自由貿易協定與環境對台灣的意涵

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關鍵字：自由貿易協定、環境保護、關稅暨貿易總協定/世界貿易組織、北美自由貿易協定、日星新時代經濟伙伴關係協定、東南亞國協與中國全面性經濟合作架構協定、澳紐更緊密經濟關係貿易協定、台巴自由貿易協定

中文摘要

自由貿易與環境保護間的關係向來頗具爭議性，許多研究均指出貿易自由化對環境所造成的衝擊包括正面與負面衝擊。貿易與環境議題於世界貿易組織下已經引發相當多的爭議，而刻正進行的杜哈談判回合中也嘗試針對貿易與環境的議題進行談判。於同時，區域/自由貿易協定之興起也對於多邊貿易體系以及貿易與環境之互動帶來新的挑戰，例如北美自由貿易協定中即內建了相當多之環保條款。於亞太區域，各國亦競相締結區域/自由貿易協定，而區域性的貿易協定是否對於貿易與環境議題帶來新的啓示？於簡單介紹貿易與環境議題於世界貿易組織下的發展後，本文將以五個自由貿易協定（北美自由貿易協定、日星新時代經濟伙伴關係協定、東南亞國協與中國全面性經濟合作架構協定、澳紐更緊密經

濟關係貿易協定、以及台巴自由貿易協定）爲探討對象，以瞭解區域性之貿易協定其對於貿易與環境議題之相關規範爲何，以及其與世界貿易組織下貿易與環境之相關規範間有無差異。最後，此一貿易與環境之連結，對台灣目前欲積極締結雙邊或多邊自由貿易協定之政策，將帶來何種影響，亦將於本文中進行初步的探討。

Free Trade Agreements and the Environment: some implications to Taiwan*

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Key words : FTA, GATT/WTO, environment, North American Free Trade Agreement(NAFTA) , Agreement between the Republic of Singapore and Japan for a New-Age Economic Partnership, Framework Agreement on Comprehensive Economic Cooperation between the Association of South East Asian Nations and the People's Republic of China, Australia-New Zealand Closer Economic Relations Trade

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Agreement, Free Trade Agreement between the Republic of China and the Republic of Panama

INTRODUCTION

The debate between free traders and environmentalists concerning the relationship between trade liberalisation and environmental protection has been a long-standing and continuing one. Numerous studies have indicated both positive and negative impact on the environment as a result of trade liberalisation. Environmental advocates are particularly concerned with how international trade rules undermine governments' ability to regulate and enforce domestic as well as international environmental regulations. On the international front, campaign to change international trade rules focuses on the 'greening' of the General Agreement on Tariffs and Trade and the World Trade Organisation (GATT/WTO).[1] From the environmentalists' perspective, the 1991 US trade dispute with Mexico concerning the importation of tuna under the then GATT regime was the living proof of how international trade rules have

[1] Literature abounds concerning environmental-related provisions and regulations under the GATT/WTO. For a classic piece of work, see: Daniel C. Esty, July 1994, *Greening the GATT: Trade, Environment, and the Future*, Washington DC: Institute for International Economics.

weakened government's ability to enforce its domestic environmental law.[2] In the current Doha negotiation round under the auspices of the WTO, negotiations on trade and environment has been incorporated within the negotiation mandate under the Doha Ministerial Declaration, which indicates the increasing importance of balancing trade and environment interests under the international trading regime.[3] This article will briefly introduce some of the trade and environment issues in the GATT/WTO regime.

Parallel to the ongoing negotiation under the WTO, there has also been proliferation of negotiating and concluding regional/free trade agreements (FTAs) between or amongst WTO Members and/or non-Members. As of January 2005, 312 regional trade agreements (RTAs) have been notified to the GATT/WTO according to the notification requirement. Since the

[2] The US banned the importation of Mexican tuna because the way in which Mexican fishermen catch tuna does not comply with the US regulation on incidental killing of dolphins. Mexico complained to the GATT in 1990 alleging that the US embargo violated several GATT provisions, including the general elimination of quantitative restrictions. The Panel ruled that the US measures in question did not comply with the GATT and was unable to be justified under the general exception provisions of Article XX. *United States—Restrictions on Imports of Tuna*, report of the GATT Panel, 1991 (unadopted).

[3] For more information on the trade and environment negotiation under the WTO Doha Round, see: http://www.wto.org/english/tratop_e/envir_e/envir_negotiations_e.htm.

establishment of the WTO in January 1995, 196 new RTAs have been notified to the WTO, with an average of 11 notifications every year.[4] Recent FTAs and customs unions falling under the legal cover of GATT Article XXIV and/or GATS Article V often go beyond the WTO regulatory framework to include provision on investment, competition, intellectual property, environment, and labour issues.[5] The inclusion of such provisions can be seen especially in RTAs amongst developed and developing countries, perhaps reflecting the interests that developed economies place in such issues.[6] This phenomenon also demonstrates the increasing importance of environmental and social issues in the contemporary negotiation and formation of free trade agreements.

Much of the literature on trade and environment concentrate on the discussion of relevant rules and practices of the GATT/WTO and their impact on the environment. Trade and environment issues in the context of FTAs/RTAs, on the other hand, focus mostly on the rules and practices of the North American Free Trade Agreement (NAFTA) as NAFTA adopts

[4] Crawford, J. & Fiorentino, R.V., 2005, *The Changing Landscape of Regional Trade Agreement*, WTO Discussion Paper No.8, WTO: Geneva, at 2-3.

[5] *Id*, at 5.

[6] World Bank, 2005, *The World Bank's Annual Report—Global Economic Prospects 2005: trade, Regionalism and Development 2005*, cited in: *id.* at 5.

quite a unique approach to deal with trade and environment issues. In addition, several FTAs, such as the US—Jordan FTA and the US—Chile FTA, signed by the US also pay particular attention to environmental issues.[7] Compared to the American approach, what are the approaches the FTAs/RTAs within the Asian Pacific region adopt with regard to this matter? This article will examine some of the FTAs/RTAs within the Asia Pacific region to identify whether environmental issues are incorporated in these free trade agreements.

