

THE BROOKINGS INSTITUTION
GREEN GROWTH AND TRADE

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P R O C E E D I N G S

MR. DERVIŞ: Welcome, everyone. Good morning to this wonderful spring day, about two weeks ahead of time -- I don't know whether that has anything to do with climate -- to this event on Green Growth and Trade.

We have a great team of panelists which will be introduced by the moderator later, senior representatives from the U.S. Government, the private sector, the World Trade Organization, and academia, all leaders in their field. And I really hope we will have an excellent discussion.

This is the first in a series of events focused on green growth that we're going to hold here at Brookings in the lead up to the RIO+20 Summit in which has the theme of Green Growth on the agenda.

Now, I'm not going to say much. I don't want to enter the debate, as such. But, you know, green growth really is a key strategic topic in this phase of the world economy. It has the sustainability angle to it, of course, which is very important. And I think that if and when the crisis, the financial and macro crisis, will be overcome, I think the whole issue of sustainable long-term growth will again take much more center stage than it has, because of the more short-term macroeconomic problems that many of the advanced countries, the U.S., Europe, has faced. But this problem, you know, of sustainability is with us. The whole issue of having a world economy where the emerging markets are growing very fast, even if the advanced countries don't grow very fast, there will be growth in the world economy, and there will be pressure, in terms of climate, in terms of natural resources.

So, sustainability is going to be a concept, I think, for the coming decade, which will be critical.

The other big issue that's linked to it, of course, is employment. I was at a big international event yesterday at the AFL-CIO headquarters and, you know, the employment numbers look a little bit better in the U.S., but there is a huge employment challenge worldwide -- even in the rapidly growing emerging markets.

So the whole question of can one have sustainability and high employment growth at the time is another major dimension of the debate.

And then, of course, there is the whole issue of the policies that one can pursue, price policies and other policies, and the distribution of the benefits and the costs of various policies, which is center stage.

Finally, trade -- and this is really the big topic today. There is a danger that trade policy can be used in ways that it's not designed to. On the other hand, there also a possibility -- or -- that isn't, not designed, but that one shouldn't use it for, in terms of semi-protectionist type of approaches. Versus there is the possibility of using trade policy much more constructively and proactively in this whole area of sustainability. And that, I think, is going to be a crucial topic for policy also, in the years to come.

So I'm glad we are having this meeting it's going to be the first in a series of meetings leading up to Rio+20. On April 26th, for example, we're going host the Danish trade minister, who's going to share the EU perspective, and there will be other meetings on this topic.

The work at Brookings here is led by Katherine Sierra, who sits right here, and also Joshua Meltzer and Nathan Hultman. It's a small, powerful team, and I hope they will be able to kind of link up with mini-networks and many others of you who are working on the same team.

Today's discussion will be moderating by Joshua Meltzer, who is a Fellow at Brookings, and who spends a lot of his time working at the intersection between international trade and green growth. Just a few words about Joshua, he's also an adjunct professor at the Johns Hopkins School for Advanced International Studies, and at the Georgetown Law School. He's a lawyer, really, professionally, but very much of an economist, I think, by now, too.

Prior to joining Brookings he was a diplomat at the Australian embassy in Washington, where he focused on climate change and energy issues, particularly with regard to trade-related aspects. He also worked as negotiator in the Australian team, where he negotiated the free trade agreements between Australia and Malaysia and New Zealand. He has an LL.M. and S.J.D. from the University of Michigan Law School in Ann Arbor.

So Joshua is going to moderate the session today.

And welcome to everybody again, and thank you for being with us.

Joshua -- yours.

MR. MELTZER: Thank you, Kemal.

I'm just going to spend a couple of minutes now briefly introducing our topic today of green growth and trade, and then I'll introduce the panelists in the order that they're going to speak today. And then we'll kick off our conversation.

As Kemal just outlined, green growth is a key theme of the Rio+20 conference that's going to be held in June this year. And this conference follows 20 years on from the original Rio summit that was held in 1992, which was focused on achieving sustainable development.

So in this context, green growth is really a key component of sustainable development, but with a focus more on the economic and also on the environmental dimensions of it.

There are two key and really related components to green growth.

The first is the need for economic growth consistent with the sustainable use of the world's natural resources -- whether this be access to clean air, clean water, avoiding climate change, preserving biodiversity, and the like. "Green growth," however, also understands that policies to use natural resources sustainably can also, in and of itself, be supportive of growth. So, for instance, ensuring that prices more accurately reflect the true costs and the environmental costs of production -- whether it be dirty air from production processes, or the impact of greenhouse gas emissions on the climate, or the impact of illegal logging on biodiversity -- can improve both the efficiency and productivity of our economies, leading to increased output and prosperity.

The recognition that green is, in fact, consistent with and can promote growth has also been incorporated by the world's major economies into their growth strategies. So, for instance, at the G-20 summit meeting in France last year, the outcome, one of the outcomes was the Cannes Action Plan for Growth and Jobs, which addressed the key policies that are required to increase economic growth and re-balance economies, and to achieve financial stability.

And some of the policy goals in that document included, for instance, for India and Indonesia, phasing out wasteful and distorted subsidies for Turkey, increasing energy efficiency and the use of renewable resources, for Australia, replacing carbon to transition to a clean and green economy, and for Korea, promoting green growth.

Moreover, at the recent APEC meeting in Hawaii last year, in November, as well, the 21 APEC members agreed on a range of policies to achieve their green growth goals, and some of them including reducing trade barriers on green goods, and phasing out fossil fuel subsidies.

So green growth as a goal that increases economic growth, uses natural resources sustainably, and leads to more efficient and productive economies is something that developed and developing countries have both gotten behind, and is an area with significant potential for future international cooperation.

So this leads us to the topic today of the relationship between international trade and green growth. The trade rules as they are reflected in the World Trade Organization, and actually increasingly in bilateral and regional agreements, essentially underpin a lot of economic globalization, globalization of supply chains, open market, trade in goods and services, and movement of people. And trade policies in this sense have a very direct and important implication for both growth, and whether, in fact, that growth is green.

The need for growth consistent with a sustainable use of natural resources in fact frames the WTO enterprise. The first paragraph of the Marrakesh Agreement which establishes the WTO, in that paragraph the parties recognize that trade is a means for achieving the green growth goals of rising living standards and sustainable use of world's natural resources.

