



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



MEMORANDUM

FOR : The Undersecretary
Policy Planning and International Affairs

THRU : The Assistant Secretary
Policy, Planning, International Affairs and Climate Change

FROM : The Director
Policy and Planning Service

**SUBJECT: 1ST ROUND OF NEGOTIATIONS OF THE PHILIPPINES –
EUROPEAN UNION FREE TRADE AGREEMENT HELD IN
BRUSSELS, BELGIUM FROM 13 – 19 OCTOBER 2024**

DATE : 19 NOV 2024

This refers to the conduct of the 1st round of negotiation of the Philippines – European Union Free Trade Agreement (PH – EU FTA) held in Brussels, Belgium from 13 – 19 October 2024.

In this regard, this Office respectfully submit the highlights of the discussion during the 1st round of the PH – EU FTA in compliance with the SENR-signed Travel Authorities dated 9 October 2024 for the following DENR Negotiating Team:

Name	Designation	Office	TA No.
Atty. Rosette S. Ferrer	Chief	Legal Affairs Service - Legal Research and Opinion Division	PSD TA No. 2024-09-05
Ms. Zayrelle Ann U. Suello	Economist II	Policy and Planning Service – Policy Studies Division	PSD TA No. 2024-09-07
Ms. Nim Hyde M. Eusebio	Economist II		PSD TA No. 2024-09-08

BACKGROUND

The 1st Negotiating Round aims to lay the groundwork for a productive and collaborative dialogue towards text-based discussions. It is also expected that the Negotiations for the following Chapters that are under the purview of the Department of Environment Natural Resources (DENR) are expected to commence during the round namely, **Trade and Sustainable Development (TSD) and Energy and Raw Materials (ERM)**.

The objective of the **Trade and Sustainable Development Chapter (TSD) Chapter** is to enhance the integration of sustainable development, notably its labour and environmental dimensions, in the Parties' trade and investment relationship, including strengthening dialogue and cooperation. It covers the following areas: labor, gender equality through women's empowerment, environmental, marine, and climate matters, as well as responsible business conduct and supply chain management. Considering the EU's strong enforceability and monitoring of the TSD provision, this Chapter is legally binding and the Dispute Settlement Mechanism (DSM) is applied in this Chapter.

The **Energy and Raw Materials (ERM) Chapter** aims to facilitate trade and investment in energy and raw materials and improve environmental sustainability in these areas. It covers energy goods such as coal, crude oil, oil products, natural gas and electrical energy, and raw materials including but not limited to copper, nickel, and other minerals, fertilizers, rubber, wood, cotton, and yarn but excludes livestock and general agriculture commodities.

TRADE AND SUSTAINABLE DEVELOPMENT CHAPTER

The conceptual discussions of the **TSD Chapter** were conducted from 14 – 17 October 2024, it covered all fourteen (14) articles outlined in the EU's proposal for the TSD chapter (as of July 2024).

The Philippine side comprised representatives from the Department of Labor and Employment (DOLE), the DENR, the Department of Trade and Industry (DTI) and the Department of Foreign Affairs (DFA), while the EU side was represented by the Directorate-General for Trade and supported by relevant sectoral experts from the Directorate-General for Employment, Social Affairs and Inclusion, Directorate-General for Justice and Consumers, Directorate-General for Environment, Directorate-General for Maritime Affairs and Fisheries and Directorate General for Trade who participated partly in person and partly online.

The EU briefly explained the overview and rationale behind the proposed TSD Chapter which is aligned with a broad set of mutually agreed commitments based on international labour and environmental standards. The EU also emphasized the importance of civil society involvement in the TSD Chapter.

Considering that the Chapter is legally binding, the Philippines raised questions and clarification on the articles and provisions that may have a possible impact on the domestic laws and regulations. Below are the highlights of Philippine's position raised during the 1st round of negotiation:

1. The Philippines proposed to include the Rio Forest Principles either in Article [X].1: Context and Objectives or in Article [X].8: Trade and Forests.
2. On Article X.2, the Philippines recommended having a definition for the "*sustained, recurring course of action, inaction, and failure to effectively enforce*". The EU will provide further information and references that can be used in the previous engagements that invoked the phrase.
3. The PH proposed adding the word "*principles*" before the phrase "internationally recognized standards and agreements" to also cover those commitments that are under customary international law.

4. On Article X. 6, paragraph 2, the PH expressed reservation on the term "*materially defeats*", considering the ongoing issues between the EU and New Zealand on the same. The EU provided a definition of the term material defeat as "*Severe, repeated and systemic, lack of action which renders the Paris Agreements (PA) impossible and high improbability of breach*". The PH will check on the interpretations provided by the EU. The PH suggested using "*breach*" instead of "*defeats*" the same language used in the Vienna Convention (VC) on the law of treaties. The EU will also revert to the proper language used in VC.
5. On Article X.6, PH proposed to have a separate article to tackle Resource Efficiency (RE) and Circular economy (CE). The EU is flexible on having additional articles on this topic. PH to propose a language.
6. The PH proposed to include "*loss and damage*" as one of the UNFCCC Pillar under the Trade and Climate Article.
7. Both countries agreed to share respective policies on the best available technology to have some alignment.
8. On Article X. 7, PH suggested including the digital sequence information (DSI) on genetic resources and the Convention on Biological Diversity, Nagoya Protocols. The EU remarked that the DSI is already covered in the CBD, hence all the decisions and protocols are applied in the agreement.
9. PH proposed the inclusion of nature-based solutions as part of the cooperation either under Article X.6 Trade and Climate or Article X. 7 Trade and Biological Diversity. For a deeper appreciation of the EU, the PH will share best practices on the implementation of the NBS.
10. The Philippines expressed reservation on the terms "*deforestation-free supply chain*" and "*forest degradation*". PH shared that when it comes to forest-related initiatives, the Philippine approach is positive in investments.
11. The PH raised reservations about the inclusions of the OECD due diligence, the PH is not a party to the OECD.
12. On Article X. 12, the PH proposed to consider relevant traditional knowledge and also clarified if the measures mentioned in the said article would also cover individual cases related to environment and occupational safety and health.
13. On the query of the PH regarding having a separate Environmental Goods and Services (EGS) list. The EU is flexible on having this list of EGS annexed to the TSD Chapter. The EU shared that the Services group had a similar discussion with Australia and New Zealand on environmental discussion. The Annex with New Zealand can be the starting point for discussion. However, no instruction or obligation yet from the EU side.