Since becoming a WTO Member in January 2002, Taiwan participates in the operations of various WTO bodies actively, including the Committee on Trade and Environment (CTE). Due to its unique position in the trade and environment debate in the context of the relationship between multilateral environmental agreements (MEAs) and the WTO,[8] Taiwan submitted several

[7] See, for example, Harwood, E., 2002, "The Jordan Free Trade Agreement: Free Trade and the Environment", 27 *William and Mar Environmental Law and Policy Review* 509; Sagar, J.V., 2004, "the Labour and Environment Chapters of the United States—Chile Free Trade Agreement: An improvement over the weak enforcement provisions of the NAFTA side agreements on labour and the environment?" 21, *Arizona Journal of International and Comparative Law*, 913

[8] Shih, W-C., 2005 , "Taiwan's International Environmental Policy: Balancing Trade and the Environment", in: Harris, P.G.(ed), *Confronting Environmental Change in East & Southeast Asia: eco-politics, foreign policy, and sustainable development*, pp. 119-132, London and Stirling, VA: Earthscan Publishing/ Tokyo, New York, and Paris: United Nations

position papers in the Special Session of the CTE (CTESS)[9] and contributed valuable input in the Doha negotiation on trade and environment. Nevertheless, the primary concern the government has in participating in the trade and environment negotiation is to safeguard Taiwan's legitimate trade interests under the WTO regime. In the meantime, Taiwan also began to pursue the policy of initiating FTAs negotiation with its most important trading partners as well as countries that remain diplomatic ties with Taiwan. The implementation of this policy, however, has been difficult because of Taiwan's legal status under international law. Under the circumstances, will the linkages with environmental issues open a new opportunity for Taiwan's strategies? Or is it "safer" to leave out such sensitive issues in order not to complicate the negotiation of FTAs? This issue will also be explored in this article.

1. TRADE AND ENVIRONMENT ISSUES UNDER THE GATT/WTO[10]

University Press; Shih, W-C, June 1996, "Multilateralism and the Case of Taiwan in the Trade Environment Nexus—the potential conflict between CITES and GATT/WTO", 30:3 *Journal of World Trade* 10

[9] For example, amongst 29 position papers that have been submitted on paragraph 31(i) to the CTESS from 2002 to 2005, Taiwan has presented three submissions: TN/TE/W/11(2 Oct 2002), TN/TE/W/36 (3 July 2003), and TN/TE/W41 (18 June 2004). Only EC and Switzerland presented more submissions than Taiwan did.

[10] most of the information contained in this section derived from the WTO

There are various perspectives on the discussion of trade and environment. From the perspectives of environmental impact of trade rules, debates have focused on how trade rules and trade activities influence the regulation and enforcement of domestic and international environmental laws and regulations. From the perspectives of trade impact of environmental regulations, debates have on the other hand focused on how domestic and international environmental regulations influence or restrict international trade. Compared to various level and regulatory regimes of domestic environmental laws and more than 200 MEAs, GATT/WTO is the primary, if not the only international organisation that prescribe and harmonise multilateral trade rules and monitor their implementation. It is thus easier to focus the discussion on the environmental aspect of the GATT/WTO rules.

As an international regime that focuses on the liberalisation of trade, protection of the environment was not one of the objectives of GATT 1947. GATT rules do provide general exceptions to its obligations. Article XX states that:

"Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary

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trade and environment background document, which can be downloaded from: http://www.wto.org/english/tratop_e/envir_e/envir_backgrnd_e/trade_env_e.pdf

or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures: ..

(b) necessary to protect human, animal or plant life or health, ...

(g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption"

During the Uruguay Round, environmental issues drew the attention of some of the negotiating Parties and certain environmental aspects were incorporated in the WTO and some of its covered agreements. In the Preamble to the Marrakesh Agreement Establishing the WTO, reference was made to the importance of working towards sustainable development. WTO Members recognise that "their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living ... while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner

consistent with their respective needs and concerns at different levels of economic development." In addition, the Committee on Trade and Environment (CTE) was established to carry out the task of clarifying trade and environment issues and any necessary modification of multilateral trade rules.

In terms of legal rules, in addition to GATT Article XX general exceptions and similar provisions under the General Agreement on Trade in Services (GATS) Article XIV,[11] some of the covered agreements under Annex I, including Agreement on Sanitary and Phytosanitary Measures (SPS Agreement) and the Agreement on Technical Barriers to Trade (TBT Agreement), recognise the right of WTO Members to regulate in order to protect human, animal, and plant life or health, or the environment. Several GATT and WTO disputes have dealt with the applications and interpretation of these provisions and Agreements. Most of these disputes involved domestic environmental regulations adopted by WTO Members, such as to protect marine species,[12] human health,[13] animal or plant

[11] GATS Article XIV does not include "the conservation of exhaustible natural resources" as one of its general exceptions.

[12] e.g. *United States—Restrictions on Imports of Tuna*, report of the GATT Panel, 1991 (unadopted), *Untied States—Import Prohibition of Certain Shrimp and Shrimp Products*, WT/DS/58/R & WT/DS58/AB/R

[13] e.g. *Thailand—Restrictions on Importation of Internal Taxes on Cigarettes*, GATT BISD, 37th Supp. 200 (1991); *EC—Measures Concerning Meat and*

health,[14] or the improvement of air quality.[15] As the main objectives of the WTO are to promote international trade amongst its Members, it is not surprising to find, legal rules that provide latitude for Members to regulate and enforce environmental regulations also require that these measures are not to be "applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade". As the jurisprudence relating to these requirements has been developed in the manner that upset some of the environmentalists, adjustments are called for to modify these legal rules.

Furthermore, other than the existing trade rules under the GATT/WTO that interact with environmental measures, relationship between multilateral environmental agreements (MEAs) containing trade measures and the existing GATT/WTO rules has been subject to controversial debate in this context.