One of the ways that trade supports green growth initiatives is by facilitating cooperation to address environmental problems that are both trans-boundary or global in nature and cannot be addressed by any one country alone. And some of these issues are going to be addressed in more detail today by Mark Linscott, who is

going to talk about negotiations such as the Trans-Pacific Partnership, and how it achieves green growth goals, and also Bill Reinsch, who is going to talk about some of the growth opportunities presented by reducing trade barriers to green goods and services.

Another important dimension to trade and green growth is how the trade rules strike a balance between maintaining an open and liberalized world economy that is consistent with governments' having the so-called policy space to take action to protect their environment. And, in fact, one of the ways of thinking about trade rules is as a green growth road map, navigating between these twin goals of achieving open markets, and policies to address environmental aims.

How the WTO achieves this often boils down to the question of are the government policies seeking to achieve particular green growth or environmental aims consistent with their WTO commitments? And this question has begun to assume increased significance recently as countries have increasingly started to take measures to do things like promote renewable energy, or address carbon leakage that arises from pricing carbon domestically in advance of other countries. And these policies have also had important international implications.

This is a complex topic, and it's going to be addressed in some detail today by our other two panelists, Vesile Kulacoglu and Professor Howse, in their presentations.

I'd now like to introduce the panelists, starting with Mark Linscott, who is the Assistant United States Trade Representative for Environment and National Resources, and has been in this role since October 2003. Mark oversees all trade and environment issues for USTR, including work on free trade agreements such as the

Trans-Pacific Partnership, work in the World Trade Organization, and in the OECD. And Mark and his team have also developed a very robust agenda on addressing illegal logging and trade, through APEC and other bilateral arrangements.

Prior to this, Mark served for six years in the U.S. mission to the WTO in Geneva and, prior to that, actually worked in the Department of Commerce, where he was awarded a Gold Medal Award, in fact, for his work on the 1996 Canadian softwood lumber investigation.

Bill Reinsch currently serves as President of the National Foreign Trade Council, which is the oldest and largest business association dedicated to trade policy alone, including a range of other issues. And concurrently Bill also serves as a member of the U.S.-China Security Review Commission.

Prior to joining the NFTC, he served as Undersecretary for the Export Administration in the U.S. Department of Commerce and, prior to that, spent approximately 20 years on Capitol Hill, most of them as senior legislative assistant to the late Senator John Heinz and, following that, to Senator John D. Rockefeller.

Vesile Kulacoglu is Director of the Trade and Environment Division at the World Trade Organization. The division's main work there includes the regular work of the committees on trade and environment and technical barriers to trade, and negotiations on trade and environment issues under the WTO Doha Round. She focuses on the interface between trade and the green economy, climate change, and energy issues -- and actually, on the climate and trade issues, was one of the co-authors of the 2009 WTO UNEP Report which came out just prior to the Copenhagen climate change meeting.

Vesile also represents the WTO in the Rio+20 discussions, and in the UNFCCC discussions.

Professor Robert Howse is the Lloyd C. Nelson Professor of International Law at NYU Law School. He's also a frequent consultant and advisor to government agencies and other international organizations, including the OECD and the World Bank, and serves on various editorial boards, including the *European Journal of International Law*, and is an editor of the Oxford University press commentaries on the WTO treaties.

Prior to Rob's legal academic career, in fact he also held a variety of posts with the Canadian foreign ministry, including as a diplomat at the Canadian Embassy in Belgrade. He's also a co-author or author, and edits a range of books on international trade.

With that, I'd like to welcome Mark to start his presentation.

MR. LINSKOTT: Sure. Thanks, Josh. And I'd like to start by noting that it's a real pleasure to be up here with my fellow panelists, with whom I've worked in some capacity or another over the years. In fact, Vesile and I go way back, to our days on government procurement together.

I'd like to dwell for a moment on this term "green growth." It certain is fully integrated into our lexicon these days. It's hard to pick up a major newspaper -- whether it's the *New York Times*, or the *Post*, or the *Financial Times*, or *The Economist* -- or walk down the hallways of your garden-variety, multilateral, intergovernmental organization or think-tank, without hearing frequent references to green growth.

And the trend is clear in this regard. Ten or 15 years ago, we either were not using this term, or using it sparingly. We use it all the time now, and specifically, we

use it in the trade context. And from my perspective as the Assistant U.S. Trade Rep for Environment and Natural Resources, that's a very good trend.

But what does that mean in the trade context?

You who know USTR well recognize that we are generally inclined more towards the concrete than the ethereal. We tend to focus on action as opposed to pronouncements. So in this regard, what I'd like to briefly do is present a picture of how we see green growth, in terms of specific examples.

And here, I'd like to start with APEC. The President hosted APEC leaders last year, in November, in Honolulu. And the theme of much of the work at this APEC leaders' meeting was green growth. And I think it's fair to say that one of the more high-profile efforts and results out of APEC in November was that on environmental goods and services -- very much a trade issues, and something that's been on our agenda for some time.

There was agreement among all APEC countries, all APEC economics, in Honolulu to ensure that their applied tariffs would not exceed 5 percent on environmental goods by the year 2015. There was also agreement to elimination of local-content requirements, which can be hugely distortive of trade in environmental goods and services. And here, I would just like to take the opportunity, because I can imagine getting questions that I can't answer, to note that Jennifer Prescott is in the audience, and she's my deputy, and has been our long-time negotiator in this area.

What this result means is that ultimately we can see a lower cost for goods in international trade in this area, from solar panels, to solar water heaters, to wind turbines, to fuel cells, et cetera. APEC will be in the process of identifying relevant

environmental goods, subject to this commitment this year. But it was quite a significant advance in this area.

In fact, what we are doing in APEC builds on a lot of work that has been ongoing in the WTO Doha negotiations for some time on environmental goods and services. Those negotiations, as you all know, are not moving forward at this point in time. But there was some very good work that was taking place -- and, in particular, there was work among a number of countries to develop a convergence list of 153 products, environmental goods. So this is important work that occurred in the WTO, that we are now building on in APEC.

