



DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
KAGAWARAN NG KAPALIGIRAN AT LIKAS YAMAN

MEMORANDUM

FOR : The Directors
Biodiversity Management Bureau
Ecosystems Research and Development Bureau
Environmental Management Bureau
Forest Management Bureau
Mines and Geoscience Bureau

FROM : The OIC Director
Policy and Planning Service

SUBJECT : **ASEAN CAUCUS FOR THE 2nd JOINT EXPERT GROUP MEETING ON TRADE AND ENVIRONMENT OF ASEAN-CANADA FREE TRADE AGREEMENT NEGOTIATIONS**

DATE : 13 SEP 2023

This pertains to the ways forward and agreements during the conduct of the ASEAN caucus for the 2nd Joint Expert Group Meeting on Trade and Environment of ASEAN-Canada Free Trade Agreement (ACAFTA) Negotiations held on 04 September 2023 via Zoöm.

Please be informed that the meeting was attended by representatives from the ASEAN Member States (AMS) and the ASEAN Secretariat, and discussed the following agenda:

- Scoping Paper for possible Trade and Environment provisions of ACAFTA;
- Proposed Way Forward on the negotiations on Trade and Environment Provisions Under ACAFTA; and
- Dates for the reporting session of Expert Groups under ACAFTA to Caucus and Plenary of 5th ACAFTA TNC Meeting

Since experts from the Philippines and Lao PDR were not able to join the meeting, the ASEAN Secretariat is seeking the confirmation/concurrence of the two countries to join the emerging consensus emanated from the discussion.

In this regard, we would like to seek confirmation/concurrence/comments on request of the ASEAN Secretariat to join consensus made during the said meeting, to wit:

| AGENDA ITEM | Agreement/Consensus of the AMS |
|--|--|
| 1. Scoping Paper for possible Trade and Environment provisions of ACAFTA | a. To seek clarification from Canada on some terms in the scoping paper, such as "effective enforcement", "implications", and "address global environmental issues related to trade" under the Basic Principles. |

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|---|--|
| | <ul style="list-style-type: none"> b. To table a proposal to replace Canada's proposed sub-element on promoting transparency, accountability, and public participation under the Basic Principles with Singapore's proposal which recognize the importance of cooperation. c. To retain ASEAN position on establishment of Contact Points and Non-Application of Dispute Settlement Mechanism. |
| <p>2. Proposed Way Forward on the negotiations on Trade and Environment Provisions Under ACAFTA</p> | <ul style="list-style-type: none"> a. To consider deferring the decision to establish a working group in 2024 given that there are a number of issues in the draft scoping paper which require clarification from Canada and discussion with other Ad-hoc expert groups. |

We would appreciate receiving your feedback by **14 September 2023**, for timely submission before the proposed meeting discussion of ASEAN with Canada on 19-25 September 2023. Attached are the Note-to-File of the meeting and the draft scoping paper of ACAFTA Trade and Environment Provisions, for your ready reference.

For your information and appropriate action, please.


CHERYL LOISE T. LEAL



PSD Document <psddivision@gmail.com>

[For Feedback by 13 Sept] ACAFTA ASEAN Expert Group on Environment - Draft Note-to-File