Products, *EC—Measures Affecting Asbestos and Asbestos-Containing Products*, WT/DS135/R & WT/DS/135/AB/R

[14] e.g. *Australia—Measures Affecting Importation of Salmon*, WT/DS18/R & WT/DS/18/AB/R; *Japan—Measures Affecting Agricultural Products*, WT/DS76/R & WT/DS76/AB/R; *Japan—Measures Affecting the Importation of Apples*, WT/DS245/R & WT/DS245/AB

[15] e.g. *United States—Standards for Reformulated and Convention Gasoline*, WT/DS2/R & WT/DS2/AB/R

Trade measures have been adopted by several major MEAs as an effective tool to promote various environmental objectives under these MEAs. For examples, the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) restricts trade in wildlife-related products in order to protect species that are most vulnerable to international trade, the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer prohibits trade in certain ozone-depleting substances and products containing such substances amongst parties as well as between parties and non-parties, and the 1989 Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and Their Disposal regulates the export and import procedures and requirement concerning hazardous waste.[16] What is the relationship between trade measures contained in the MEAs and trade rules prescribed in the GATT/WTO? Suggestions range from giving preference to MEAs over GATT/WTO rules to maintaining the status quo as no dispute has even arisen concerning the legality of trade measures in MEAs under the GATT/WTO. This issue is

[16] The WTO Secretariat has prepared a background document that collects various trade measures contained in 14 MEAs: *Matrix on Trade Measures Pursuant to Selected Multilateral Environmental Agreements*, Note by the Secretariat, 16 February 2000, WT/CTE/W/160/Rev.3; TN/TE/S/5/Rev.1. The full document can be downloaded from: http://docsonline.wto.org/DDFDocuments/t/tn/te/S5R1.doc

currently under negotiation in the Doha Round and the likely outcome is still difficult to predict.

In the Doha trade and environment negotiation, several issues were incorporated under the Doha Mandates. In addition to above-mentioned clarification of "the relationship between existing WTO rules and specific trade obligations set out in MEAs", the Mandate also instructs Members to negotiation on "procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status", and "the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services." CTESS is charged with these negotiations mandates. The Mandate also instructs the CTE to continue its work on the discussion of the effect of environmental measures on market access, the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights, and labelling requirements for environmental purposes.

2. TRADE AND ENVIRONMENT ISSUES IN FTAS/RTAS: A FEW ILLUSTRATIVE EXAMPLES

This section will examine environmental related measures and provisions contained in several FTAs/RTAs. The North American Free Trade Agreement will be looked first, as its incorporation of environmental provisions in the trade agreement has been more extensive than other FTAs. In the remaining FTAs/RTAs, this section will focus on those FTAs/RTAs between or amongst East Asian/Asian Pacific regime. One FTA is between a developed and a developing Asian country: the "Agreement between the Republic of Singapore and Japan for a New-Age Economic Partnership". On FTA is amongst developing countries: the "Framework Agreement on Comprehensive Economic Cooperation between the Association of South East Asian Nations and the People's Republic of China". One FTA is between two developed Asian countries: the "Australia-New Zealand Closer Economic Relations Trade Agreement". And the last one will examine the "Free Trade Agreement between the Republic of China and the Republic of Panama".

As trade and environment related issues have been very diversified, the main focus of this section will only concentrate on the following two aspects for the reason of conducing comparison with the GATT/WTO: those similar to relevant GATT/WTO provisions and agreements (e.g. general exception,

SPS measures, TBT measures), and relationship between FTAs and MEAs containing trade measures. In addition, the provisions, if any, regarding regulation and enforcement of domestic environmental laws in these FTAs/RTAs will also be briefly examined.

(1) North American Free Trade Agreement[17]

In December 1987, US and Canada signed the Canada-United States Free trade Agreement. In June 1990, Mexico and the US agreed to work towards the negotiation for a bilateral FTA and Canada joined this trade talk in February 1991. After several years of intense negotiation, the North American Free Trade Agreement (NAFTA) was signed by all three countries in December 1992 and came into force in January 1994. While the effects of free trade on the environment and public health and safety had not been a major concern during the

[17] Most of the information contained in this section is derived from the NAFTA Secretariat's website: http://www.nafta-sec-alena.org/DefaultSite/index_e.aspx?ArticleID=1, and full text of NAFTA can be downloaded from: http://www.nafta-sec-alena.org/DefaultSite/index_e.aspx?CategoryId=42

US-Canada FTA negotiation, such concerns surfaced when it was officially announced that Mexico would join the regional free trade agreement with the US and Canada.[18] In addition, concerns that US environmental standards could be jeopardised by free trade requirements crystallised when Mexico challenged a US embargo on Mexican tuna under the GATT and a GATT panel found the US embargo violated the GATT.[19] The US government was especially under criticism from its domestic environmental NGOs. For example, Public Citizen, an NGO, and others filed suit against the Office of the US Trade Representative (USTR) in August 1991 claiming that USTR violated the National Environmental Protection Act by not preparing an environmental impact statement for the negotiation of NAFTA. This challenge failed on jurisdictional grounds as the NAFTA was still under negotiation, there was no final agency action reviewable under the Administrative Procedures Act.[20] Nevertheless, the US government took environmental consideration into account by adopting a "parallel track" of environmental agenda independent of the NAFTA negotiations, which resulted in the negotiation and signing of the "North

[18] Moreno, I.S., Rubin, J.W., Smith III, R.F., & Yang, T, 1999, "Free Trade and the Environment: The NAFTA, the NAAEC, and Implications for the Future", 12 *Tulane Environmental law Journal* 405, at 410-412.
[19] *Id*, at 412-413.
[20] *Id*, at 415.

American Agreement on Environmental Cooperation" (NAAEC) in August 1993.[21] This is one of the most significant developments in any FTA/RTA framework as no other FTA has adopted this parallel approach to deal with non-trade issues.

The NAAEC sets out an institutional and legal framework under which the three NAFTA parties can cooperate in environmental protection affairs.[22] In addition to the NAAEC, NAFTA itself contains several environmental protection provisions as well. The Preamble, which sets out the context for interpretation of the specific provisions of the NAFTA, addresses environmental-related issues in several paragraphs. It states that Parties resolved to: (1) "[u]ndertake [to act] in a manner consistent with environmental protection and conservation [in pursuing the goals of the agreement];" (2) "[p]reserve their flexibility to safeguard the public welfare;" (3) "[p]romote sustainable development;" and (4) "[s]trengthen the

[21] Nogales, F.S., 2002, "the NAFTA Environmental Framework, Chapter 11 Investment Provisions, and the Environment", 8 *Annual Survey of International and Comparative Law* 97, at 104.