Another aspect of the APEC results in Honolulu, more of a sleeper issue than that of environmental goods and services is the result on illegal logging and associated trade. Leaders agreed that their economies should take measures to prohibit trade in illegally harvested forest products. And they also agreed to the establishment of an experts group -- an experts group that can bring together trade officials, forestry officials, customs officials, law enforcement officials, et cetera -- to tackle this problem of illegal logging and the trade associated with that.

And here I would just like to note that while the result this past year was in APEC, this is an area that we have built on for some time. Four or five years ago we negotiated bilateral agreements -- the United States, USTR, negotiated bilateral agreements -- first with Indonesia, and subsequently with China, on illegal logging and associated trade. We then built up a very informal regional dialogue, an Asia Pacific regional dialogue, which first met in Jakarta in Indonesia, with 11 countries involved. It was expanded to, oh, 15 or 16 countries in a meeting in Seattle. And now, last year, we've moved that regional dialogue fully into APEC.

Turning from APEC, I'd like to say a few words about the Trans-Pacific Partnership negotiations. Josh referenced this as a free trade agreement negotiation that the United States is involved in with eight other countries. It's a hugely significant negotiation. It's regionally diverse. The eight other countries include Australia and New Zealand, Chile, Peru, Singapore, Vietnam, Brunei, Malaysia. I think that's it. Hopefully, I didn't leave one out.

But it's a very interesting negotiation, I think quite unprecedented in terms of bringing this number of countries together in pursuit of a free trade agreement, and one that will be comprehensive, and one that we bill as being a future 21st century agreement.

In the context of these negotiations we are negotiating an environment chapter of the TPP. And the United States certainly has brought very ambitious proposals on environment, on green growth, to the TPP negotiations.

First, we have tabled the kinds of provisions that had been included in our most recent free trade agreement environment chapters -- those with Peru and Korea and Colombia and Panama. These provisions include important obligations on implementing multilateral environmental agreements, like CITES. There are provisions on effective enforcement of environmental laws, on non-derogation from those environmental laws -- and that dispute settlement, FTA dispute settlement, apply to all of the obligations in an environment chapter. These are now, these kinds of provisions are now on the table in the TPP negotiations.

In addition, the United States has made a proposal on a so-called "new" issue. It's really not so new. It's conservation of wildlife and wild plants. Trade has been taking place in these areas for a long, long time, with devastating impacts. Estimates

suggest that the trade involved is many billions of dollars, in fact, \$6 billion alone, a year, in terms of illegally traded forestry products. There are huge issues with illegal fishing, IUU, illegal under unmanaged or under-reported fishing practices.

So we have made a proposal in this area that the TPP include affirmative obligations to try to turn the corner in terms of this kind of trade. And it couldn't be more relevant with these countries, with the Asia Pacific region, which is a very biodiverse region, and it is a real hot spot in terms of this kind of trade.

Finally, for the TPP, I'd like to highlight that we do have high expectations in terms of environmental goods and services. This reflects our efforts across numerous fronts to address market access for environmental goods and services, whether it's in the WTO, most recently in APEC, and now in a large regional free trade agreement. We fully expect to have commitments that will eliminate tariffs on environmental goods from day one from entry in force of the TPP, as well as full commitments on environmental services in the TPP.

I'd like to conclude, in terms of concrete examples, with the area that is probably the most elusive in terms of concrete results, and that's the WTO. And the WTO being what it is, a multilateral organization with many countries and many issues to negotiate, it's not surprising that this remains the most elusive forum for new commitments on green growth.

That said, I would like to highlight that important work has been going on over the last 10 years in the Doha negotiations. I already referenced environmental goods and services, and how we are building on that work now in APEC.

Another area is with respect to fishery subsidies, and efforts to prohibit the most harmful types of fishery subsidies. We have, through the Doha negotiations,

been able to get a vision of what a strong agreement would look like on fishery subsidies. In fact, that's a vision we are now taking into the TPP negotiations. We have proposed disciplines on fishery subsidies in the TPP.

I'd like to stop by noting the potential for a trade and environment agenda that is not simply a negotiating agenda in the WTO. There's been so much focus on Doha for so many years that I think, in many respects, we've forgotten how we can address issues aside from a comprehensive trade round.

There is a committee that Vesile will talk about at some length, I expect, the Committee on Trade and Environment in regular session, which is the non-negotiating body in the WTO. Here we see significant prospects to be able to bring to the table for discussion, for consideration, emerging trade and environment issues. And, in fact, there's already been significant discussions on an aspect of climate change and trade. We are quite hopeful that the WTO can break new ground in terms of airing these issues in the future.

Thank you.

MR. MELTZER: Thanks, Mark.

Bill?

MR. REINSCH: Thank you, Josh. I'm happy to be here.

This is an exciting issue for the business community, because it's win-win-win. It provides an opportunity for economic growth, jobs, exports, corporate sales -- music to our ears. It's a win for the environment. It provides an opportunity to market technologies that will make a greener earth and conserve energy, and accomplish a whole bunch of widely shared positive goals.

It's also a win, I think, potentially for trade liberalization, because the issues that are on the table -- as Mark has described -- are issues that are on the table in numerous other negotiations, as well. If we can get them right in a green growth conversation, protection of intellectual property, dealing with a wide range of NTBs, non-tariff barriers -- subsidies, local-content, government procurement, lack of transparency, things like that -- if we can get them right here -- and there are some reasons why it might be easier to get the right here than elsewhere -- we can create a template for doing this in other contexts, as well, which I think is a win for a larger open-trade environment.

The other thing that's exciting about it, particularly for American companies, is the significant role that innovation can play. America's great strength for 200 years has been that of an innovator. We invent, design, create, and bring products to the market faster than anybody else. Our current weakness is that we then lose control of the manufacture of them to other people, but that's a topic for a -- somebody else at Brookings I'm sure is working on that. You could spend time on that separately.

But for companies that pride themselves -- which include a lot of my members -- over and over on being on the cutting edge of technology, this is an area where there's a lot of countries out there, particularly the newly emerging, rapidly industrializing large countries -- India, China, Brazil are three, but they're not the only ones -- that don't have, are not starting with an embedded, built-in, old infrastructure, and thus have a set of choices in front of them as to how they're going to grow, and what kind of technologies they're going to adopt in order to grow. That gives them an enormous opportunity to go, essentially to leapfrog old, dirtier technologies and go directly to cutting-edge techniques. They're not all going to choose to do that, which is also another subject.

