We now face an urgent need to secure the freedom of future generations to sustain their lives on this planet—and we are failing to do it. We have been plundering our children’s heritage to pay for unsustainable practices. Changing this is a challenge for rich and poor countries alike. . . . Peoples, as well as Governments, must commit themselves to a new ethic of conservation and stewardship.1 (Kofi A. Annan, former UN Secretary-General).

The world’s environment is facing global changes at a pace and on a scale unknown to humankind. The UN Environment Program (UNEP) assessed the state of the world’s environment in 1997.2 The statistics are distressing. Between 1980 and 1990, the world’s forests and wooded land declined by about 2%, with natural forest cover in developing regions declining by 8%. The rate of species extinction increased, even though, of a working figure of 13 million species, only 13% have been scientifically described. Every day, 25,000 people die as a result of poor water quality, and 1.7 billion people are without safe water supply. One quarter of the world’s population is predicted to suffer from chronic water shortages in the beginning of this century. About one-third of the world’s coastal regions are at high risk of degradation, particularly from land-based sources of pollution and infrastructure development. Moreover, over 60% of marine fisheries are heavily exploited worldwide, leading to declining stocks of commercial fish species. Air pollution is a problem in all major cities in the world. Large regions are at risk from the effects of climate change and acidification, with the demand for energy to fuel economic

development rapidly rising. In Asia and the Pacific alone, a 100% increase in energy use is predicted for 1990–2010. Waste generation continues to increase.

There is an urgent need for national, international, and local measures to control pollution and to conserve natural resources and ecosystems. The body of both national and international law that has emerged is diffuse and expanding. The focus is as much, or more, on the process by which resources are harvested and goods produced as on the harmfulness of particular products.

At the same time that environmental concerns grow, there is an urgent and defined need for continued economic growth worldwide. Poverty continues to pervade many parts of the world and some areas within even the wealthiest countries. The international trading system, which is built upon the principle of comparative advantage, is intended to promote economic growth. It obligates countries to reduce barriers to efficient trading, such as tariffs, import quotas, subsidies, and other non-tariff barriers, so as to enable economies to grow. In contrast to environmental law, trade law is almost exclusively concerned with reducing barriers to trade in products and services and has not often addressed processes by which products are produced or resources harvested. Trade law thus has not been as concerned with whether the processes of production are environmentally sustainable and indeed is worried about environmental regulations directed to process as being barriers to trade. Increasingly, there is disagreement over the values of globalization and open trade. Whether the disagreement mainly reflects anger by some at not receiving a larger share of economic benefits or a deeper unease about globalization is unclear.

Not surprisingly, the two efforts—to protect the environment and to promote liberal trade—clash. The intersections between environment and trade provoke clashes among governments, non-governmental organizations, corporations, and other actors, and within each of these communities, e.g., between federal and state or provincial governments, or between different non-governmental organizations. While many environmentalists and proponents of liberalized trade regard environmental protection and trade liberalization as compatible, if not essential to realizing the goals of both in the long term, there are nonetheless important differences in outlook between the environmental and the trade communities.

Environmentalists are concerned that the World Trade Organization (WTO) will decide that national (including local) and international measures to protect the environment are inconsistent with the General Agreement on Tariffs and Trade (GATT) 1994 and other WTO agreements, and will hold them invalid. They fear that liberalized trade will run roughshod over environmental robustness and integrity. Environmental