[22] For an overview of the innovative design under the NAAEC, including its public participation and submission procedures, see: Block, G.M., 2004, "The North American Commission for Environmental Cooperation and the Environmental Effects of NAFTA: A decade of lessons learned and where they leave us", 26 *Loyola of Los Angeles International And Comparative law Review* 445. For more information on NAAEC, please visit its website at: http://www.cec.org/home/index.cfm?varlan=english

development and enforcement of environmental laws and regulations. It is rather significant to find in the preamble of an FTA objective such as to "strengthen the development and enforcement of environmental laws and regulations".

In addition, another significant development in the NAFTA concerning the relationship between trade and environment is its Article 104 that deals with relation to MEAs. Article 104 states that:

"1. In the event of any inconsistency between this Agreement and the specific trade obligations set out in:

a) the *Convention on International Trade in Endangered Species of Wild Fauna and Flora*, done at Washington, March 3, 1973, as amended June 22, 1979,

b) the *Montreal Protocol on Substances that Deplete the Ozone Layer*, done at Montreal, September 16, 1987, as amended June 29, 1990,

c) the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal*, done at Basel, March 22, 1989, on its entry into force for Canada, Mexico and the United States, or

d) the agreements set out in Annex 104.1,

such obligations shall prevail to the extent of the inconsistency, provided that where a Party has a choice among equally effective and reasonably available means of complying with such obligations, the Party chooses the alternative that is the least inconsistent with the other provisions of this Agreement.

2. The Parties may agree in writing to modify Annex 104.1 to include any amendment to an agreement referred to in paragraph 1, and any other environmental or conservation agreement."

This Article seems to give MEAs containing trade measures priority over the application of FTA. It is thus one of the ideal models advocated by environmentalists to handle relationship between MEAs containing trade measures and free trade agreements (in particular the GATT/WTO). However, if we look at the language of Article 104 most closely, we will find some hidden messages. Firstly, Article 104 provides that only when NAFTA Parties are contracting parties to the MEA in question will the specific trade obligations in that MEA prevail over other NAFTA obligations. NAFTA Parties are all contracting parties to the CITES and the Montreal Protocol. US, on the other hand, is a

non-party to the Basel Convention. Therefore, subparagraph (c) of Article 104.1 concerning the Basel Convention, unlike subparagraphs (a) and (b), states that: " ...on its entry into force for Canada, Mexico and the United States.." As long as the US remains a non-party to the Basel Convention, this Convention will not "enter into force for the United States". As a result, the US can argue that, for the US, trade measures contained in the Basel Convention do not prevail over other NAFTA provisions. The Basel Convention, in principle, does not permit trade in hazardous wastes or other wastes between parties and non-parties. It does allow parties to enter into bilateral, multilateral and regional agreements with non-parties regarding transboundary movement of hazardous wastes or other wastes as long as these agreement do not derogate from the provisions of the Convention. The US singed a bilateral agreement with Canada concerning trade in hazardous waste in 1986, prior to the conclusion of the Basel Convention. This bilateral agreement is one of the agreements listed in Annex 104.1 of NAFTA, meaning that specific trade obligations set out in this agreement also prevail over other NAFTA obligations between the US and Canada. This leaves the regulation on trade in hazardous waste between the US and Mexico subject to other NAFTA obligations on trade liberalisation.

Secondly, specific trade obligations in these MEAs do not automatically apply when inconsistency exist. Article 104 requires that, if "Party has a choice among equally effective and reasonably available means of complying with such obligations", it "chooses the alternative that is the least inconsistent with the other provisions of this Agreement." This requirement echoes the jurisprudence in several GATT/WTO dispute cases [23] concerning the interpretation of the term "necessary" in GATT Article XX(b) and (d). The "least trade restrictive principle" was developed to determine whether a measure to protect human, animal, or plant life or health is "necessary" and this principle seems to apply to Article 104 as well.[24] In other words, whenever conflicts arises between trade measures in these MEAs and other provisions of NAFTA, the Party adopting such

[23] *Thailand—Restrictions on Importation of and Internal Taxes on cigarettes*, report of the GATT Panel, BISD, 37th Supp. 200 (1990); United States—Section 337 of the Tariff Act of 1930, Report of the GATT Panel, BISD 36th Supp. 345 (1989), *United States—Restrictions on Imports of Tuna*, report of the GATT Panel, 1991 (unadopted), *United States – Standards for Reformulated and Conventional Gasoline*, Panel Report and Appellate Body Report, adopted on 20 May 1996, WT/DS2/R and WT/DS2/AB/R, *United States – Import Prohibition of Certain Shrimp and Shrimp Products*, Appellate Body Report and Panel Report adopted on 6 November 1998, WT/DS58, and *European Communities – Measures Affecting Asbestos and Asbestos-Containing Products*, Appellate Body Report and Panel Report, adopted on 5 April 2001, WT/DS135.

[24] Condon, B.J., 200, "Reconciling Trade and Environment: A legal analysis of European and North American Approaches", 8 *Cardozo Journal of International and Comparative Law* 1, at 16-18.

measures still need to demonstrate that, amongst the range of equally effective and reasonable means, it is adopting the one that causes the least inconsistency with other provisions of the NAFTA.

Despite of these hidden messages, Article 104 still represents a significant development in the contemporary practices of RTAs/FTAs. In addition to Article 104, NAFTA also incorporates environmental considerations in its investment chapter (Chapter 11). Article 1114, entitled "Environmental Measures", states that:

"1. Nothing in this Chapter shall be construed to prevent a Party from adopting, maintaining or enforcing any measure otherwise consistent with this Chapter that it considers appropriate to ensure that investment activity in its territory is undertaken in a manner sensitive to environmental concerns.

2. The Parties recognize that it is inappropriate to encourage investment by relaxing domestic health, safety or environmental measures. Accordingly, a Party should not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such measures as an encouragement for the establishment, acquisition, expansion or retention in its territory of an investment of an investor. If a Party considers that another Party

has offered such an encouragement, it may request consultations with the other Party and the two Parties shall consult with a view to avoiding any such encouragement."