But the opportunity for our companies, which we think are on the cutting edge of a lot of these technologies, to go and suggest, "Here's an opportunity for you," is enormous.

So this is win-win-win on a number of counts. And I want to mention three areas where I think policy-makers collectively can help encourage these victories.

The first is simply lowering trading barriers to green goods and services. And Mark has already done a good job of -- not only done a good job of explaining it, but he and Jennifer and his colleagues have done a superb job of actually moving the ball forward in a number of venues.

I think the comment I would make first is to note that, as he did, there are a number of venues; there is more than one ball in the air at this point. He talked in some detail about APEC and TPP, and also about the WTO and the environment committee, which I think we will hear more about. And all three of those venues are important, and each of them in their own way raises some of the issues that I just was discussion. For example, APEC, in some respects, has gone the farthest in that it's produced some concrete commitments on tariff reduction and on NTBs, both of which, I think, are important, and will be an important part of, I think, examples that we can cite going forward in other fora.

But the conversation about tariffs reduction in particular gives rise to the next conversation, which is something that the WTO environment committee, among others, is involved in, and that is what exactly is an environmental good and service? Because if you're going to reduce a tariff on it, you have to define it. And that's going to be an important discussion, and one that's already been the subject of considerable argument between those who want a very small list, and those who want a much more

expansive list. I think my organization, my members, would be in the latter group. But if you look at the work of the WTO and the 153-item list that Mark mentioned, I think you get a sense of the potential breadth of what we're talking about here, because it goes way beyond the obvious of air-pollution control, into management of solid and hazardous waste, clean-up or remediation of soil and water, renewable energy -- which seems to be broadly agreed upon -- both wind and solar and biomass and other things as clearly something we want to focus on.

My personal favorite here is something that GE is involved in, which is a Chinese chicken manure bio-gas plant -- which I thought was kind of cool. And then when I read that they've got 3 million chickens, which manage to produce 220 tons of chicken manure every day, and 170 tons of wastewater, that's a lot of chicken manure. And the opportunity is there to move, leapfrog technologically, and create a biogas energy plant -- which already operating but, you know, the template there is significant. And companies like GE that are at the, you know, the forefront of inventing the kinds of technologies that enable that sort of thing to occur, provide extraordinary advantages for the jobs and growth in the American business community.

So you've not only got renewables, you've got waste-water treatment, you've got natural resources protection, noise and vibration abatement, a lot of services in environment monitoring and analysis and assessment equipment, safety equipment. Then you can have a whole discussion over nuclear power and where that fits in.

There's a lot of things to talk about here, but it's the next -- it's not the "next," because it's already under discussion, but we have to get that right, and we have to get it, hopefully, right, from our point of view, with a longer list, in order to make this the most meaningful way to go.

The opportunity, as I also said, is there to also deal with a wide variety of non-tariff barriers. Because what happens always when you move into a new area like this is people try to figure out ways in order to give an advantage to the hometown people. So you have, you know, local-content requirements, government procurement restrictions, subsidies. Trying to combat those is an important element of what we ought to be doing.

And here, the TPP, which Mark referred to, was an enormous opportunity, because here you have a negotiation amongst a group of people that, by and large, will be like-minded, I think, on some of these issues. But you have looming out there potential entrants into that structure that may not be so like-minded. And this is an opportunity, basically, to set up some really good rules when they're not there. And I would hope that one of the priorities that Mark and his team is going to pursue is trying to develop some strong rules, particularly on NTBs, in the absence of the Chinese, so that when they ultimately knock on the door -- which I think they will, over, you know, some number of years from now -- there will be a standard of behavior there that's expected that will impose some market disciplines in the very important area.

The second thing we should be focusing on which, from the business community is very important, but is not in Mark's portfolio, so I think he quite intelligently didn't mention it, is government encouragement for further U.S. export promotion.

And here, the administration, I think, has been active in trying to organize the government more competently for export promotion, and to get better connections formed between the government infrastructure for export promotion, and the people that actually engage in exports. That means things that we have called for, and some principles that we developed last year, which is a more strategically deployed Foreign

Commercial Service team, an increase in reverse trade missions -- instead of us going there, we bring people here, bring the customers to the producers and services providers and let them see what we've been able to do here. Provide a great leadership role for top U.S. officials in promoting American clean energy goods and services abroad. Require robust monitoring and reporting on clean technology export promotion programs. And developing more flexible clean technology funding mechanisms at the Ex-Im Bank, OPIC, and TDA to better streamline individual funding projects.

The Congress has been helpful here, too, via bills, the most notable of which is one that Congressman Berman has gotten out of his committee, that would reorganize a number of the federal government's structures to deal with this.

The final category is, and I think the most important, which is intellectual property rights protection for clean technology. And here the equation, I think, is very simple: Going green, cleaning up the environment, is going to require large, massive amounts of investment everywhere. Good IPR protection, we believe, is essential to creating a climate for investment. Companies, frankly, the reality is that companies are not going to invest, they're not going to place their technology in markets where there's lax IP protection.

In fact, the international IP framework serves as the primary way that companies transfer technologies to local markets. When a U.S. company partners with another firm in a local market, they use IP rules as the basis on which they deploy their technologies to that partner in that market. If they fear that they're going to lose their technology to someone who's going to end up basically stealing it from them one way or another, and then end up competing against them, they're not going to go into that

market. And the entire win-win-win chain that we're talking about here is going to be broken.

So trying to establish this is an extraordinarily important element. We're up against a lot of arguments that I think, personally, are disingenuous, that IP rights effectively impede this kind of development. In our view, they enhance and enable the development. And I have great respect for what Mark and Jennifer and the IP people at USTR have been able to do in trying to fight this battle. But it's probably the single most important one that we can fight going forward.

So, with that, I'll stop.

MR. MELTZER: Thanks, Mark.

Vesile.

MS. KULACOGLU: Thank you. I'm speaking here in my own capacity, and what I will say does not represent the views of our WTO members or the WTO Secretariat.

I thought I would benefit coming to Brookings to say some of the findings that we have when we were faced with this challenge of green economy. As Mark said, some time ago we were not focusing too much, now it's everywhere. So we have to think a little bit what this means for the multilateral trading system.