ENERGY AND RAW MATERIALS CHAPTER

The discussions on the ERM Chapter were conducted on 18 October 2024 in Brussels, Belgium, and 22 October 2024 via Zoom videoconference. The EU side was represented by the Directorate-General for Trade, and the Philippine side comprised of representatives from the Department of Energy (DOE) and DENR.

During the 1st round of negotiations, the tabled text on the ERM Chapter was presented by the EU. The discussion covered Articles 1,2,3,5,6, and 7. While the remaining articles will be deliberated at the succeeding intersessional meetings to be convened.

1. The PH raised reservations on the term “respective” in relation to achieving the net zero goal, highlighting the recently adopted UNFCCC COP decisions on Global Stocktake.
2. On paragraph 1 of Article X. 6. The PH shared that the Philippine constitution provides for foreign capital restrictions on the exploration, development, and utilization of natural resources including energy materials. The PH also shared recent developments such as the Philippine Service Act and the DOJ's opinion on the exception as natural resources of wind, solar, ocean, and hydropower energy. The PH will share all the relevant constitutional limitations with the EU.
3. The PH will conduct internal inter-agency discussions with regard to the National Treatment and Most Favoured Nations (MFN) on the exploration of natural resources, particularly in relation to the ASEAN Investment Agreement and other Trade Agreements of the Philippines.
4. The Philippines requested a footnote that explains the phrase “*fixed in a manner that does not interfere with the management and the decision-making process of the entity*”.
5. The PH clarified on having climate change as a factor of assessing the EIA or whether this would also contemplate emission/carbon accounting. The EU informed that this provision is related to the climate in general and not emission or carbon accounting specific, the EU will revert.
6. On para 2d, the PH still needs to conduct internal discussion regarding cultural heritage and landscape, as a factor in assessing EIA. For better appreciation, the PH requested further information on EU's EIA and how the Cultural and Landscape Assessment is incorporated in the system.

Enclosed as **Annex A** is the after – activity report of the TSD and ERM Chapter with the detailed line – by – line discussion conducted during the 1st round of negotiations.

WAYS FORWARD

Before the second round of negotiations, the Philippines and European Union will schedule an intersessional meeting to discuss the pending issues on the TSD and ERM Chapter, respectively. Relatedly, as part of the domestic process, the DENR is also requested to conduct the following:

1. Levelling-off meeting with the DENR Trade Focal Group Members to provide updates and solicit further comments and inputs on the pending issues and articles that require inter-departmental consultations;
2. Draft a proposed language on the additional provisions proposed by the Philippines (e.g. NBS, Circular Economy, and Resource Efficiency);
3. Conduct of Stakeholder consultation specific for the TSD and ERM Chapter; and
4. Attend or Conduct inter-agency meetings with the DTI (as the overall lead and secretariat), DA-BFAR, DOLE, PCC, BOI, and DOE prior to the 2nd round of negotiations.

Below are the scheduled meetings and activities:

Date	Activities	Venue
22 November 2024	DENR Trade Related Meeting	Online

end of November 2024	Intersessional Meeting with the EU on the TSD Chapter	Online
10 December 2024	Intersessional Meeting with the EU on the ERM Chapter	Online
6-10 January 2025	Intersessional Meeting with the EU on the TSD Chapter	Online
10-14 February 2025	2 nd Round of Negotiations	Philippines
June 2025	3 rd Round of Negotiations	European Union

Enclosed as **Annex B** is the Joint Report on TSD Chapter adopted during the 1st round, and the draft Joint Report ERM Chapter (**Annex C**), subject to the DENR and DOLE's adaption and concurrence with the proposed revisions from this Office highlighted in red fonts.

For the Undersecretary's information and consideration, please.



CHERYL LOISE T. LEAL, *EnP.*

Copy furnished:

- *Office of the Secretary*
- *The Undersecretary for Organizational Transformation and Human Resources*
- *All Bureau Directors*
- *The Directors*
- *Climate Change Service*
- *Legal Affairs Service*

1ST ROUND OF NEGOTIATIONS FOR THE PHILIPPINE - EUROPEAN UNION FREE TRADE AGREEMENT (PH – EU FTA)