This provision explicitly requires Parties not to lower their environmental standard in order to attract foreign investment from other NAFTA Parties, which is also quite a considerable development in a free trade agreement with substantial investment provisions. However, the relationship between a party's right under this Article to challenge another party's alleged relaxation of environmental laws and the submission process for "environmental enforcement" matters under the NAAEC has never been established.[25] And investors have even used the dispute settlement procedures under NAFTA Chapter 11 to challenge domestic environmental measures.[26] The actual impact this Article has on the enforcement of domestic environmental laws has, thus, been less effective than expected.

In relation to the enforcement of domestic environmental laws in general, Article 14 and 15 of NAAEC permit residents and NGOs of the Parties to submit allegations to the Commission that a party has failed to enforce its domestic environmental laws effectively. But the process is a fact

[25] Nogales, F.S., 2002, supra note 21, at 111.
[26] *Id.*

gathering and public disclosure process and does not provide the Commission with tools, such as the imposition of monetary sanctions or injunctive relief, which can be used to affect a party's behaviour directly.[27]

In terms of setting SPS measures and product standards, NAFTA recognises the right of the Parties to protect public health, safety and the environment and adopts regulatory principles similar to those used in the WTO SPS Agreement and TBT Agreement. For example, Parties have the right to adopt more stringent SPS measures than international standards and to establish the appropriate level of protection of human, animal and plant life or health (Article 712.1 and 2). Nevertheless, these SPS measures should be based on scientific principle and risk assessment, should not cause unnecessary obstacles, should not be applied as a disguised restriction on international trade, and should, whenever possible, be based on international standards. (Article 712 & 713) Chapter 9 that regulates standard-related measures impose similar rights and obligations.

Lastly, Article 2101 of NAFTA contains general exceptions that draw heavily from the language and practices of GATT Article XX. Article 2101 provides that "It states that: "GATT

[27] Moreno, I.S., Rubin, J.W., Smith III, R.F., & Yang, T, 1999, supra note 18, at 444.

Article XX and its interpretative notes, or any equivalent provision of a successor agreement to which all Parties are party, are incorporated into and made part of this Agreement" for purposes of provisions relating to trade in goods and technical barriers to trade, and that "The Parties understand that the measures referred to in GATT Article XX(b) include environmental measures necessary to protect human, animal or plant life or health, and that GATT Article XX(g) applies to measures relating to the conservation of living and non-living exhaustible natural resources." In addition, Article 2102.2 further incorporated the language of the chapeau of GATT Article XX by stating that: "Provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail or a disguised restriction on trade between the Parties", provisions relating to trade in goods, technical barriers to trade, trade in services, and telecommunications "shall be construed to prevent the adoption or enforcement by any Party of measures necessary to secure compliance with laws or regulations that are not inconsistent with the provisions of this Agreement, including those relating to health and safety and consumer protection."

(2) Agreement between the Republic of Singapore and Japan for a New-Age Economic Partnership[28]

Both Singapore and Japan have been negotiating and concluding FTA/RTA within the Asian region as well as other non-Asian countries. For example, Singapore has already concluded FTAs with New Zealand, European Free Trade Association, Japan, Australia, the UN, and Jordan, and is now in the process of negotiating FTAs with 14 other countries such as Canada, India, Korea and regional economic organisations such as the ASEAN. Singapore and Japan negotiated and signed an FTA in January 2002: the "Agreement between the Republic of Singapore and Japan for a New-Age Economic Partnership" (the "New-Age Economic Partnership Agreement"). This is one of the earliest FTA in the Asian Pacific region that is concluded between a developed country (Japan) and a newly industrialised country (Singapore).

Relationship with other agreements, theoretically include MEAs that contain trade measures, is provided under Article 6 of

[28] Most of the information contained in this section derived from the Singapore's FTA website: www.fta.gov.sg, and full text of the agreement can be downloaded from: http://www.fta.gov.sg/fta/pdf/FTA_JSEPA_Agreement.pdf

the Agreement. Article 6.1 states that: "In the event of any inconsistency between this Agreement and any other agreement to which both Parties are parties, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution, taking into consideration general principles of international law." This Article only deals with those MEAs to which both Japan and Singapore are contracting parties. It, unlike NAFTA, does not give automatic priority to MEAs over other provisions in the FTA. It merely requires the parties to consult in order to find a mutually satisfactory solution.

In the Agreement, provisions of general exceptions are contained in various Chapters, including Chapters 2 (" Trade in Goods"), 6 ("Mutual Recognition"), 7 ("Trade in Services"), 8 ("Investment"), and 9 ("Movement of Natural Persons). Except for Chapter 6, most of the provisions of general exceptions in these Chapters are identical to the language used in the GATT Article XX. Article 54 only states that: "Nothing in this Chapter ["Mutual Recognition"] shall be construed to limit the authority of a Party to take measures it considers appropriate, for protecting health or safety or the environment or prevention of deceptive practices." The chapeau of Article 19 (Chapter 2), 69 (Chapter 7), 83 (Chapter 8), and 95 (Chapter 9) all contain the same requirements as the chapeau of GATT Article XX: the

exception measures are not applied in a manner which would "constitute a means of arbitrary or unjustifiable discrimination" against the other Party, or "a disguised restriction on" trade in goods, trade in services, investments of investors. Under the lists of public policies where legitimate exception measures are allowed to be adopted, the "protection of human, animal or plant life or health" is the common one, whilst the "conservation of exhaustible natural resources" appears in Article 19 (Trade in Goods) and 83 (Investment). In addition, Article 19.2 and Article 69.2 further states that: "In the application of paragraph 1 above, the relevant interpretations and operation of the WTO Agreement shall, where appropriate, be taken into account."

(3) Framework Agreement on Comprehensive Economic Cooperation between the Association of South East Asian Nations and the People's Republic of China[29]

With the eventual establishment of an ASEAN-China Free

[29] Full text of this Framework Agreement can be downloaded from: http://www.aseansec.org/13196.htm

Trade Area by 2012 in mind, ASEAN Member States and China concluded the "Framework Agreement on Comprehensive Economic Cooperation between the Association of South East Asian Nations and the People's Republic of China" (the "ASEAN-China Framework Agreement") in November 2002. The ASEAN-China Framework Agreement set out limited free trade arrangement to deepen economic cooperation amongst the Parties. If an ASEAN-China FTA/RTA is eventually established, it will cover a significant level of economic and trade activities in the Asian Pacific region. Although the level of economic development varies, the Parties to the ASEAN-China Framework Agreement are all developing countries and are all rapidly developing ones. Therefore, it is noteworthy to investigate whether environmental concern will be incorporated in this FTA.