In fact, countries increasingly look to the green economy for economic growth, job creation, and export diversification. Protection of environment becomes the catalyst of a new growth strategy. I think this is the starting point for all countries.

Look at some of the main links between international trade and green economy; we have a couple of questions. First, what are the main challenges for trade

arising from the shift to a green economy? Indeed, there are quite a number of challenges.

And then, looking at it positively as it has been done this morning, how does the multilateral trading countries help countries meet those challenges and contribute to countries' transition to green economy?

It has been said by Mr. Derviş that from the trade perspective, the key challenge is to ensure that transition to a green economy does not result in green trade barriers. Moreover, the benefits of green economy will only be realized if green protectionism is kept to a minimum. Ever since the first wave of regulatory measures, environmental regulatory measures in the 1960s and '70s, the international community has been confronted with this question.

Now, does green economy now pose a different or broader kind of threat to open and predictable trade than in the past? This is what we have to look at now.

With countries' putting more ambitious green economies initiatives in place, we will face a higher risk of protectionism. Does the green economy make it more difficult to distinguish when countries are motivated by protectionism rather than pursuing legitimate regulatory goals, or putting a price on environmental externalities?

These are the broad questions that are now shaping the debate on green economy and trade.

Now, this is my personal view, is that the overall picture is probably we are facing new and more complex trade challenges as a result of a shift to a green economy. There is nothing new here, but I would like to mention a few examples.

Because in our globalized economy, where goods are increasingly made in the world, and countries compete throughout the supply chains, for example, the supply chains in green goods, it is understandable that there are trade challenges.

First, I would like to mention a subject that I'm sure you will attach on later. There is a new interest in green industrial policies designed to improve the competitiveness of the existing environmental industries, or to boost the development of new green activities, and to gain a first-mover advantage in global markets.

This appears to me that governments are reshaping their traditional tools of intervention, for instance, through environmental-related subsidies. We all know that renewable energy has now taken the center stage in governments' policies to support the environment, but subsidies, this type of subsidies, involve increasingly vertical industrial policies targeted at manufacturing, rather than horizontal industrial policies for research and development. Because they are vertical, they are most close to trade, they impact more trade than the subsidies that we had thus far. I don't know if it's also your conclusion.

Not surprisingly, we are seeing more trade frictions in this area. I will not mention one dispute that is going to start in the WTO next week, that you are all aware.

The second area of tension I see is -- it's not really tension, it's green economy, businesses and consumers are becoming more and more aware of, and more and more involved in fostering the transition to green economy. The public is paying more attention to the impact of what they consume on the environment. There is the discussion about deforestation; there are fisheries, and other global environmental problems. Mark just mentioned illegal logging. They are wanting to discuss this because the public is also interest in these subjects.

This has led to the development of a number of voluntary schemes by private companies and other non-governmental bodies. This area is also something that needs to be watched, because these private standards and schemes may become a condition to enter a market if major retailers put it as a condition to suppliers to comply with them. So this is a second area, in our work, we see emerging.

Third, an area that is much exhausted -- and I know in the audience there are people who have written books about it -- is the use of trade measures to prevent the pollution haven hypothesis from materializing. The idea is not new, but it has gained prominence in recent public discourse on the interaction between trade and climate change.

I will not go into details, because people are well aware of this area that has not, that is now developing as we are talking. And there is now a heated debate on the extension of the EU ETS to the aviation sector, and the reaction of governments and airline companies, that's very topical. We read these in the paper, as Mark says, every day. But this is one area of where some research may need to be done about ecological dumping. Since we are in the research organization, I think there are some pointers to where more research needs to be done.

On this heated subject I will not comment further, but only to say what is obvious to everybody, is that to go it alone on such global and environmentally and economically complex issues is not politically realistic as we are following the debate.

Now, to finish on a positive note after talking about the concerns, I want to touch upon what has been said about environmental goods and services. In fact, trade serves as an effective challenge for technology transfer, it has been said by experts. And the elitist countries can exchange latest technologies, and first-mover countries who

struggle to keep their competitive advantage and their market share in clean technologies can, through opening of markets, benefit.

So, in this area -- maybe we will have an opportunity to discuss further -- what one sees is that developing countries are becoming part of global value chains, particularly in intermediate goods, and in particular, in the renewable energy technologies.

To finish with, you mentioned this morning, in the Rio Declaration, in the preparation, there is, of course, a reference to the benefit of a multilateral open-trading system. All countries agree about that. But the Rio document also refers to other areas than just for opening of markets. There are other trade-relations issues, like elimination of harmful subsidies, agricultural and fishery subsidies, trade facilitation, aid for trade and, of course, integration of least-developed countries into global markets. These are also a part of the whole sustainable package.

If there's a chance, I would also like to say a few words later on on the main safeguards in the multilateral trading system to prevent green protectionism. But, maybe you'll give me the floor --

MR. MELTZER: Yes, absolutely. Thanks, Leslie. That was very interesting.

Rob?

MR. HOWSE: So perhaps I can pick up, you know, on some of the issues surrounding recent disputes on trade and the green economy.

First of all, it seems to me it's essential to understand, as a basis, that the fundamental norm in the WTO legal system, when it addresses domestic regulation, is the non-discrimination norm, which is aimed at preventing protectionism. And so "non-

discrimination" does not mean that you cannot favor green technologies over non-green technologies. Non-discrimination does not mean that you cannot impose burdens on consumers and other economic actors to use green technology rather than non-green technology.

What it does mean is that when you impose these differential burdens, or provide differential benefits, you have to do so in a way that does not favor, systematically, domestic goods and services over imported goods and services from other WTO members. And so a classic and obvious example of that is domestic content requirements. Those clearly pose a problem with respect to the discrimination norm.

But there are many, many other policies, including policies that -- and I'll come to this more explicitly in a minute -- would, you know, account for environmental externalities even where a part of the environmental externality or, you know -- if it can be territorially allocated at all, occurred on the territory of another WTO member, that are perfectly consistent with the non-discrimination norm.

This brings us to the aviation dispute, which most of you have read about. And I'm not here representing the European Commission, or anyone but myself. But I would say that it seems to me that it's a fundamental proposition of WTO law that a non-discriminatory requirement that environmental externalities be accounted for -- non-discriminatory in the sense that it applies to both internal and external economic actors -- per se does not constitute a violation of WTO rules.