Trade and Sustainable Development Chapter

AFTER ACTIVITY REPORT

DATE AND TIME	October 14-17, 2024
VENUE	Comet Meeting, Louise, place Stéphanie, Brussels Belgium
OBJECTIVE/S	The 1st Negotiating Round aims to lay the groundwork for a productive and collaborative dialogue towards text-based discussions. It is also expected that the Negotiations for the following Chapters that are under the purview of the DENR are expected to commence during the round namely, Trade and Sustainable Development (TSD) and Energy and Raw Materials (ERM) .
HIGHLIGHTS OF DISCUSSIONS	<p>Discussions on the Trade and Sustainable Development (TSD) Chapter took place over the course of four (4) days, from 14-17 October 2024, and covered all articles outlined in the EU proposal for the chapter, which are: Objectives, Right to regulate and levels of protection, Multilateral labour standards and agreements, Trade and gender equality, Multilateral environmental governance and agreements, Trade and climate change, Trade and biological diversity, Trade and forests, Trade and sustainable management of fisheries/marine biological resources and aquaculture, Trade and investment supporting sustainable development, Trade and responsible business conduct, Scientific and technical information, Transparency, Committee on TSD and contact points.</p> <p>The Philippine side comprised representatives from the Department of Labour and Employment, the Department of Environment and Natural Resources, the Department of Trade and Industry and the Department of Foreign Affairs. The EU side was represented by the Directorate-General for Trade and supported by relevant sectoral experts from the Directorate-General for Employment, Social Affairs and Inclusion, Directorate-General for Justice and Consumers, Directorate-General for Environment, Directorate-General for Maritime Affairs and Fisheries and Directorate General for Trade who participated partly in person and partly online. The EU Delegation to the Philippines also attended part of the meetings.</p> <p>Both sides conducted a conceptual discussion of the TSD Chapter. TSD is aligned with a broad set of mutually agreed commitments based on international labour and environmental standards. The EU also emphasized the importance of civil society involvement in the TSD Chapter.</p> <p>Article [X].1: Context and Objectives</p> <p><i>Paragraph 1</i></p> <ul style="list-style-type: none"> • The PH mentioned the previous discussion during the intersessional on having a stronger confirmation of commitments to previous declarations and commitments.

Hence, PH recalled the proposal to use "reaffirm" instead of "recalling." The EU mentioned that under the drafting guidelines the words reaffirm can only be used when there was a previous agreement.

- PH suggested the inclusion of the phrase "ILO Fundamental Principles and Rights at Work" in paragraph 1 to ensure alignment with internationally recognized labor standards and considering that the mentioned declarations and outcome documents draw their strength from the said instrument. The EU will provide feedback on this proposal.
- PH also suggested including the "Rio Forest Principles" either in the objective or the Article on Trade and Forests.

Paragraph 2

- PH expressed its manifestation that it can support the proposed paragraph, noting that it is in alignment with the objectives and priorities outlined in the Philippine Development Plan.

Paragraph 3

- PH mentioned its concern about citing the 2018 report instead of the updated IPCC report. PH also suggested placing the report in Article 1 or in the Trade and Climate Article instead. The EU will provide feedback on the matter. The EU is also flexible in highlighting the topic specific to the PH.

Paragraph 4

- PH expressed concern in the footnote that "For the purposes of this Chapter, the term "labour" means the strategic objectives of the ILO under the Decent Work Agenda, which is expressed in the ILO Declaration on Social Justice for a Fair Globalization."
- PH cited its potential impact on the other paragraphs within the chapter that mention labour (e.g., high level of labour protection, labour law, labour standards, social dialogue on labour matters, labour market adjustment). Hence, PH sought clarification on whether the term "labour" in this context pertains to the scope and principles outlined in the ILO Declaration, specifically in relation to promoting employment, enhancing social protection measures, fostering social dialogue, and respecting, promoting, and realizing the ILO's Fundamental Principles. PH also mentioned that in its previous engagements with third countries, the term "labour" has typically been limited to the ILO Fundamental Principles and Rights at Work.

Further discussions on Article [X].1.

- PH proposed that the term "labour" should be related to the ILO's Fundamental Principles and Rights at Work to ensure clarity and consistency in its interpretation throughout the agreement.

- The EU proposed the inclusion of social protection systems by member states and the right to regulate these systems. In response, PH suggested dropping the footnote and incorporating social protection directly into the draft text.
- The EU emphasized that the reference point for these discussions is the multilateral framework. The EU also stressed the importance of distinguishing between the definitions of labor, labor protection, and labor rights, noting that the EU has a specific definition for labor protection. PH proposed including this definition in the agreement text for clarity.
- PH also expressed reservations about the definition of labor in the footnote, mentioning that there are incompatibilities between the footnote's definition and the intent of other provisions where "labor" is mentioned. The EU requested further clarification on these legal incompatibilities and will conduct internal consultations before responding.
- PH highlighted that the preambular statement already references the Decent Work Agenda, which they can support, especially if ILO fundamental principles are also emphasized in the text.

Article [X].2: Right to Regulate and levels of protection

Paragraph 1

- PH noted the EUs previous clarification that in accordance with the right of each Party to establish the levels of domestic environmental and labour protection, it might adopt or modify its relevant law and policies accordingly.

Paragraph 2

- PH sought clarification on whether the agreement only commits to which the Parties are a party. The EU affirmed that it will not go beyond each party's commitments and agreements referred to in the chapter.
- PH proposed adding the word "principles" before the phrase "internationally recognized standards and agreements." The EU will revert on this.
- PH sought conceptual clarification on the mention of high levels of environmental and labor protection.

Paragraph 6

- PH requested clarification on the definition of "sustained, recurring course of action, inaction, and failure to effectively enforce" so as to facilitate the resolution of disputes that may arise from the agreement.
- PH mentioned the panel report in the dispute between the US and Guatemala that already clarified the terms

"sustained," "recurring," "inaction," and "failure to effectively enforce."

- Hence, PH manifested its interest if the EU could still accommodate a footnote that would provide further clarification and parameters of the said items. The EU committed to getting back to the PH regarding this request.
- PH further inquired about previous experiences on the implementation of this article, particularly the challenges or if there is an agreed understanding of the case. The EU remarked that there had been no case in the existing EU FTAs that invoked this article.

Article [X].3: Multilateral labour standards and agreements

Paragraph 1

- PH highlighted that the proposed text aligns with its commitment to promoting decent work, as reflected in both the Philippine Development Plan and the Philippine Labor and Employment Plan. In response, the EU expressed appreciation for the PH support, particularly for paragraphs 1 and 2 of the text.