Article 3 ("Trade in Goods") paragraph 8 provides that: "The negotiations between the Parties to establish the ASEAN-China FTA covering trade in goods shall also include, but not be limited to the following: ...(e) non-tariff measures imposed on any products covered under this Article or Article 6 of this Agreement, including, but not limited to ...scientifically unjustifiable sanitary and phytosanitary measures and technical barriers to trade." Article 7 ("Other Areas of Economic

Cooperation") paragraph 2 provides that: "Cooperation shall be extended to other areas, including, but not limited to, ... environment, bio-technology, fishery, forestry and forestry products, mining, energy ..." Article 10 ("General Exceptions") contains provisions similar to the GATT Article XX. It provides that: "Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between or among the Parties where the same conditions prevail, or a disguised restriction on trade within the ASEAN-China FTA, nothing in this Agreement shall prevent any Party from taking and adopting ...other measures which it deems necessary ... for the protection of human, animal or plant life and health." As for relationship with other international agreements, including but not limited to MEAs, Article 13 ("Miscellaneous Provisions") paragraph 2 provides that: "Except as otherwise provided in this Agreement, this Agreement or any action taken under it shall not affect or nullify the rights and obligations of a Party under existing agreements to which it is a party." What does this Article imply in relation to the inconsistency between this Agreement and MEAs containing trade measures? Firstly, it seems that MEAs containing trade measures are the "existing agreements" stated in this Article. Secondly, from the language of this Article, it seems that the Agreement will give deference to such MEAs and to

which a Party is a contracting party, as this is the only way that "this Agreement or any action taken under it shall not affect or nullify the rights and obligations of a Part under existing agreements to which it is a party". Whether the Parties negotiating this provision are aware of this potential implications are unclear. As this is an arrangement between developing countries, it remains to be seen whether Parties do adopt this position and put it into practice in the future, or in the consequent Free Trade Area between ASEAN and China.

(4) Australia-New Zealand Closer Economic Relations Trade Agreement[30]

"The Australia-New Zealand Closer Economic Relations Trade Agreement" (the "ANZCERTA") was built on a series of preferential trade agreements between Australia and New Zealand and the 1966 New Zealand Australia Free Trade

[30] Most of the information contained in this section is derived from the Australian FTA website: www.fta.gov.au, and: Department of Foreign Affairs and Trade, Australia, February 1997, *Close Economic Relations: Background Guide to the Australia New Zealand Economic Relationship*, full paper can be downloaded from: http://www.dfat.gov.au/geo/new_zealand/anz_cer/cer.pdf

Agreement. The ANZCERTA entered into force in 1983 and has undergone three general reviews in 1988, 1992, and 1995 to strengthen and deepen trade and economic cooperation between Australia and New Zealand. It is one of the first FTAs between two developed countries in the Asian region. The ANZCERTA does not contain any specific provisions on environmental protection. The Agreement contains provisions on general exceptions similar to that of the GATT Article XX. Article 18 of the ANZCERTA states that:

"Provided that such measures are not used as a means of arbitrary or unjustified discrimination or as a disguised restriction on trade in the Area, nothing in this Agreement shall preclude the adoption by either Member State of measures necessary: ... (c) to protect human, animal or plant life or health, including the protection of indigenous or endangered animal or plant life; ...(g) to conserve limited natural resources"

The language used in ANZCERTA is almost identical to that used in the GATT Article XX chapeau and paragraphs (b) and (g).

In addition to the ANZCERTA itself, a web of bilateral arrangements were also concluded between the two Member States, including two harmonisation arrangements: the 1988

Protocol on Harmonisation of Quarantine Administrative Procedures to the ANZCERTA, and the 1998 Trans-Tasman Mutual Recognition Arrangement (TTMRA). The quarantine harmonisation protocol provides that, where relevant international codes and standards exist or their completion is imminent, both countries use those codes and standards, or the relevant parts of them, as a basis for quarantine and related inspection standards and procedures, except in special circumstances (Article 2 and Article 3). The standards of Australia and New Zealand have been harmonised to the extent that the TTMRA provides that goods that may legally be sold in either country, with some exceptions, may be sold in the other. Certain domestic laws implementing MEAs such as CITES and Basel Convention are explicitly excluded from the mutual recognition principle. The Australian Wildlife Protection (regulation of Export and Imports) Act 1982, section 21 and 22 that implement the CITES obligations, the Australian Hazardous Waste (Regulation of Exports and Imports) Act 1989, sections 12, 14, 15, 17, 18B, 20, 24-31, 34 and 39 that implement the Basel Convention, and New Zealand's Trade in Endangered Species Act 1989 and the Wildlife Act 1953 that implement the CITES are all excluded under SCHEDULE 1 of TTMRA.

(5) Free Trade Agreement between the Republic of China and the Republic of Panama[31]

After becoming a WTO Member in January 2002, Taiwan began to pursue the policy of signing FTAs with countries that maintain diplomatic relationship with Taiwan. The first such FTA was concluded between Taiwan and Panama in August 2003 and came into force in January 2004. Compared to the several FTAs/RTAs examined in this paper, it is quite surprising to find that environmental protection and the pursuit of sustainable development are explicitly incorporated in the Preamble of the "Free Trade Agreement between the Republic of China and the Republic of Panama" (the "Taiwan-Panama FTA"). In the eleventh paragraph of the Preamble, it is stated that: "PROMOTE economic development in a manner consistent with environmental protection, conservation and sustainable development."