Now, one kind of argument that has been made against what the European Union is doing is that it disadvantages carriers that have long-haul flights. But as long as the distance of the flight is an appropriate surrogate for the extent of the environmental externality, it seems to me there's no problem with discrimination.

Some of you will recall a case on a rather different subject, the Dominican Republic cigarettes case in the WTO, where the complainant argued that cigarettes that originated from that country were facing a larger taxation or fiscal burden. And the appellate body replied, yes, there's a larger burden because you're a larger market actor.

So if you have more emissions because you have longer flights, it's not discrimination that you should have to present more allowances.

Now, it's a bit more complicated because, of course, the problem, one issues, or challenge, is that what the EU is asking is participation in an existing scheme of emissions trading where, historically, free allowances have been given in some circumstances, and so on. So the question is whether -- there is a level-playing-field question, but it's a different question.

It's a question of the level of -- the application of a scheme, you know, that has a certain history and structure to it, not at the level of whether, you know, you can appropriately account for environmental externalities, even if those externalities are produced, in a territorial sense, in part or entirely outside your own jurisdiction. I don't think there's any problem with that at all under the non-discrimination norm.

This being said, you know, there are issues with, you know, it's not optimal not to have a multilateral scheme. The EU is reacting to an impasse at ICAO. It's reacting to the fact that there are holdouts to a multilateral scheme. One of the only effective ways of dealing with a holdout problem is saying, "We're going to act alone," and creating incentives for others to come to the table.

And it seems to me, though, that we could think creatively about ways in which, you know, non-EU economic actors -- in this case, airlines and the related

industrial interests -- could fulfill the EU's goal. They might be able to do it, in part, by investing in more fuel-efficient aircraft. They might be able to do it if they start to use clean fuels, biofuels, in their jet engines.

So, we have to think about what would be a comparable program. And I do think there could be a discrimination issue if the EU insists, at the end of the day, on simply applying its own program without thinking about how there might be other ways, comparable ways, that other economic actors could satisfy its ultimate goal of progressive reduction of emissions from aircraft. But, that being said, the ball is now in the court of those other economic actors, I think, to say, "We have an alternative constructive solution -- " -- to this genuine challenge or problem to which the EU is responding, in the face of the multilateral impasse.

So this brings me to, you know, a third kind of issue, which is the environmental goods and services issue. And I was very heartened to hear about the progress on that issue in the context of APEC, for example. Because, you know, I kept going and talking to people at the WTO involved in the environmental goods and services negotiations, and they kept telling me about all of these obstacles that they thought existed to liberalization of environmental goods and services. Especially, you know, they had a lot of worries about the harmonized system, and whether you could adequately reflect the notion that goods would be distinguished based upon their green properties within the classification of the harmonized system. I would explain to them at length that there's really no problem with this, there are many ways of doing it, there's the Information Technology Agreement, and so on and so forth. And most of them would not believe me.

So now we have a concrete example that you can actually do it. And you can also do it, as I have been arguing for a number of years, as this example shows, on a pluri-lateral basis. Why can you do it? Because as long as you apply a lower rate of tariff on an MFN basis, you can always just have an agreement among a group of countries that the applied rate will be lower for certain goods and services that distinguish themselves on the basis of their, you know, positive green characteristics. No problem at all with that.

But I also want to come to come to technical, you know, standards because I think there's a real issue here, as well. And I had mentioned the possibility, for example, that one way of dealing with the problem of emissions from aircraft is to move to using biofuels. Now, first and second biofuels have their own sustainability issues, as all of you know. But recently, Lufthansa and a couple of other airlines have been doing tests using, you know, various kinds of biofuels in jet engines.

Now, why has this not happened before? One of the reasons is that before, the applicable technical standard didn't seem to permit, the ASTM standard. That had to be changed.

So one of -- this is just an illustration of why, you know, I've often thought that the liberalization of the environmental goods and services negotiations at the WTO were fundamentally focused on, you know, or overly focused on the wrong issues, which were tariff barriers as opposed to dealing with standards issues. We really need to look very carefully at the relevant international standards. I've talked to people who produce wind turbines about this, people who produce solar panels. There are a lot of standards issues that could be resolved if we started to think about how we can move forward both domestic and international technical standards to facilitate the green economy. And that

also, I think, is very much a win-win agenda, and one, you know, that it would be useful to pursue in a number of different fora. And, again, it's an agenda -- you don't have to wait for the, you know, the second or third coming of Doha to pursue this agenda in a very, very constructive and, I think, useful way.

So, probably I'll stop there. I should just say we have a very active climate finance group at NYU Law School, and it's headed by my colleague Dick Stewart. And while these remarks were my own, I work very closely with that group on these issues.

MR. MELTZER: Thanks, Rob.

And for the interest of time, I think I'm going to exercise my discretion as moderator as a question for the moment. I might start by taking some questions from the audience. I might take a couple, and then we'll go from there.

And when you -- can you just please introduce yourself, and say quickly where you're from.

MR. STRAWBRIDGE: Thanks. I'm Jamie Strawbridge, reporter from *Inside U.S. Trade*. I just had a question for Mr. Linscott, following up on environmental goods and service in the TPP context.

You said you expected that TPP members would agree on day one to eliminate tariffs on environmental goods. But is there any agreement yet on which goods those would be? Are we talking about the list of 153 products that has been mentioned in the WTO context? Or is that discussion still kind of outstanding, on the list?

And what do you expect on services, in terms of an outcome on day one?

Thanks.

MR. MELTZER: And maybe we'll just get -- we'll just get maybe one more question, and then we can sort of do a couple at a time.

Over here.

MS. HEBEBRAND: Yes, Thank you very much.

MR. MELTZER: Hi, Charlotte.

MS. HEBEBRAND: Charlotte Hebebrand from the International Food and Agricultural Trade Policy Council. Great discussion. I have three quick questions.

It occurred to me as you all were speaking that the local-content requirement could ultimately, if you assume increasing oil prices, actually become an argument for environmentalists to say we'd like to procure locally or regionally, because that is, in the end, more environmentally sound? So I wonder if you had any thoughts on that.

On standards -- in the SPS arena, you have three international standard-setting bodies that look at food and agricultural products. There's no such thing on environment or climate change. Do we need a CODEX for environmental standards so that we are not confronted with standards that are not necessarily based on an international consensus?