Paragraph 2

- PH expressed support for paragraph 2 and sought clarification on the enumeration of international instruments, such as the ILO Fundamental Principles and Rights at Work. The EU noted it would review the sequence, explaining that the order is intended to create a broader linkage and provide context, but would not significantly affect the overall meaning.
- PH also highlighted the importance of ratifying the Protocol on Forced Labor Convention (P29), mentioning that some EU member states have not yet ratified the protocol. In response, PH requested that the EU share the challenges its member states encounter in ratifying unratified ILO Conventions. The EU acknowledged these challenges, explaining that while there is no compulsory policy for ratification, member states often make extra efforts to ratify. Regular exchanges occur within the Trade and Sustainable Development (TSD) chapters, and engagement through FTAs can help trigger mechanisms for further outreach to non-ratifying member states.
- The EU explained that before ratification, member states typically align their domestic laws with the convention and often require the prior consent of social partners. In the specific footnote regarding the Protocol on Forced Labor Convention (P29), the EU clarified that while not a formal commitment to ratification, the reference underlines the importance of the protocol in a declaratory manner.
- Regarding ILO ratifications, the EU mentioned that its member states are encouraged to ratify fundamental conventions. These states conduct gap analyses and align

their domestic laws with the conventions, often with the involvement of social partners.

Paragraph 3

- PH sought clarification on the terms "continued" and "sustained" efforts, asking for practical examples from existing FTAs. The EU explained that these terms refer to the need for parties to regularly update progress, addressing challenges like consultation and gap analysis, emphasizing a cooperative approach to overcoming obstacles. "Sustained efforts" specifically indicate a commitment to the ratification of conventions. The EU referenced the Korea case, where these efforts were seen as a clear direction toward committing to ratification.
- PH also inquired when the Dispute Settlement Mechanism (DSM) would commence and requested examples of how it operates. The EU pointed to the Korea case and agreed to provide a copy of the panel report from the EU-Korea dispute for further clarification. The EU stressed that paragraph 3 of the agreement is limited to fundamental ILO Conventions.
- PH inquired if it would be asked about its plans to ratify ILO Conventions C155 and P29 as part of the agreement. The EU responded that there is no specific mechanism requiring this within the agreement.

Paragraph 4

- PH sought clarification on the nature and extent of the information to be shared under the agreement. The EU responded that there are no additional written reporting requirements and that the agenda for information exchange will be set by the parties, emphasizing that this is a general practice rather than a formal obligation.
- PH suggested that the provision could allow for the exchange of information on the progress of ratification activities. PH also sought assurance that the paragraph would not compel parties to create an action plan for ratification. The EU confirmed that it would not.
- The EU added that information should be exchanged periodically, even if there is no progress. The EU provided an example of how a report might state, "for this period, there is no update on the ratification." The Philippines emphasized that if this approach is followed, there should be clear assurance that the country will not be obligated to develop an action plan as an additional requirement.
- The EU also clarified that paragraph 4 refers to up-to-date ILO conventions.

Paragraph 5

- PH sought clarification on the extent to which the effective implementation of ILO Conventions would be evaluated

under the agreement. PH also inquired about the consequences of non-compliance in relation to other chapters of the FTA and emphasized the need to avoid duplicating processes. PH inquired if it would be sufficient to rely on publicly available documents regarding the ratification and practical implementation of conventions. The EU took note of the inquiries and will revert back.

Paragraph 6

- PH requested that the EU provide practical examples of instances where "labor standards are used for protectionist trade purposes" and sought examples from existing FTAs where labor standards were used for protectionist reasons. The EU acknowledged the request but noted that they did not have practical examples available at that time.
- The EU remarked that paragraph 6 could be interpreted in two ways and promised to revert with practical examples. They cited a scenario where differences in living wages across countries might illustrate this point.
- The EU also emphasized that paragraph 6 balances the obligations of the parties, with both sides referring to ILO standards as the guiding framework.

Paragraph 7

- On point 7B, PH reported that it has established and operates existing tripartite mechanisms in accordance with its tripartism law. These mechanisms serve as platforms for dialogue and cooperation among the government, employers, and workers, ensuring that labor policies and decisions reflect the perspectives of all key stakeholders.

Paragraph 9

- PH proposed adding areas of cooperation in the agreement, specifically focusing on the sharing of best practices regarding labor laws and strengthening labor inspection systems. The EU took note of these suggestions, acknowledging the importance of considering each party's respective priorities.
- PH also requested a copy of the EU's impact assessment on trade and labor. Additionally, PH clarified that one challenge faced by the EU in ratifying conventions is achieving consensus among social partners, which the EU confirmed as a common issue.

Article [X].4: Trade and gender equality

Paragraph 1

- PH shared the positive initiative in addressing the gender inequality of the country, as well as the result of the Gender Pay Gap Report of the Philippines. The EU has requested the report and the presentation that was made, particularly the data.

Paragraph 5

- PH sought clarification on the difference of the terms: Gender Equality and Equal opportunity in EU since the context of the both terms means the same in PH. The EU side made clarification that the GE is broader in scope than EO.

Paragraph 6

- PH sought further clarification on how the collection of Gender disaggregated data was undertaken by the EU. The EU side agreed to cooperate on the exchange and share of best practices and approach on gender disaggregated data. EU to share results of impact study assessments on gender related topics.

Article [X].5: Multilateral environmental governance and agreements

Paragraph 1

- PH welcomed paragraph 1, noting that there is no hierarchy on the importance of trade and environment.