In terms of the relationship with MEAs, considering the fact that Taiwan is not a contracting party to most of the MEAs, it is

[31] Most of the information contained in this section derived from the website of Taiwan's Bureau of Foreign Trade, Ministry of Economic Affairs at: www.trade.gov.tw, and full text of the agreement can be downloaded from: http://cweb.trade.gov.tw/kmDoit.asp?CAT514

also quite unusual to find similar provisions with the NAFTA Article 104 in the Taiwan-Panama FTA. Article 1.03 of the Taiwan-Panama FTA deals with "Relation to Other International Agreements". Paragraph 3 of Article 1.03 states that:

"in the event of any inconsistency between this Agreement and the specific trade obligations set forth in:

(a) the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), done at Washington, March 3, 1973, as amended June 22, 1979;

(b) the Montreal Protocol on Substances that deplete the Ozone layer done at Montreal September 16, 1987, AS AMENDED June 29, 1990; or

(c) the Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and Their Disposal, done at Basel, March 22, 1989

these obligations shall prevail to the extent of the inconsistency, provided that where a Party has a choice among equally effective and reasonably available means of complying with such obligations the Party chooses the alternative that is the least inconsistent with the other

provisions of this Agreement."

This provision is similar but not identical to Article 104 of the NAFTA. As the above-mentioned paragraph indicated, Article 104 of the NAFTA uses clever languages to avoid imposing obligations contained in the Basel Convention on a non-party (the US) by inserting the following: " ... on its entry into force for Canada, Mexico and the United States ..." under subparagraph c of Article 104.1. However, Article 1.03 of the Taiwan-Panama FTA, unlike Article 104 of the NAFTA, does not require that Parties need to be contracting parties to these three MEAs in order to render the specific trade obligations under these MEAs prevail over obligations under the Taiwan-Panama FTA whenever inconsistency exist. Panama is a contracting party to all the three MEAs listed in Article 1.03 whilst Taiwan is not a contracting party to any of the three MEAs. As a non-contracting party, Taiwan nevertheless has already incorporated most of the provisions in these MEAs into relevant domestic environmental law after the 1990s. This Article, thus, has limited impact on Taiwan's regulatory regime. Considering the fact that Taiwan is under no legal obligations to comply with these MEAs, it is nonetheless quite surprising that the government agreed to give deference to these MEAs over

legal obligations contained in a treaty to which Taiwan is an official party.

In terms of SPS and TBT measures, the Taiwan-Panama FTA followed mostly the WTO requirements under the SPS Agreement and the TBT Agreement. Chapter 8 of the Taiwan-Panama FTA requires that SPS measures are to be adopted only to the extent necessary to protect human, animal and plant life or health, "should not constitute a disguised restriction to trade and shall not have the purpose or effect of creating an unnecessary obstacle to trade" (Article 8.04), shall be based on scientific principle and international standards. In addition, the principles of equivalence, risk assessment, transparency, etc are all similar to those provided for under the WTO SPS Agreement. Chapter 9 of the Taiwan-Panama FTA requires that Party shall not adopt measures on standards, authorisation procedures or metrology that have the purpose or effect of creating unnecessary barriers to trade and encourages Parties to use international standards.

One provision that relates to the enforcement of domestic environmental laws is provided for under the Investment Chapter (Chapter 10). Article 10.15 entitled "Environmental Measures" states that:

1. Nothing in this Chapter shall be construed to prevent a Party from adopting, maintaining or enforcing any measure otherwise consistent with this Chapter that it considers appropriate to ensure that investment activity in its territory is undertaken under its ecological or environmental laws.

2. The Parties recognise that it is inappropriate to encourage investment by relaxing domestic health, safety or environmental measures. Accordingly, a Party shall not waive or otherwise derogate from, or offer to waiver or otherwise derogate from, such measures as an encouragement for the establishment, acquisition, expansion or retention in its territory of an investment of an investor. If a Party considers that the other Party has offered such an encouragement, it may request consultations with the other Party.

This provision is nearly identical to Article 11.14 of the NAFTA, which also requires that investment activity is undertaken in an environmentally sensitive manner and "it is in appropriate to encourage investment by relaxing domestic health, safety or environmental measures. The NAFTA provisions are negotiated under the suspicion that the developing country party might attract overwhelming investment by using its lower

environmental standards. In the case of Taiwan and Panama, although Taiwan might achieve a higher level of economic development than Panama, it does not necessarily possess higher environmental standards as well. It is thus quite interesting to see such provision inserted in the Taiwan-Panama FTA.

In terms of general exceptions to the Taiwan-Panama FTA, Article 20.02 adopts the GATT Article XX approach by simply stating that Article XX of GATT 1994 and its interpretative notes are incorporated into the Taiwan-Panama FTA and form an integral part of three major Parts of the FTA: trade in goods, technical barriers to trade, and competition policy.

3. COMPARISON AND ANALYSIS

From the previous section, table 4-1 summarises how seven environmental-related issues are regulated under the GATT/WTO, NAFTA, Japan-Singapore FTA, ASEAN-China FTA, Australia-New Zealand FTA, and Taiwan-Panama FTA: whether the objective of environmental protection is listed in the

preamble, does general exception rule contain environmental protection measures, the regulation of SPS measures, the provisions on TBT, relationship with MEAs, regulation and enforcement of domestic environmental law and standards, and other.

Table 4-1 comparison of five trade agreements

FTAs / T&E	GATT/ WTO (1947/ 1995)	NAFTA (1992)	Japan-Singapore (2002)	ASEAN-China (2002)	Australia-New Zealand (1983)	Taiwan-Panama (2004)
Preamble/ Objectives (containing envt'l pro?)	Yes	Yes	No	No	No	Yes
General exception	GATT Article XX, GATS Article XIV	Adopt GATT Article XX practices	Adopt GATT Article XX practices	Adopt GATT Article XX practices	Adopt GATT Article XX practices	Adopt GATT Article XX practices
SPS	Right to regulate, but should not be used as a	Adopt similar approach to the WTO SPS Agreement	No specific rules	Not yet formally included	International standards are preferred	Adopt similar approach to the WTO SPS Agreement

	disguised trade restriction					
TBT	Right to regulate, but should not be used as a disguised trade restriction	Adopt similar approach to the WTO TBT Agreement	Right to regulate	Not yet formally included	Certain domestic laws implementing MEAs are excluded from the mutual recognition principle	Adopt similar approach to the WTO TBT Agreement
Relationship with MEAs	No specific rules	Certain MEAs prevail over NAFTA	Requires parties to consult in the event of inconsistency	FTA shall not affect or nullify the rights and obligations of a Party under existing	No specific rules	Certain MEAs prevail over NAFTA

				agreements to which it is a party (MEAs prevail?)		
Domestic envt'l laws	No specific rules	Environmental standards should not be lowered to attract foreign investment	No specific rules	No specific rules	No specific rules	Environmental standards should not be lowered to attract foreign investment
Others		NAAEC		Future cooperation might include environmental measures		