And then my last question is for you, Rob. You've mentioned that there might be a comparable program that the EU could promote, instead of this asking other countries how they're dealing with the ETS issue. Now, suppose that the EU said, okay, we want everybody to use a certain percentage of biofuels for their jet engines. How are you actually avoiding the problem that EU would somehow be limiting flights, or imposing extra burdens on others? I'm not sure I really understood that distinction.

MR. MELTZER: Okay -- Mark, do you want to answer the first question?

MR. LINSKOTT: Sure. In terms of Jamie's question, it's a good one, and one that is emerging in some of the discussions in TPP.

We, meaning the U.S. delegation is approaching this in terms of coordinating with our market access negotiators, both in terms of industrial goods and tariffs on industrial goods, and those working on cross-border trade and services. And those are very complicated and, generally, bilateral negotiations, at least on the industrial products side.

The approach that we are pursuing is to ensure that the products that we consider to be environmental goods are fully incorporated into our requests of those countries. And it's the four countries with which we don't currently have FTAs, that those requests incorporate what we view as a robust list of environmental goods and, you know, with a request being tariffs eliminated from entry into force. So we are pursuing those market-access negotiations. We are quite hopeful on the prospects in those negotiations -- based on our experience in previous FTAs.

It's not entirely clear that there needs to be one agreed list of environmental goods in the TPP context. Essentially, we are looking for our market-access counterparts to accomplish good results, and to not necessarily be held back in terms of a larger effort to identify environmental goods up front. You know, other countries have raised that question, in terms of do we need to agree up front? From the U.S. perspective, it's not necessary, in terms of getting a strong result on environmental goods in the TPP.

We're doing the same thing on services, in terms of working with our negotiators on that side with respect to environmental services, and seeking to have no non-conforming measures that are specific to those services.

MR. MELTZER: Thanks, Mark.

Rob, do you want to address the question specifically asked to you?

And then the other panelists might want to answer some of the other parts of the question.

MR. HOWSE: Yes. So, Charlotte, what I had in mind was something along the following lines.

I believe already in the -- the EU contemplates the possibility of its environmental objectives being satisfied where the carrier in question participates in a comparable program, which might be a program in the country of which that carrier is a national.

But, more generally, it seems to me that a more multilateral, or less unilateral solution to this dispute would need to accommodate flexibility in the way in which different carriers in different states achieve the environmental objective. So, where I think that there is a legitimate concern with what Europe is doing is if Europe moves in the direction of inflexibility. Europe has had little choice to move alone because of the multilateral impasse.

But, at the same time, one could imagine a flexible approach that says that there are different ways of contributing to the environmental objective, and that one way is fully participating in Europe's ETS. Another way might be participating in some other program, like to try and increase fuel efficiency, or move to clean fuels.

And so a flexible approach would allow different carriers, in different states to which those carriers belong, to contribute to the objective in different ways. What they couldn't do is just say, "Forget it, we don't care about the problem, and we are not going to engage in any kind of concerted effort to address the externalities." But the

means would have some flexibility to them, provided there's an equivalent contribution to addressing the externality.

And on local-content, I mean, I think what you're implying is that, you know, we need to do a life-cycle analysis. Because, of course, one factor might be relative transportation costs, but there might be many other factors, as well, that affect, you know, the environmental impact of local versus non-local production of the good and service. We also have to take into account the environmental costs of the inefficiencies induced by using the supply of environmental goods and services from other than the least-cost supplier, which is that we keep the costs of green energy higher, and therefore, you know, make it less attractive to consumers.

MR. MELTZER: Thanks.

Bill, did you want to --?

MR. REINSCH: Well, I'm glad you just answered that part, because I didn't understand that part of the question.

On sort of the environmental CODEX idea, I guess my reaction to that is this is one of these cases where the perfect is the enemy of the good.

That's fine. It would be nice to do that. But my suspicion is, based on what's been going on in the last few years, is that would be a very long negotiation. And one of the things I've learned after 30 years in the government, one of the things I've learned in the business community is that they're not waiting for the government to sort all this stuff out. They're busy out there marketing products, they're designing new things and, you know, life is moving on fairly quickly.

I think it probably is -- rather than let the process defeat the substance, I would rather have the negotiations that are underway now proceed, and define these

things as we move along. If we're lucky, out of that might grow a consensus on standards.

But even if we're not lucky, we're going to have, you know, we may have competing templates, which Mark seems to think is okay, which is fine, too. But I think even that would be better than essentially holding a lot of things in stasis while, you know, the right answer is developed over what would be a very long period.

MR. MELTZER: Vesile?

MS. KULACOGLU: I just wanted to follow up on this question of the three international standardizing bodies in the food area.

Indeed, those bodies, the SPS Agreement designates them as international standardizing, but it is they are focused on specific goods. It's in the food area, or the animal welfare area. Whereas environmental standards are everything. We have, under the TBT Agreement, each year more than, nearly about 2,000 notifications of proposed regulations. And 25 percent of those regulations are related to environment protection.

So, harmonization is really not the best way. An environment organization creating those standards is not the answer, it's not feasible. The diversity of each country to have its own regulations is the way that is happening, and is the realistic way.

I think there is a misunderstanding about the role of those "three sisters" under the SPS agreement and the rest of the technical barriers to the trade area.

MR. MELTZER: Thanks.

Any more questions?

At the back, here.

MR. APPLETON: Hi, I'm Barry Appleton. I'm an international trade lawyer.

There is a dispute at the WTO right now about local-content rules, and how they fit into green energy. That's a dispute that was brought by the government of Japan, and another one brought by the EU against Ontario's feed-in tariff. And the issue, in particular, seems to be quite pervasive. Local-content rules, which are nominally at 50 or 60 percent, but actually, because of zeroing, are closer to 80 or 90 percent.

And I'm quite interested, in terms of the discussion that we had today, from a couple of different perspectives -- perhaps from the governmental perspective, the perspective of businesses that affected, and maybe even from the WTO perspective of trying to work its way through -- to what extent these types of disputes can provide an answer. Because what we're looking at more and more are countries, rather than trying to work collaboratively on a global supply chain, and participating with first-movers, actually trying to take steps to divert the first-mover's technology over into their own country.