Paragraph 2

- PH sought further clarification on the term "MEAs and their protocol" and whether it would also cover other specific international instruments that are not under MEAs.
- PH sought clarification if the term "decisions" was removed, referencing Article [XX.7] on Trade and biological diversity, wherein the term decisions was mentioned. The EU remarked that plans, action points, decisions, and resolutions are not covered in the agreement. The EU will check if there is another similar language under the MEAs (e.g CBD) that mentioned "MEAs and its protocol and decisions"

Paragraph 3

- PH sought clarification on when the exchange of information will commence. PH further suggested having a language that would capture that the notification would cover the whole process.

Paragraph 4

- PH expressed reservations on going beyond the commitments under the MEAs. The EU remarked that there is no obligation to further go beyond the existing commitment under the MEAs.

Paragraph 5

- PH expressed openness on possible areas of cooperation.

- On Para 5.a.ii, PH sought clarification on the concept of "green growth". The EU mentioned that there is no fixed term. However, they used the definition from the European Environment Agency.
- On Para 5.c, PH inquired about the possible methodologies on determining the impact of environmental law and standards on trade and investment; or the impact of trade and investment law on the environment. The EU clarified that the impact assessment would be conducted once the FTA has been signed.

Article [X].6: Trade and Climate Change

Paragraph 1

- The PH expressed concurrence in the paragraph. Climate change is an important issue in the Philippines. PH remarked on the outcome of the Philippine Development Plan (2023-2028) Chapter 15. Accelerate Climate Action and Strengthen Disaster Resilience and highlight the low carbon economy transition and aims to implement the NDC, low carbon development and expand market access for low carbon technologies and products.
- The PH expressed the importance of the CBDR, just transition.
- The PH sought clarification on the Inclusion of multinational instruments in the area of Climate Measures, how this differs from the reference of other MEAs mentioned in the agreement? The EU will revert.

Paragraph 2

- The PH reiterated the comments during an intersessional meeting on the NDC and "materially defeats".
- PH sought clarification on the context of rephrasing the Vienna Convention (VC) on the law on treaties, which uses the language "material breach". The EU will conduct internal consultation and check the proper language.
- On 2a, The PH sought clarification of what the material defeats would constitute. However, if the language used in the VC will be considered, the PH will be more familiar with the possible consequences, among others.
- The EU provided the definition of the material defeats: "Severe, repeated and systemic, lack of action which renders the Paris Agreements (PA) impossible and high improbability of breach" PH to look into the interpretation of the EU on the definition.
- The EU highlighted that the PA was adopted as a matter of producer under the UNFCCC process but PA is not legally subordinate to UNFCCC.

	<ul style="list-style-type: none"> • On Para B. PH, shared a positive investment approach on climate - resilient action. PH clarified why resource efficiency and circular economy is added to para 2B, PH underlined that these terms are more focused on in other areas of environmental laws such as those dealing with waste, the PH suggested adding other references such as the ongoing Plastic Treaty. • The EU responded that 2b aims to have a broad view on interlinkages between different environmental considerations. Resource efficiency (RE) can reduce greenhouse gases emissions. Circular economy (CE), the EU is contributing to the reduction of the waste through green deal and climate change action which reduces waste for productions (e.g legislative proposal the right to repair) • PH proposed to have separate articles to tackle RE and CE. • EU sought clarification if the proposal would be put under this article of general environment? PH suggested having a separate article dealing with waste reduction. • PH recommended the idea to develop waste and plastics provisions. The EU to provide information on waste shipment regulation to avoid waste dumping. PH thanked the EU for the initiative. • On Para C, PH clarification on include loss and damage (L&D), to have internal discussion in relation to EGS. The EU noted the comments on L&D. • PH sought clarification if "best available technologies" is interpreted nationally or if both Parties could have common understanding on the definition of this phrase. Relatedly, PH sought clarification on what is the relation on the technology mechanism under UNFCCC where the parties have a provision of technology transfer on developing countries based on needs assessments. PH further sought further clarification if Nationally Determined Needs Assessment would work in the context of bilateral trade agreements. EU to double check if it would be nationally, the EU will also check if on the relation of best available technology in the context of trade and UNFCCC. • The PH sought clarification if the EU is envisioning having a list for the EGS under the TSD chapter. The EU informed that is not something that will be added in this Chapter, there's also a need to align these provisions with the outcome of other chapters. Although the EU is flexible on having this list of EGS as cross-referencing. The EU shared that the Services group had a similar discussion with AUZ, same discussion with NZ on environmental discussion. The Annex with NZ can be the starting point for discussion. No obligation and instruction from the EU side. • PH sought clarification on the phrase "removal of obstacles to trade and investment" as well as on "adoption of policy frameworks conducive to the deployment of best available technologies".
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- On the clarification on the "removal of obstacles to trade and investments", the EU shared the offshore wind farm in Korea and Japan as an example.
- On the clarification on the "adoption of policy frameworks conducive to the deployment of best available technology". PH is not familiar. PH has a provision on best available technologies in the clean air act. The EU informed that this fall in any legislation which uses this concept. The EU will check legislation on where this concept falls under.
- On the term best available technology, EU and PH agreed to share respective policies on best available technology to have some alignments.
- On the phrase "addressing tariff and non-tariff barriers or through the adoption of policy frameworks conducive to the deployment of best available technologies". Ph sought clarification on the use of "and" and "or" in the provisions. The EU informed that this depends on the issue at stake, in some cases it could be cumulative the reason for "and" but it's not cumulative by definition. Some instances this could be applied together. EU to revert on this. (Example: offshore windmills, you could reduce the tariff of the import of a windmill related product- addressing the tariff barriers and ease the domestic requirements - addressing the non - tariff barriers). PH sought clarification if the parties required all the reduction of TF and NTMs. The EU informed that the term for instance refers to choice.