1 message

Presty Pramasiwi <presty.pramasiwi@asean.org>

Thu, Sep 7, 2023 at 5:29 PM

To: "rodziah.adnan@env.gov.bn" <rodziah.adnan@env.gov.bn>, "MARTINAH.TAMIT@env.gov.bn" <MARTINAH.TAMIT@env.gov.bn>, "SURYANTI.JUMIN@env.gov.bn" <SURYANTI.JUMIN@env.gov.bn>, "sumthy@yahoo.com" <sumthy@yahoo.com>, "cceap@online.com.kh" <cceap@online.com.kh>, "chhinnith@gmail.com" <chhinnith@gmail.com>, "lunlido.07@gmail.com" <lunlido.07@gmail.com>, "kychannimol@gmail.com" <kychannimol@gmail.com>, "widyaningtyasnovia@gmail.com" <widyaningtyasnovia@gmail.com>, "bilateral.klkh" <bilateral.klkh@gmail.com>, "auliamirna@gmail.com" <auliamirna@gmail.com>, "ftadivision.rovodag-kemendag.go.id" <ftadivision.rovodag@kemendag.go.id>, "lindi@kemlu.go.id" <lindi@kemlu.go.id>, "ardianto.mahdi@gmail.com" <ardianto.mahdi@gmail.com>, "ameropaf.dpa" <ameropaf.dpa@kemendag.go.id>, "alounxayonta" <alounxayonta@gmail.com>, "linda.ssiliane@gmail.com" <linda.ssiliane@gmail.com>, "viengphet1@gmail.com" <viengphet1@gmail.com>, "phassaly@gmail.com" <phassaly@gmail.com>, "khairulnh@nrecc.gov.my" <khairulnh@nrecc.gov.my>, "barathi.ms@nrecc.gov.my" <barathi.ms@nrecc.gov.my>, "ibrahim.idham@nrecc.gov.my" <ibrahim.idham@nrecc.gov.my>, "sarah@nrecc.gov.my" <sarah@nrecc.gov.my>, "thidatin.env@gmail.com" <thidatin.env@gmail.com>, "asean-canadaftaphsecretariatdti.gov.ph" <asean-canadaftaphsecretariat@dti.gov.ph>, "psddivision@gmail.com" <psddivision@gmail.com>, "policy@denr.gov.ph" <policy@denr.gov.ph>, "ouppia@denr.gov.ph" <ouppia@denr.gov.ph>, "butchbmarquez@gmail.com" <butchbmarquez@gmail.com>, "oad@erdb.denr.gov.ph" <oad@erdb.denr.gov.ph>, "wrd-bmb" <wrd@bmb.gov.ph>, "NTNatural@neda.gov.ph" <NTNatural@neda.gov.ph>, "&ANRES-od@neda.gov.ph" <&ANRES-od@neda.gov.ph>, "&ANRES-ed@neda.gov.ph" <&ANRES-ed@neda.gov.ph>, "&ANRES-nrd@neda.gov.ph" <&ANRES-nrd@neda.gov.ph>, "RSDacumos@neda.gov.ph" <RSDacumos@neda.gov.ph>, "LVHidalgo@neda.gov.ph" <LVHidalgo@neda.gov.ph>, "JLAGcopra@neda.gov.ph" <JLAGcopra@neda.gov.ph>, "SEE_Wan_Yin@mse.gov.sg" <SEE_Wan_Yin@mse.gov.sg>, "Marcus CHEW (MSE)" <Marcus_CHEW@mse.gov.sg>, "Angeline CHUI (MSE)" <Angeline_CHUI@mse.gov.sg>, "Dawn_HO@mse.gov.sg" <Dawn_HO@mse.gov.sg>, "proactivefad@gmail.com" <proactivefad@gmail.com>, "pathkamold@dtm.go.th" <pathkamold@dtm.go.th>, "raweewatr@dtm.go.th" <raweewatr@dtm.go.th>, "tanapat.vat@gmail.com" <tanapat.vat@gmail.com>, "orawee.moc@gmail.com" <orawee.moc@gmail.com>, "sjarayabhand@gmail.com" <sjarayabhand@gmail.com>, "temduang.pp@gmail.com" <temduang.pp@gmail.com>, "reddplus.th@gmail.com" <reddplus.th@gmail.com>, "pladpala@gmail.com" <pladpala@gmail.com>, "fco5248-gmail" <fco5248@gmail.com>, "teeraporn.w@pcd.go.th" <teeraporn.w@pcd.go.th>, "internationalpcd@gmail.com" <internationalpcd@gmail.com>, "nareschomboon@gmail.com" <nareschomboon@gmail.com>, "dgr.iru@gmail.com" <dgr.iru@gmail.com>, "c.supanut@tgo.or.th" <c.supanut@tgo.or.th>, "ntk842@gmail.com" <ntk842@gmail.com>, Nguyễn Bích Hương <nbhuong51@gmail.com>, "Loan Nguyen Kieu (nguyenkieuloan2612@gmail.com)" <nguyenkieuloan2612@gmail.com>, Nguyen Kieu Loan <nkloan@monre.gov.vn>

Cc: Gerry Indradi <gerry.indradi@asean.org>, Latifahaida Abdul Latif <latifahaida.latif@asean.org>

Dear ACAFTA ASEAN Expert Group on Trade and Environment Leads and Members,

Following the last ASEAN Caucus meeting on 4 September 2023, we would like to share the draft Note-to-File (NTF) of the said meeting. Please find attached the draft NTF, for your consideration and inputs, if any. We would appreciate if we could receive your inputs, if any, latest by **13 September 2023**.

Should you have any question regarding this document, please let us know.

Thank you.

Best Regards,

Presty

From: Presty Pramasiwi

Sent: Monday, September 4, 2023 8:52 AM

**ASEAN and Canada's Proposed Elements on ASEAN-Canada Free Trade Agreement
(ACAFTA)
Trade and Environment Provisions**

This scoping paper is without prejudice to the negotiating positions of the Parties and aims to set out a common understanding on the scope and coverage of possible elements that could be included in an ASEAN-Canada FTA. This scoping paper is neither meant to be prescriptive nor intended to pre-negotiate or prejudge the outcomes of possible trade and environment provisions in the ASEAN-Canada FTA.

1. BASIC PRINCIPLES ON ENVIRONMENTAL GOVERNANCE, including, *inter alia*, commitments on:

- Strive to ensure that its environmental laws and policies provide for, and encourage, [high levels of environmental protection^[A1]] taking into account different levels of development and capacities.
- Emphasize the rights to exercise environmental protection and effective [CAN: enforcement^[A2] of] domestic environmental laws.
- [ASEAN: Emphasize/Recognise] that trade and investment activities and environmental protection do not have negative implications to one another^[A3].
- Respect the commitments of multilateral environment agreements [CAN: and address global environmental issues related to trade^[A4]].
- [ASEAN to remove/CAN: Promote transparency, accountability, and public participation in environmental decision-making processes.]^[A5] [ASEAN: Recognise the importance of co-operation to strengthen the Parties' joint and individual efforts and capacities.]

