos efectivos o potenciales de los programas de certificación y rotulación ambiental sobre los sectores exportadores. 2) Efectos ambientales de la liberalización comercial en el MERCOSUR. 3) Tecnologías ambientales: condiciones de acceso de los países del MERCOSUR al mercado de esas tecnologías.

17.00 hs.: Debate y Preguntas

17.30 hs.: Cierre y Conclusiones del Taller