Paragraph 3

- PH welcomed the cooperation.
- PH reiterated that it is a party to Montreal Protocol (MP) and expressed concurrence on inclusion of the ICAO IMO and WTO.
- PH reiterated the initiatives on developing a domestic carbon pricing. PH welcomed exchange of knowledge and experience on this.
- PH remarked on para 3a, regarding climate-resilient infrastructure, PH suggested having nature-based solutions (NBS) as reference, The PH can share best practices on NBS with the EU.
- PH on para 3B, to have consultation with MARINA in relation to IMO. In principle, PH expressed support for ambitious and effective measures.
- On 2c, the PH remarked that in reference to other fora, having ambitious targets, the developing country would also require ambitious means and tools and implementations.
- PH expressed support para 3c.

- PH sought clarification on the term "updating safety and other relevant standards", are these referring to those agreed under Montreal Protocol, is there a need to update the national standards? The EU will revert.

Article [X].7: Trade and biological diversity

Paragraph 1

- PH expressed its concurrence on the importance of biodiversity in the Philippines as a mega diverse country, emphasizing its importance in the economy.

Paragraph 2

- PH clarified the term "third countries". The EU remarked that the third country would consider other sources of illegal wildlife trade, including countries of destination, countries of origin, and countries of transit. This is to address the problem of illegal wildlife trade and not an additional obligation.
- PH expressed concurrence and welcomed the cooperation under para 2b.
- PH clarified the "promote trade in products derived from a sustainable use of biological resources". EU mentioned that it is related to which products the country wants to promote e.g nature-based solutions (NBS)

Paragraph 3

- PH welcomed areas of cooperation.
- PH remarked that para 3a is aligned with the Philippines' target under the Kunming-Montreal Global Biodiversity Framework.
- On para. 3d, PH suggested including the digital sequence information (DSI) on genetic resources and the Convention on Biological Diversity, Nagoya Protocols. The EU remarked that the DSI is already covered in the CBD, hence all the decisions and protocols are applied in the agreement.
- PH suggested the inclusion of the Biodiversity Beyond National Jurisdiction (BBNJ) Treaty agreement as a reference for paragraph 3b.
- PH suggested the inclusion of the promotion of nature-based solutions (NBS) as an area of cooperation. PH further provided information on NBS. This includes improving the environment (e.g., coastal areas) to address both climate change and biodiversity loss. It has been adopted under the UNEA resolution 5/5. The EU expressed flexibility in the suggestion considering that this is also the solution they are looking to address the triple planetary crisis.

- PH sought classification from the EU side on the demand for illegal wildlife products. The EU cited products related to ivory and timber as examples of these products.

Article [X].8: Trade and forests

Paragraph 1

- PH reiterated the proposed inclusion of the Rio Forest Principles either in this Chapter or under Article [XX].1. Context and Objectives.

Paragraph 2

- PH reiterated the use of the term "shall". This may cause some uncertainties.
- On 2b, PH sought clarification in using the word "and" in the phrase "in accordance with the law of the country of harvest and from sustainably managed forests" if this would connote that sustainable managed forest is not included in the domestic law. The EU remarked that this is something wider and if it goes beyond the national law of the country. It is important to ensure the biggest concept.
- PH sought clarification on the use of the terms of "timber and timber products". PH informed of its regulations on the use of "non-forest timber products". PH further asked if the deletion of "non" is deliberate. EU to revert. The EU requested further information on the term "non-timber products".

Paragraph 3

- PH welcomed the inclusion of global warming and biodiversity loss. PH sought clarification on the use of the term "global warming" instead of climate change. The EU will take a look into the definitions.
- PH remarked that deforestation should be interpreted based on domestic law.
- PH shared that the domestic approach is positive on investment (e.g., reforestation, REDD+, among others), while the definition of FAO of deforestation may contradict the domestic laws. The EU highlighted the use of FAO definition as reference on deforestation and forest degradation.
- PH further suggested adding the term "illegal" throughout the Chapter or wherever the word "deforestation" appears. The EU remarked that based on the IPCC report and UNEP, deforestation is the main source of global warming, both "legal and illegal"
- PH remarked that the PH is promoting the production of cacao and bamboo which constitute deforestation under the definition of FAO.

- PH shared the domestic law on the export log ban harvested from naturally made forests.
- PH: should be understood in the context of domestic law. "illegal deforestation". PH approach is more positive on investment. FAO definition of the Forestation which broadly, may contradict the domestic laws. This is something that needs to be looked at closely.

Paragraph 4

- PH welcomed possible areas of cooperation.
- PH sought clarification on the term "bio-economy". The EU side will look into its definition.

Article [X].9: Trade and marine biological resources and aquaculture

Paragraph 1

- PH reiterated its proposal of including Convention on Biological Diversity CBD, and having a non-inclusive MEAS which will give way on the inclusion of the BBNJ, as an area-based management tool that would include fisheries. PH noted that the provision on Marine Genetic Resources Management is carved from the BBNJ Agreements.
- PH shared an updated amendment to Fisheries Administrative Order on conservation and Protection of Rare, Threatened, and/or Endangered Aquatic Species. It comprehensively covers all rare, threatened, and endangered aquatic species, including those listed under the CITES Appendices and those additionally classified by the Department of Agriculture.