From this Table, some observations can be made. First of all, GATT Article XX general exceptions, including its practise and interpretations, are adopted by all five FTAs/RTAs examined in this paper. Regardless of the criticisms by some environmentalists on the narrow interpretation of Article XX in terms of accommodating environmental concerns, countries that engage in the negotiation of FTAs/RTAs still seem to regard this as a "standard model" when giving certain discretion to parties to implement legitimate public polices whilst maintaining a non-discriminatory trade regime. Secondly, by looking at the Preamble of these FTAs/RTAs, whilst the WTO Preamble has already incorporated such objective, it is still not common to even pay lip service to the protection of environment or the pursuit of sustainable development as one of the objectives of these FTAs/RTAs. Only NAFTA and Taiwan-Panama FTA contain such objectives. This illustrates that environmental concerns have not been high on the agenda of Asian FTAs/RTAs. Thirdly, for those FTAs/RTAs that were concluded after the establishment of the WTO, regulations on SPS measures and standards (TBT) usually adopt similar or identical approach to the SPS Agreement and the TBT Agreement. As the main purpose of the SPS Agreement and TBT Agreement is to encourage WTO Members not to use SPS measures or technical regulations as disguised restrictions on international trade, this

approach is quite understandable considering the deeper trade liberalising objective of these FTAs/RTAs. Fourthly, only NAFTA and Taiwan-Panama FTA explicitly give priority to the applications of MEAs containing trade measures over other provisions in the FTAs if inconsistency arises. Although this application still needs to pass the "least-trade restrictive test", this approach is a big step forward compared to the GATT/WTO, which is still negotiating this matter. As this issue has been very controversial and consensus might be difficult to reach, the provision on mandatory consultation adopted in the Japan-Singapore FTA seems to offer an alternative method. Fifthly, amongst those FTAs/RTAs that include investment provisions (NAFTA, Japan-Singapore, Taiwan-Panama), [32] NAFTA and Taiwan-Panama FTA further request parties not to lower environmental standards for the purpose of attracting foreign investors, and to offer opportunity for consultation should such encouragement take place. This is quite a departure from the GATT/WTO rules on investment.

From looking at the individual FTA, NAFTA, accompanied by its side agreement NAAEC, incorporates the most environmental issues. This might trace back to the negotiating background of the NAFTA where both the US and Canada worry

[32] ASEAN-China Framework only mandates that parties need to enter into negotiation in order to liberalise the investment regime (Article 5).

that a developing country's participation in an RTA could affect existing environmental standards. Japan-Singapore FTA is also an FTA between a developed country and a developing country, this approach, however, has not been adopted in this FTA. On the other hand, similar (or almost identical, apart from the NAAEC) approach has been used in Taiwan-Panama FTA: one that is between two developing countries. Australia-New Zealand FTA, one that is between two developed countries, also chooses not to incorporate environmental concern or regulations into the FTA. It is thus difficult, even from only examining a few Asian FTAs, to conclude that FTA/RTA between developed and developing countries will address more environmental issues than FTA/RTA between developing countries or between developed countries. On another note, similar environmental provisions appear in NAFTA and Taiwan-Panama FTA, even though domestic environmental regulations are less stringent and environmental NGOs are less powerful in these two countries than those in the US. As Taiwan-Panama FTA was negotiated after NAFTA, there might be several speculations as to why Taiwan-Panama FTA chooses to adopt the NAFTA model. The reason might be that both governments treat environmental concern very seriously, would like to incorporate proper safeguards to protect the environment in the formation and operation of an FTA, and regard the NAFTA model as an ideal

undermined by increasing and unregulated trade activities. NAFTA is not necessarily the best model in terms of addressing environmental issues in a free trade agreement. It nevertheless provides us with an alternative approach to perceive trade and environment issues in the context of FTAs/RTAs.

In the Asian context where most of the countries are still developing rapidly, environmental degradation has increasingly caught the attention of governments and the civil society. If some of the more advanced and environmentally-conscious countries such as Japan, Australia and New Zealand play lead roles in injecting a "green" dimension to the zealous pursuit of signing FTAs/RTAs in this region, it will contribute immensely to the protection of not only the regional environment, but the global environment as well.

What are the implications to Taiwan in the trade and environment issues in the FTAs/RTAs context? By examining the Taiwan-Panama FTA, it seems that the government at least is not opposed to addressing environmental issues in the future negotiation of FTAs/RTAs. It also illustrates that incorporating environmental concerns in the FTAs/RTAs has not been an impediment to implement the government's policy on the promoting FTAs. Nevertheless, the Taiwan-Panama FTA model might not be the ideal one as it borrows from the model (NAFTA) that do not fit into Taiwan's overall circumstances. And it is still

one. Another reason might be that both Taiwan and Panama are seeking to negotiate and conclude FTA with the US and, thus, want to be familiarised themselves with the NAFTA model in advance. From the author's own observation, the former reason might be less likely than the latter one in the case of Taiwan.

4. CONCLUSION AND IMPLICATIONS TO TAIWAN

The negotiation and formation of FTAs/RTAs is to forge closer and deeper economic cooperation and trade liberalisation. Whether the environmental impact of such trade liberalising agreement needs to be considered is something that the parties have to address. Regional and international environmental problems, such as the conservation and utilisation of international waters or shared common resources and transboundary air pollution, can of course be dealt with by concluding regional and international environmental agreements. When such option is not available or foreseeable, incorporating environmental concern in the FTAs/RTAs can at least make sure that increasing trade activities will not exacerbate such regional and international environmental problems. In addition, proper safeguards need to be adopted in the FTAs/RTAs so that domestic environmental laws and regulations will not be

too early to see how the Taiwan-Panama FTA affects the enforcement and regulations of domestic environmental laws. The NAFTA model is the outcome of quite an extensive consultation between the governments and civil society. Taiwan can at least take up a similar approach if the government is serious about addressing environmental issues in its trade activities.

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