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MEMORANDUM

FOR : **The Directors**
Environmental Management Bureau
Biodiversity Management Bureau
Forest Management Bureau
Mines and Geosciences Bureau
Climate Change Service
Legal Affairs Service

FROM : **The OIC Director**
Policy and Planning Service

SUBJECT : **PM-WTO REPORT ON THE OUTCOMES OF THE TRADE AND ENVIRONMENTAL SUSTAINABILITY STRUCTURED DISCUSSIONS (TESSD) WORKING GROUP MEETINGS HELD ON 19-20 SEPTEMBER 2023**

DATE : 09 OCT 2023

This is to circulate the report from the Philippine Mission to the WTO (PM-WTO) in Geneva regarding the outcomes of the Trade and Environmental Sustainability Structured Discussions (TESSD) Working Group Meetings held on 19-20 September 2023.

The Trade and Environmentally Sustainable Structure Discussions (TESSD) was launched by fifty (50) WTO members in 2020 to complement the work of the Committee on Trade and Environment. TESSD focuses on analytical work, country and private sector experience, and stakeholder engagement. The Ministerial Statement in December 2021 identified work in **trade and climate change, environmental goods and services, circular economy, and sustainable supply chains and subsidies.**

In this regard, we would like to request your insight on the following recommendations/comments by the PM-WTO:

Mission recommendations/ comments	Concerned Office
1. Agencies legal experts to review the TESS policy paper on the principles of international law related to trade-related climate measures, which could further frame national positions on various external climate-related measures that are creating new obligations.	LAS/ CCS

Mission recommendations/ comments	Concerned Office
<p>2. To prepare for MC13 and given the expectation creation of a Technical Working Group on Trade and Environment under the Technical Committee on WTO Matters (TCWM), Mission would invite further consideration of Philippines' co-sponsorship and participation in TESSD. While Mission notes there are capacity constraints in engaging in TESSD's four (4) Working Groups, Mission would propose a focused approach on the WGs on environmental goods and services and trade-related climate measures, which have the most impact for the Philippines.</p>	<p>CCS, EMB, FMB, MGB and BMB</p>

We would appreciate receiving your responses, particularly on the TESS policy paper through the following email address: policy@denr.gov.ph and psddivision@gmail.com, **on or before 16 October 2023**. The TESS policy paper and the copy of the PM-WTO report can be access using this link: <https://tinyurl.com/4x9mf8fj>.

For your preferential action, please.


 CHERYL LOISE T. LEAL

04 October 2023

Director Cheryl Loise T. Leal
Officer-in-Charge
Policy and Planning Service
Department of Environment and Natural Resources
Visayas Avenue, Diliman, Quezon City

Dear Director Leal:

Kindly find attached a report from the Philippine Mission to the WTO in Geneva regarding the outcomes of the Trade and Environmental Sustainability Structured Discussions (TESSD) Working Group Meetings held on 19-20 September 2023 (ZWTO-292-2023 dated 27 September 2023).

Below are the highlights of the meetings:

Working Group on Subsidies

- The Facilitators circulated the draft Analytical Summary on the Compilation of Experiences and Considerations Regarding Subsidy Design (see Annex B), which includes a compilation of national experiences as well as indicative policy measures.
- The Latin American countries continue to utilize this WG to push their agenda to press for reducing trade-distorting and environmentally harmful agricultural subsidies.
- According to the International Institute for Sustainable Development (IISD) Energy Policy Tracker, at least USD 474.43 billion of support went towards clean energy, compared to USD 512 billion for support towards fossil fuel energy during the period 2020-2021.

Working Group on Circular Economy

- The Facilitators circulated the Mapping Exercise on Trade and Trade Policy Aspects along the Lifecycle of Products (see Annex C), which includes national experiences and strategies as well as trade measures based on notifications and trade policy reviews included in the WTO Environment Database.
- The ASEAN Secretariat provided a presentation on ASEAN's Circular Economy Framework (see Annex D), which covers agriculture, transport and energy and is mainly focused on capacity building for standards, trade facilitation, innovation, access to financing and energy efficiency.

Working Group on Environmental Goods and Services

- The Facilitators circulated the Analytical Summary (see Annex E), which undertook a deep dive into renewable energy and related goods and services.
- Based on the APEC List of Environmental Goods and bilateral agreements, the Summary also sets out lists of key goods that support solar energy, wind energy and hydropower but the Mission noted that it omits geothermal and biomass projects.
- The summary also includes opportunities to support RE-related services and identified RE-related goods.