Paragraph 2

- PH noted that under the PBSAP target 10, that refers to aquatic resources.
- On para 2A, PH shared that it is a party to the Fish Stock Agreement, PSMA. In principle PH supports it.
- PH sought clarification on the phrase "as defined in". EU which relates to long term conservation, that both parties commit to those agreements.
- On 2c, PH sought clarification to what extent of commitment in relation to specific initiatives of the FAO, EU will revert on this.
- On 2d, the PH is a member of RFMO, in general principle, the PH can support active participation. PH inquired how the term "actively" be measured. The EU remarked that there is no commitment in terms of alignment, its commitment to actively participate, such as showing up and providing written contribution. PH shared the term used in the NZ FTA is to "participate constructively". The EU is

flexible on the term that may be used whether "actively" or "constructively".

- On 2E, PH sought clarification on examples of existing FTA on exclusion of IUU products from trade flows; how will this be done on FTA execution. The EU mentioned that this is an additional channel of communication.
- PH sought clarification on the kind of information to be exchanged, and How do we quantify if the implementation would be effectively implemented? The EU remarked that the exchange of information will be referring to IUU requirements. The EU mentioned that there was a particular request for information in 2008. EU to check on this past example. The EU requested information from the PH for the period of 15 years. On effective implementation, it does not mean a 100% implementation, but it also means that it is in law and in practice. PH sought clarification on what type of information to be provided. Both parties will revert.
- The EU responded that the FTA can be an exchange of information. No matter trade and policy, the EU has a domestic policy to combat and prevent import of IUU to prevent import of IUU products.
- In terms of policy in FTA discussions, the EU believes that instruments prevent IUU. The EU does not impose what to do, and shares their interest to cooperate on in order to address IUU. The FTA will be an additional channel to discuss and have a dialogue and exchange of information on addressing IUU Fishing.
- PH shared an issue raised during a meeting on the nexus between trade and IUU on what will happen to the products already in the other parties, in relation to cost and logistics. PH sought EU's comments. The EU will revert.

Article [X].10: Trade and Investment supporting sustainable development:

Paragraph 1

- PH sought clarification on the use of the "sustainability scheme." PH suggested harmonizing how the formulations are used in the entire article.

Paragraph 2

- PH recognized the elimination of customs duties on environmental goods, and suggested aligning the wordings with the outcome of other related chapters and the outcome of the Market Access Negotiations. PH further suggested using the word "reduced" instead of elimination.

Paragraph 3

- PH sought clarification on the identification of environmental services and manufacturing activities.

Paragraph 4

- On Para 4c, PH sought clarification on the definition of transparent, factual and non-misleading sustainability.

Paragraph 6

- PH sought clarification from the EU side on best practices on how "outreach initiatives" will be undertaken. The EU remarked that this can be a form of debriefing with Civil Society, a seminar, among others.
- PH sought clarification if Interested persons to national jurisdiction. The EU responded that this matter is in full discretion of the Party.

Article [X].11: Trade and responsible business conduct

Paragraph 1

- PH expressed that the Responsible Business Conduct (RBC) is something that the PH is promoting.
- PH shared the promotion of RBC in Industry Tripartite Councils in selected regions in PH specifically in tuna and coconut products. EU took note of these guidelines/mechanisms.
- EU inquired on how PH promotes RBC in selected sectors. PH shared that PH shared target companies with global supply chain markets. PH shared existing tripartite mechanisms, practices, inclusion of social partners in policy making particularly in compliance programs.
- PH sought clarification on the meaning of Responsible Value Chain Management (RVCM). The EU shared that the dissemination can be electronic and this is a wide concept.

Paragraph 2

- PH expressed their concurrence on the use of the term "shall" to promote RBC while noting that there's still no domestic law on RBC. The PH government is encouraging businesses to practice RBC, however there is no law that will compel businesses for not doing so.
- PH shared the implementation of strategic compliance programs (SCPs). PH shared that under the SEC publication of sustainability guidelines for enterprises. The EU took note of these guidelines/mechanisms.
- PH inquired on how the EU applies Responsible Business Conduct (RBC) in its FTAs. The EU explained that in Latin America, RBC promotes social dialogue and business cooperation on due diligence. In Vietnam, a study on RBC is underway. The EU also works with organizations like the ILO and UNDP to raise awareness of international standards and sustainability reporting.

	<ul style="list-style-type: none"> • PH sought clarification on Para 2.B on the adherence implementation that will cover all the enlisted instruments, noting that PH is not a party to the rest of the instruments, except for ILO MNE Declaration. The EU side commented to still include the instruments without putting any legal implications to the parties. The EU remarked that the parties support the adherence, although the PH is not a party to the OECD, this might change in the following years. The EU further suggested to retain the text as it is. The OECD documents can be served as a reference. • PH to discuss internally on how to treat the OECD guidelines and the adherence implementation with regard to this (e.i another bullet for the OECD guidelines) • PH inquired how para 2B is being implemented in EU-VN FTA. The EU remarked that the EU-Viet Nam FTA has no RBC component. Only treated as an area of cooperation, there was an indirect international instrument for RBC not OECD, the context came after the signing of EU - NZ FTA. • The EU is flexible on having language and other international instruments as reference aside from OECD. The EU further remarked that the global market is shaped with international standards, the 2b is to note that the standards are there, whether the PH is a party to these or not. It's more of a signal in the business and not an expectation of compliance and adherence or implementation of the country and also understanding the challenges created by these standards. • The EU shared the recently passed Directive (2024/1760) on Corporate sustainability due diligence. The EU proposed to have a further discussion on this directive in Manila. • The PH sought clarification on how the MSME will be treated under this new directive. The EU noted that there are provisions on the new directive that would cater for the MSMEs and it's usually the larger business that will be affected. • The PH sought clarification on the Government certification compliance requirements. The EU noted that this is a responsibility of the importer. • EU suggested to have a separate intersessional meeting on this article. PH appreciated the inclusion of OECD guidelines and welcomed further discussions to implement the guidelines. <p><i>Paragraph 3</i></p> <ul style="list-style-type: none"> • The EU expects companies to adopt due diligence in the supply chain, a system set up in place to monitor their supply chain based on a risk-based approach following the 6 steps framework: to prevent/ remedy and address impact; ensure to have a complaints mechanism for potentially affected stakeholders; and provide remedies and inform.
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The EU passed a Legislation on Conflict Minerals Regulation.