And, of course, this is a very troubling trend. And I'm just wondering -- I mean, for example, I'm not aware that the U.S. government has intervened. I don't know what the business community is doing. I'm just interested; all the way through it seemed to tap, in addition to the aviation question, sort of the other side of this.

MR. MELTZER: Anyone else for the moment?

Yes, down in the front here.

MR. ALTMAN: Hi, I'm Fred Altman, and I just have a simple question.

If we have a change of administration, is the U.S. approach to these questions going to remain the same? Or is that something that's also likely to change. (Laughter.)

MR. MELTZER: Okay, one of the panelists want to take any of those questions?

MR. REINSCH: I can take the last one, but you may not want to hear what I have to say. (Laughter.)

We shouldn't, probably get into politics, but I think if you look at the statements of the two parties -- we'll have to see what the platform will say in the end. But if you look at the statements of the two parties, I think they have a very different attitude, both on climate change, writ large, and also the role of government in environmental regulation.

I think that -- of course there's also we don't know who the Republican candidate is going to be. I think there are some differences between the, or among them, on this issue, as well. But even if you -- regardless of who wins the nomination, I think that the distinction between what they will say, and what the Obama, what President Obama will say, there's quite a significant gap.

I think a more complicated question would be, regardless of who wins, whether either of them will be able to accomplish their agenda, given the division in the Congress. Of course, you have to make some assumptions about what the election will do to that, too.

But what we've learned over the last year-and-a-half is that a divided Congress appears to be a guarantee that nothing will happen in either direction.

So, you know, the answer may be that, you know, yeah, it will make a difference who the President is in terms of what policy is articulated, but there may be a very high likelihood that neither of them will be able to attain their objectives.

MR. MELTZER: Anyone like to address the first and the second questions?

MR. LINSKOTT: Briefly the first, and briefly the second, as well.

Well, briefly, the first -- this is the Ontario FIT dispute, the feed-in tariff from Ontario that Japan and the EU have brought. We are third parties in that dispute. It's our policy -- it certainly is my policy -- that we don't comment on pending WTO disputes. So that's a brief response on that. (Laughter.)

In terms of the last question, which is a good question in terms of considering long-term trends -- and this goes back to the comment I made at the start of my presentation -- our trend has been in one direction over many years, and that's to increasingly take into account green growth considerations in our trade policies.

And specifically, if you look at the TPP, a big part of the U.S. proposal -- and it's clear we have the highest ambitions on environment among all the TPP countries -- a big part of that proposal is elements of the so-called May 10th, 2007, package, which was a bipartisan accord between the previous administration and the Congress on appropriate elements for, at that time, the four pending FTAs, those with Peru, Colombia, Korea, and Panama.

So, I think in that area, what is on the table does reflect a bipartisan effort.

Specifically again in TPP, the conservation efforts -- and this administration clearly has gone very far in this regard -- it's a significant development,

and a very positive one. But that said, you know, I think it's safe to say that there is a lot of bilateral -- I'm sorry, bipartisan support for efforts to address concerns with trade in these kinds of products. In fact, initial efforts with respect to illegal logging and associated trade -- and I reference bilateral agreements, memoranda of understanding with Indonesia and China -- were concluded under the previous administration. And this administration certainly has built significantly on that.

MR. MELTZER: Vesile or Rob, do you want to address that first question from Barry?

MR. HOWSE: I would only say that I'm a longtime supporter both of policies to promote green energy, and also of activist industrial policy. But I don't think that local-content requirements, you know, are a very adequate or a desirable way of doing either kind of policy.

And, you know, what one really needs is really a broader green-jobs strategy to understand how, you know, what kinds of synergies, including dynamic effects, can be harnessed, you know, throughout the economy, to translate investment in green technologies and green goods and services, and to employment growth.

And the existence of local-content requirements, apart from just being explained by the usual political economy and protectionism, I think is partly also to be explained by a failure to engage in that broader kind of analysis, where one might be able to harness much larger synergies if one though, you know, much more creatively than simply, you know, discriminatory policies such content requirements.

MR. MELTZER: And I might just add that that dispute is open, the public hearing, next week in Geneva, if anyone is particularly interested.

I think we've got time for one more question. Anyone else?

Yes, sorry, at the back here.

MR. WERKSMAN: Jake Werksman with Georgetown University Law School.

I had a question -- the chairman presented this panel in the context of RIO+20, and a number of you made reference to it, but not any real connections between what might be achieved there and the topic on discussion today.

I wonder if I might bring us back to that with a question, in particular to the U.S. -- many of you may know the U.S. has proposed as one of the outcomes of that conference a compendium of commitments, surrounding by some kind of accountability mechanism.

And I was wondering what the U.S., in the months that are remaining between now and Rio, might come forward with to populate that compendium that it, itself, has proposed on this issue of a green economy? And any other people who want to, on the panel, who want to make a comment on the relevance of that conference to moving these issues forward. I'd be interested in hearing your views.

Thanks.

MR. MELTZER: Mark, that would be yours.

MR. LINSKOTT: Sure. Well, first, Rio+20 obviously is a very substantial event, important event. These happen every 10 years. In fact, when I joined this office -- I see Jennifer Haverkamp in the back next to you -- when I joined this office we were in the midst of work on Johannesburg.

You know, this is a conference on green growth and trade, so I think we've all appropriately focused our attention on the trade aspects of green growth. Rio+20 certainly -- well, is likely to have some, probably general minimal, trade-specific

aspects to it, in terms of a statement, and then results that, you know, over time, I think, will certainly bring trade issues to the fore, or potentially have trade implications, for example the discussions on sustainable development goals.

But in terms of specific outcomes from Rio, and the immediate, well the specific trade elements out of that, I think it will be extremely limited. It's really something we will look to over time, in terms of implementations.

On the compendium, you know, USTR is part of this interagency process, but I represent USTR, and I can't speak for the many experts at the State Department and other agencies involved in this. So I'd be happy to follow up. You probably know these people as well as I do, in terms of those who could, I think, adequately answer your question on the compendium, which I certainly couldn't at this point.

MR. MELTZER: I don't know if anyone else has anything to say on that topic?

Well, look, with that, I'd just like to thank the panelists for what was a very rich and full and definitely interesting discussion. I think we all learned a lot today.

Thank you very much. (Applause.)

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