BUREAU OF INTERNATIONAL TRADE RELATIONS

Working Group on Trade-Related Climate Measures (TRCMs)

- The Facilitators circulated the Summary of Member Practices in the Development of TRCMs (see Annex F), which is focused on methodologies for design rather than substantive elements of the TRCMs in question.
- The Summary highlighted the importance of transparency and consultations in designing measures, conducting impact assessments, and reviewing the following implementation of measures to assess their effectiveness and real impact.
- The JISD presented an overview of border carbon adjustments (BCAs), which noted the existence of over 70 carbon tax or emissions trading systems and BCAs now being considered in Canada, the UK, the United States, Australia, Chinese Taipei in addition to the EU CBAM.


Relatedly, we draw your attention to the TESS policy paper on the principles of international law related to trade-related climate measures which could frame national positions on various external climate-related measures that are creating new obligations. The paper is accessible through this link: <https://tinyurl.com/57zv4ete>.

The BITR views the paper as an insightful reference material which highlights the crucial role of international law principles to guide in the crafting of trade-related climate policies. We wish to emphasize the importance of the principle of common but differentiated responsibilities and respective capabilities (CBDR-RC) in shaping the country's climate position. This will promote fairness and inclusivity in climate measures of developing countries such as the Philippines.

In relation to this, we reiterate the Mission's request to review the policy paper and provide, if any, views and insights thereto **on or before 20 October 2023**. For queries, please coordinate with the TCWM Secretariat through email at RaissaFaminial@dti.gov.ph, ShairaSteffanyGranada@dti.gov.ph and KareenHopeEltagon@dti.gov.ph.

Thank you,

Very truly yours,


Marie Sherylyn D. Aquia
OIG-Director

Copy : Undersecretary Ceferino S. Rodolfo, DTI-IDTPG
Assistant Secretary Allan B. Gepty, DTI-IDTPG

DTS No: IN00299262

To: SFA
Fr: Geneva WTO
Rt: OUMAIER, OTLA
Cc: Secretary of Trade and Industry
Secretary of Agriculture
Director General of the National Economic Development Authority
Secretary of Environment and Natural Resources
Chair of The Technical Committee on WTO Matters (TCWM)
Geneva PM, Nairobi PE, UNIO
Re: **Trade and Environmental Sustainability Structured Discussions (TESSD)
Working Group (WG) Meetings, 19-20 September 2023**
Dt: 27 September 2023
Cn: ZWTO- 292 -2023
Pgs: 60 pages including this page

Mission is pleased to report that the Trade and Environmental Sustainability Structured Discussions (TESSD) Working Group (WG) Meetings were held on 19-20 September 2023 with the agenda INF/TE/SSD/W/29 attached as *Annex A*. The presentations are all available on the TESSD microsite but are restricted to registered delegates. Mission attended the WGs as an observer and would like to report on the following highlights of the four (4) WGs:

WG on Subsidies

The Facilitators circulated the draft Analytical Summary on the Compilation of Experiences and Considerations Regarding Subsidy Design (INF/TE/SSD/W/29 and *Annex B*), which include a compilation of national experiences as well as indicative policy measures. The Latin American countries continue to utilize this WG to push their agenda to press for reducing trade distorting and environmentally harmful agricultural subsidies. Some Members, including Japan, shared their experience utilizing science-based reference levels and repurposing subsidies to promote good agricultural practices (GAP), including environmental conservation, organic farming, and development of climate-resilient plant varieties.

The WTO Secretariat shared information on green box (DS:1 notifications) subsidies, including on payments under environmental programs, with China, EU, United States and Japan representing 73% of the total amount. These environmental programs, which allow for payments limited to the extra costs or loss of income involved in complying with these programs, cover conservation and land management programs, organic production, water use, and soil erosion and sedimentation reduction. OECD analysis has shown that agriculture support measures that are most market distortive are potentially the most harmful to the environment, including: market price support, output subsidies, and variable input subsidies. OECD data showed that commodity-specific support, particularly for livestock and rice (total of USD 145 billion) contribute the most to greenhouse gas emissions. The Philippines was included in the list of countries that provides a high proportion of positive market price support in relation to farm receipts, alongside Japan, Korea, Switzerland, Norway and Iceland.

According to the International Institute for Sustainable Development (IISD) Energy Policy Tracker, at least USD 474.43 billion of support went towards clean energy, compared to USD 512 billion for support towards fossil fuel energy during the period 2020-21. General feedback



from Members showed that key considerations in policy design for subsidies directed to energy transitions cover:

- minimize trade-distorting impacts when designing subsidies;
- provide subsidies on a non-discriminatory basis;
- avoid local content requirements;
- consider the balance between the positive effects for the transition to a low-carbon economy and the distorting effects on trade;
- consideration of nature of linkage with policy objective such as reducing green greenhouse gas emissions;
- avoid unilateral measures that may disrupt global trade; and
- take into account how market distortions might disproportionately affect developing least developed countries as well as different development levels of countries.

