

Selected Bills on Trade/Environment Issues: 102d Congress

Numerous bills and resolutions concerning the relationship of international trade and environmental issues have been introduced into the 102d Congress.¹ Some relate to specific trade discussions (e.g., negotiation of the North American Free Trade Agreement) or international environmental agreements (e.g., the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and Their Control). A number of the other trade/environment bills or resolutions would apply broadly to bilateral or multilateral trade agreements or negotiations. These proposals address several issues, including: 1) whether U.S. trade negotiators should take environmental questions into account in negotiating trade agreements; 2) whether to authorize countervailing duties or other penalties to compensate for competitive disadvantages when other countries have weaker environmental standards; and 3) whether institutions to deal with environmental and/or trade questions need strengthening. Selected issues and legislative proposals are briefly discussed below.

Fast-Track for the Uruguay Round and North American Free Trade Agreement

A major trade/environment issue in the first session of the 102d Congress was whether to deny or condition the extension of the President's "fast-track" negotiating authority. (Under the fast-track procedures, Congress agrees to vote up or down, without amendment and under a specified timetable, legislation to implement trade agreements negotiated by the President). The Administration sought 2 additional years (through May 31, 1993) of fast-track authority to complete the Uruguay Round General Agreement on Tariffs and Trade (GATT) negotiations and also to negotiate a North American Free Trade Agreement (NAFTA) among Mexico, Canada, and the United States.²

Proposals to deny extension of fast-track authority to the President failed in both the House (H. Res. 101) and the Senate (S. Res. 78). However, the House, in passing House Resolution 146, noted that fast-track authority was an expression of the rulemaking power of the House and the Senate, respectively, and could be changed by either House. The House resolution also indicated, among other things, that the United States under NAFTA must be able to maintain and enforce strict health and safety standards for imported agricultural products, and that NAFTA must be accompanied by an effective worker adjustment

program. It also emphasized the need for a joint border environmental program.

Environmental Objectives and Trade Negotiations

The fast-track debate and the September 1991 tuna/dolphin report by a GATT dispute resolution panel have focused attention on the relation of environmental issues (and other issues such as labor standards) to trade negotiations. Should such issues be part of trade discussion+ or should they be addressed separately or independently? The issue is partly procedural and partly substantive. With respect to NAFTA, the Administration has said that environmental (and labor standards) questions will be addressed in "parallel" discussions.

In addition to NAFTA, several bills or resolutions introduced in the 102d Congress would call on the President and U.S. trade negotiators to include environmental and/or health and labor standards as a part of future trade negotiations.

House Concurrent Resolution 246 would express the sense of Congress on the relation between trade agreements and U.S. health, safety, labor, and environmental laws. It would call upon the President to undertake negotiations in the Uruguay Round to make GATT compatible with the Marine Mammal Protection Act and other U.S. laws, including those intended to protect the environment beyond U.S. borders. The proposed concurrent resolution also asserts that Congress would not approve a NAFTA or Uruguay Round agreement that jeopardizes U.S. health, safety, labor, or environmental laws, including the Federal Food, Drug, and Cosmetic Act and the Clean Air Act.

Another concurrent resolution (H. Con. Res. 227) calls on the President to encourage GATT contracting parties to discourage trade in goods and services produced in a manner harmful to the global environment and world wildlife, and to oppose GATT actions that adversely affect the ability of the United States to protect the global environment and wildlife through "nondiscriminatory" application of trade laws.

House Concurrent Resolution 247 proposes to express the sense of the Congress that the U.S. Government should, among other things, negotiate consideration of different environmental, life and health, and worker rights policies as justifiable exceptions in Article XX of GATT.

¹ For updates on legislative status, see Susan Fletcher and Mary Tiemann, *Environment and Trade*, CRS Issue Brief IB92006.

² The United States already has a free trade agreement with Canada.

Countervailing Duties or Other Trade Measures to Address Weaker Environmental Standards in Other Countries

A number of legislative proposals have been introduced that would treat the failure of other countries to enforce environmental standards comparable to U.S. standards as a kind of subsidy for their industries. Trade measures (such as countervailing duties) would then be allowed to make up the difference in the cost of a product attributable to the lower standards when compared to a similar U.S. product.

For example, S. 984, the proposed International Pollution Deterrence Act, would allow inadequate pollution controls and environmental safeguards (including inadequate enforcement of such controls and safeguards) to be considered as subsidies. Countervailing duties in the amount of the cost that it would take the foreign firm to comply with U.S. environmental standards could then be imposed. A pollution control index would be created for the top 50 countries exporting to the United States; the index would attempt to measure each country's compliance with standards similar or equal to U.S. standards, through analyses of technology and actual costs incurred.

Half the revenues collected under S. 984 would go to a Pollution Control Export Fund. The Agency for International Development would administer the fund to assist purchases of U.S. pollution control equipment by developing countries. The remaining revenues would be for a Pollution Control Research and Development Fund, administered by the Environmental Protection Agency (EPA).

Another 102d Congress bill, S. 1965, the proposed Global Clean Water Incentives Act, would require the Secretary of Commerce to impose fees on imported products subject to or manufactured from processes that do not comply with U.S. Clean Water Act standards. The funds would be used to enhance the export of U.S. products with higher prices resulting from the Clean Water Act. It also calls on the U.S. Trade Representative to take steps to initiate amendments to GAIT to allow any country to impose additional duties on imports for countries that do not comply with water quality standards comparable to those in the United States.

S. 59, the proposed General Agreement on Tariffs and Trade for the Environment Act of 1991, would authorize actions to be taken under section 301 of the Trade Act of 1974 (19 U.S.C. 2411) against acts, policies, or practices of foreign countries that would "diminish the effective-

ness" of international agreements on the environment or plant and animal conservation.

Strengthening Institutions on International Trade and Environment Issues

Several bills call for steps to increase knowledge or improve institutions on interactions between trade and environmental issues. S. 59, discussed above, calls on the U.S. Trade Representative and EPA (with consultations from the Departments of State, Commerce, Agriculture, and Health and Human Services) for continuing reporting (through the National Academy of Sciences) on trade and environmental issues, including an analysis of the competitive impact on specific industries of differences between U.S. and foreign country environmental, conservation, and health laws. One purpose of the bill would be to consider ways to establish within GATT (or another institution) mechanisms to: 1) monitor and enforce compliance with international environmental agreements with trade measures, and 2) ensure foreign environment conservation and health laws are not disguised trade restrictions.

Another bill introduced in the 102d Congress, H.R. 3431, calls on the U.S. Trade Representative to seek reform of GATT to take national environmental laws and international environmental treaties, conventions, and agreements into account; secure a working party on trade and environment in GATT that includes representatives from the United Nations Environment Program and the U.N. Conference on Trade and Development; and take an active role in making GATT responsive to national and international environmental concerns.

Still another bill, S. 201, the proposed World Environmental Policy Act, would establish a Council on World Environmental Policy in the Executive Office of the President. The Council, chaired by the EPA Administrator and comprised of the heads of various agencies and departments and Presidential appointees, would develop and update every 3 years a strategic plan for coordinating policy responses to world environmental problems. The bill also proposes the appointment of a U.S. Environmental Negotiator to participate in negotiations relevant to global environmental issues. The bill would direct the President to request that the United Nations set up a temporary new agency, headed by the director of the U.N. Environment Program, to coordinate international environmental efforts and to help developing countries improve their living standards while addressing environmental issues.