2. [ASEAN to remove: [CAN: ENVIRONMENT COMMITTEE AND]] CONTACT POINTS

- [ASEAN to retain/CAN DEL: ASEAN experts prefer to have contact points]
- [ASEAN to remove/[CAN: Effective and efficient committee structure, with dedicated contact points.]^[A6]

3. COOPERATION AREAS

- Areas of cooperation should be those linked to trade and environment based on shared priorities (specific areas are to be developed further and subject to domestic consultations);
- Cooperation activities, on a voluntary basis, should support and encourage countries to fulfil their commitments under their respective MEAs and should not exceed commitments in MEAs;
- Cooperation should support ASEAN regional environmental priorities;
- Forms of cooperation may include, but not limited to, capacity building, technical assistance, knowledge sharing, exchange of expertise, and joint initiatives.

4. [ASEAN to Retain:[CAN DEL: NON-APPLICATION OF DSM] [ASEAN to Remove:[CAN: COMPLIANCE]]

- [ASEAN to remove: [CAN: An effective implementation and]] Consultation mechanism [ASEAN to retain:[CAN DEL: on a voluntary basis as a possible way]]; specifics of consultation mechanism to be discussed further.



NOTE-TO-FILE

ASEAN CAUCUS FOR THE 2nd JOINT EXPERT GROUP MEETING ON TRADE AND ENVIRONMENT OF ASEAN-CANADA FREE TRADE AGREEMENT NEGOTIATIONS

4 September 2023, 09:00-11:30 (Jakarta Time)

Video Conference Meeting

INTRODUCTION

1. The ASEAN Caucus for the 2nd Joint Expert Group Meeting on Trade and Environment of the ASEAN-Canada Free Trade Agreement (ACAFTA) was held on 4 September 2023 *via* Video Conference Meeting. Representatives from all ASEAN Member States (AMS), except Lao PDR and Philippines, as well as staff members from the ASEAN Secretariat (ASEC) attended the Meeting.
2. The Meeting was chaired by Ms Novia Widyaningtyas, Expert Staff of the Ministry of Environment and Forestry of Indonesia for Industry and International Trade. The list of participants appears in **ANNEX 1**.

AGENDA ITEM 2: SCOPING PAPER FOR POSSIBLE TRADE AND ENVIRONMENT PROVISIONS OF ACAFTA

3. The ASEAN Secretariat briefed the Meeting on the scoping paper for possible trade and environment provisions of ACAFTA which incorporated feedback from ASEAN Member States and Canada, as appears in **ANNEX 2**. The Meeting noted the different proposals from ASEAN and Canada on the sub-elements of the scoping paper. The Meeting agreed to seek clarification from Canada on some terms in the scoping paper, such as 'effective enforcement', 'implications' and 'address global environmental issues related to trade' under Basic Principles.
4. The Meeting agreed to table a proposal to replace Canada's proposed sub-element on promoting transparency, accountability and public participation under Basic Principles with Singapore's proposal which recognise the importance of co-operation. The Meeting also agreed to retain its position on establishment of Contact Points and Non-Application of Dispute Settlement Mechanism.

AGENDA ITEM 3: PROPOSED WAY FORWARD ON THE NEGOTIATIONS ON TRADE AND ENVIRONMENT PROVISIONS UNDER ACAFTA

5. The Meeting noted the recommendations of the TNC at the 4th ACAFTA TNC Meeting, where the experts are to report to the 5th ACAFTA TNC Meeting on the outcomes of their meetings and to recommend to the 5th ACAFTA TNC on the way forward, as well as the possible elements for TNC's consideration. Referring to the Terms of Reference of the Trade Negotiating Committee of ACAFTA, Expert Groups are to further assess on whether to establish a working group or sub-working group.

6. In light of the above, given that there are a number of issues in the draft scoping paper which require clarification from Canada and the necessity to discuss with the other Ad-hoc expert group, the Meeting agreed to consider deferring the decision on establishing a working group next year in 2024 once the scoping paper gained more clarity.

AGENDA ITEM 4: OTHER MATTERS

7. The ASEAN Secretariat briefed the Meeting on the estimated dates for the reporting session of Expert Groups under ACAFTA to Caucus and Plenary of 5th ACAFTA TNC Meeting. In this regard, the Meeting noted that the ASEAN Secretariat will inform the exact timing of the reporting in due course.

AGENDA ITEM 5: ADOPTION OF THE NOTE-TO-FILE

8. The Meeting agreed to consider and adopt the note-to-file of the Meeting, inter-sessionally.