WG on Circular Economy

The Facilitators circulated the Mapping Exercise on Trade and Trade Policy Aspects along the Lifecycle of Products (INF/TE/SSD/W/27 and *Annex C*), which includes national experiences and strategies as well as trade measures based on notifications and trade policy reviews included in the WTO Environment Database. The typology of measures that were identified include:

- data collection and definitions and improving the classification for circular goods;
- pursuing transparency and harmonization on standards, regulations and conformity assessment procedures to improve circularity in product lifecycles, including e-waste and retired batteries; improving product design requirements; and enhancing traceability including through digital product passports;
- trade facilitation that can improve verification and simplify requirements, improving and digitizing PIC procedures; and promoting environmental goods and services;
- trade restrictions to deter illegal waste trade and suitable waste management capacities;
- capacity building and technical assistance for customs authorities and national standard setting bodies; and
- support measures including financial incentives and dissemination of knowledge and technology.

Presentations were made by the Basel, Rotterdam and Stockholm Conventions (BRS) Secretariat on the prior informed consent procedure (PIC) under the Basel Convention, which allows countries to restrict or prohibit the importation or exportation of hazardous or other waste for recovery or disposal. The BRS Secretariat and World Customs Organization (WCO) identified several challenges on PIC procedures related to plastic waste, persistent organic pollutants (POPs), e-waste and batteries, including: reliance on hard copy documentation, issues on timeframes for review and processing, different waste classifications, varying interpretations of "state of transit", and unwillingness of shipping companies to risk accepting waste shipments. A small intercessional working group within the BRS process is being set up to improve the PIC procedure and will begin work in early 2024. The e-waste amendments adopted by COP-15 in 2022 expanded the scope of the PIC procedure to include all electronic and electrical waste covering hazardous e-wastes and waste for special consideration.

WCO noted several challenges in combating waste crime, which was estimated to be USD 10-12 billion in 2016, because customs authorities find challenges utilizing the PIC procedure and properly assess the value of shipments, lack of criteria for rules of origin for goods used in circular economy, and treatment of remanufactured goods. The ASEAN Secretariat provided a presentation on ASEAN's Circular Economy Framework (*Annex D*), which covers agriculture, transport and energy and is mainly focused on capacity building for standards, trade facilitation, innovation, access to financing, and energy efficiency.

The Circular Innovation Lab delivered a presentation on opportunities to leverage Extended Producer Responsibility (EPR) schemes of EU Member States to support African development. In the case of Africa, only 17 of 54 African countries have EPR policies in place, with many not covering importation. The presentation noted that 55% of used vehicles exports are shipped to emerging economies, with a high proportion of vehicles aged 16-20 years being imported to African ports in Nigeria, Ghana, Togo and Benin.

With respect to electrical, electronic and electromechanical waste (WEEE), of the total amount of 4.3 MT of used waste, 2.5 MT are uncontrolled EEE waste, which represents EPR fees of Euro 340-380 being retained in EU Member States even though the waste products are exported to jurisdictions that often lack proper disposal and treatment facilities. The study recommended increase collaboration on border control, traceability, and cooperation throughout the EPR chain, which could cover financial transfers for the proper disposal and treatment in emerging economies that receive the used and EEE waste.

WG on Environmental Goods and Services

The Facilitators circulated the Analytical Summary INF/TE/SSD/W/24/Rev.2 (*Annex E*), which undertook a deep dive into renewable energy and related goods and services. The summary included a list of trade barriers, inter alia:

- conditions on market entry such as limitations on commercial presence and foreign equity, economic needs tests;
- conditions on operations such as procurement and subsidy policies that favor domestic suppliers; local content or performance requirements; limitations on movement of persons such as professionals; restrictions on data flows; and
- variability in administrative procedures and lack of regulatory transparency.

Based on the APEC List of Environmental Goods and bilateral agreements, the Summary also sets out lists of key goods that support solar energy, wind energy, and hydropower but Mission would note that it omits geothermal and biomass projects. The report does refer in a limited way to developing country challenges including: weak infrastructure, access to technology, specialist know-how and expertise, qualified manpower, financing and investment, trade barriers, and regulatory environment. These constraints were echoed in Electricite de France's presentation on their investment projects in emerging economies, including Kenya. The WIPO Secretariat and Brazil made presentations on the WIPO Green Platform, with Brazil noting that regional collaboration with Argentina and Chile had resulted in the significant increase in the submission of identified needs and technologies for sustainable agriculture and solar energy, which was further complemented by the organization of business rounds with the private sector.

The summary also includes opportunities to support RE-related services including:

Further liberalization of services supporting renewable energy sectors, accompanied by regulatory cooperation and coordination;

Improve access to information on regulatory frameworks applied to renewable energy-related services (addressing opaque regulatory frameworks);

Apply good administrative practices for licensing and authorization procedures (addressing burdensome and lengthy administrative procedures);

Adopt non-arbitrary and non-discriminatory rules concerning authorization, certification and licensing procedures relating to investment in the renewable energy; and

Inclusion of sustainability skills as a requirement for recognition by accredited bodies to better promote environmental goals.

With respect to RE-related goods, the following were identified:

Reduction of import tariffs;

Reduction of non-tariff barriers;

Cooperation on technical regulations, labelling, certification, and conformity assessment procedures, including in the TBT Committee/WTO;

Harmonization of standards;

Encourage inclusivity of technical committees of international standards-making bodies; and

Government support in the form of non-discriminatory financial incentives to stimulate demand and production of renewable energy goods.

Australia noted that its recent bilateral agreements, including with Singapore and New Zealand, had utilized the APEC Reference List as the baseline to develop classifications for environmental goods and services, including relevant ex-outs related to specific project-based use.

WG on Trade Related Climate Measures

The Facilitators circulated the Summary of Member Practices in the Development of TRCMs (INF/TE/SSD/W/25/Rev.1 and *Annex F*), which is focused on methodologies for design rather than substantive elements of the TRCMs in question. The Summary highlighted the importance of transparency and consultations in designing measures, conduct of impact assessments, and review following implementation of measures to assess their effectiveness and real impact.

The IISD presented an overview of border carbon adjustments (BCAs), which noted the existence of over 70 carbon tax or emissions trading systems and BCAs now being considered in Canada, UK, United States, Australia, Chinese Taipei in addition to the EU CBAM. IISD explained that BCAs may target scope 1 (direct emissions of companies), scope 2 (indirect emissions of upstream activities such as electricity generation, steam, heat or cooling) and scope 3 (indirect emissions of downstream activities) emissions. IISD noted that BCAs face design and implementation challenges, including domestic and trading partner capacity to implement, transition period and reviews, and impact on trade flows. IISD called for further international cooperation on standards for embedded emissions, geographical scope of coverage, crediting of trade partner carbon-related policies, and use of revenues. The

International Aluminum Institute (IAI) and Emirates Global Aluminum also made presentations on the sector's efforts to develop a single method to calculate the carbon footprint for primary aluminum, alumina and bauxite, which are helping the industry develop emissions scenarios and decarbonization pathways.

The Forum on Trade, Environment, and the SDGs (TESS) of the Geneva Graduate Institute introduced its policy paper emanating from an international legal expert group on Principles of International Law relevant for consideration in the Design and Implementation of Trade Related Climate Measures (<https://tessforum.org/latest/principles-of-international-law-relevant-for-consideration-in-the-design-and-implementation-of-trade-related-climate-measures-and-policies>), which highlighted the need for trade-related climate measures to be approached as legal hybrids from multiple international law disciplines, addressing the following principles: sovereignty; prevention; cooperation; prohibition of arbitrary and unjustifiable discrimination; sustainable development; equity, and common but differentiated responsibilities and respective capabilities; and transparency and consultation.

Mission Comments and Recommendations

1. Mission would invite the Department's and agencies legal experts to review the TESS policy paper on the principles of international law related to trade-related climate measures, which could further frame national positions on various external climate-related measures that are creating new obligations.
2. On circularity, Mission would note that the Philippines, as part of its role as Facilitator in the Dialogue on Plastics Pollution, is consulting with the TESSD Facilitators (Chile and Japan) in organizing a joint workshop on circularity in the textile industry. Mission understands that CITEM is managing a Sustainability Solutions Exchange. Mission would welcome the opportunity to engage with CITEM on this issue would appreciate assistance in initiating contact with the relevant experts.
3. Mission would also seek further information on the Philippines' utilization of the WIPO Green Platform, and would be open to collaborating with Geneva PM and stakeholders in enhancing the utilization of the marketplace tool. This could be patterned on Brazil's experience and could include a virtual briefing with WIPO Secretariat and business stakeholders, such as industry associations.
4. Lastly, to prepare for MC13 and given the expectation creation of a TCWM WG on trade and environment, Mission would invite further consideration of Philippines' co-sponsorship and participation in TESSD. While Mission notes there are capacity constraints in engaging in TESSD's four (4) Working Groups, Mission would propose a focused approach on the WGs on environmental goods and services and trade-related climate measures, which have the most impact for the Philippines.

For the Department's and TCWM's consideration.



MANUEL A. TEEHANKEE
Ambassador and Permanent Representative