- For Non-EU companies - establish/appoint legal representatives in the EU to ensure that due diligence requirements are performed.
- EU further remarked that the spirit of these directives is to ensure that there is an engagement with the large companies and their supply chain and to ensure the highest compliance in the Supply Chain

Paragraph 4

- The EU shared information on the ILO-OECD technical assistance program to which PH is a beneficiary/party.

Article [X].12: Scientific and technical information:

Paragraph 1

- PH suggested to consider the "relevant traditional knowledge."
- PH sought clarification on the phrase "environment or labour conditions that may affect trade or investment." If it is related to profitability or increasing the access.

Paragraph 2

- PH proposed to include a footnote on the definition of the extent of measures if this would consider individual cases.

Article [X].13: Transparency

Paragraph 1

- PH sought clarification on whether "interested persons" would also cover those who are not the parties to the agreement. The EU mentioned that it is at the discretion of each party.
- PH sought clarification on how the feedback mechanism/enquiries article under the Transparency Chapter will correlate with this transparency Article in the TSD Chapter.
- PH further sought clarification on whether the enquiries referred to in this chapter would relate to Article [XX].5 of the Transparency Chapter. The EU remarked that enquiries in the Transparency Chapter are inquiries to specific laws, and not to establish new measures that would affect trade and investment. The EU will revert on this.

Paragraph 2

- PH also sought clarification on how the EU intends to apply this paragraph, specifically the phrase "due consideration to communications and opinions from interested persons"

on matters related to this Chapter." This inquiry is made in the context of the PH's policy regarding compliance with ILO conventions, particularly those concerning the right to self-organization and collective bargaining.

- PH also observed that this can be a duplicity of the existing reporting mechanism. The EU remarked that this is not an additional reporting requirement.
- PH noted that due consideration requires affirmative action. The EU notes that the chapter deals with the existing domestic transparency mechanisms.
- PH noted that the use of "may" in the second sentence might affect the first part of paragraph 2.
- PH inquired where the communications and opinions from interested persons will be submitted. The EU remarked that this is linked to good regulatory practices. The EU further stated that the establishment of the TSD Committee or Domestic Advisory Groups (DAGs) will further help address transparency-related concerns.
- PH sought clarification on the conduct of public consultation. The EU remarked that the consultation would relate to the general domestic consultations mechanism on new measures that would affect trade and investments.
- PH sought clarification on whether the term "interested person" would also extend to other entities, such as academic institutions, the International Labour Organization (ILO), and the International Transport Workers' Federation (ITF). The EU noted this concern and will provide feedback.
- PH inquired whether any communication had been received by Viet Nam regarding Article 13, paragraph 2. In response, the European Union suggested verifying this matter with their respective partners.

Article [X].14: Committee on Trade and Sustainable Development and contact points

Paragraph 1

- PH inquired about the composition and structure of the Committee on Trade and Sustainable Development (TSD). In response, the European Union indicated that the TSD Committee would be chaired by Deputy Heads of Units. Additionally, a working-level committee will be established. On the EU side, the Directorate-General for Trade (DG Trade) will take the lead.
- The EU noted that the TSD Committee will be only a government-to-government only. There is also a separate committee called the Civil Society Mechanism of Domestic Advisory Group which would function as an advisory group composed of independent bodies, environmental and labor groups, etc.

	<ul style="list-style-type: none"> • PH inquired about the frequency of meetings. EU remarked that it will only be done once a year and will be included in the institutional chapter <p><i>Paragraph 2</i></p> <ul style="list-style-type: none"> • PH sought clarification on whether the TSD committee will contribute to the discussion on the Civil Society Mechanism (CSM) and whether the work of the TSD Committee will contribute to DAGs. • The EU noted that the CSM and DAGs encompass the whole agreement at large to help in the implementation. PH further clarified the distinction between the two mechanisms. The EU remarked that DAGs have their specific role and are interlinked with other parties (e.g., drafting of resolutions). The CSM is larger in scope and covers other interested persons, this is a less structured body and is adopted/grouped according to topics, the government will facilitate a forum, and the CSM will set up their own agenda and can participate in the DAGs. • PH suggested having a facilitative and non-punitive function for the DSM in a way that would reflect the information and requirements, the same with the Minamata Convention and the BBNJ agreement. The EU replied that the DSM has a specific consultation process.
<p>DEFENSIVE AND OFFENSIVE INTERESTS</p>	<p>DEFENSIVE INTERESTS</p> <ul style="list-style-type: none"> - PH does not oppose the 2018 Special Report of the Intergovernmental Panel on Climate Change ("IPCC") but clarifies the impact of the inclusion of the said report and not the recent IPCC report. Also, PH suggested replacing this topic under Article [XX.] 8 Trade and Climate. The EU will check the updated report, and they are flexible on this overarching topic. - The PH clarified how "due consideration communications and opinions from interested persons on matters related to this Chapter" will be undertaken. This is in relation to the Philippines' policy regarding compliance with ILO conventions concerning right to self-organization, and collective bargaining. - In the Article [X].8, PH has a reservation on the terms "deforestation-free supply chain" and "forest degradation". PH shared that when it comes to forest related initiatives, the approach is positive in investments - PH sought clarification on the use of the terms of "timber and timber products" which is cited in the RIO Forest Principles. PH informed of its regulations on use of "non-forest timber products". PH further asked if the deletion of "non" is deliberate. The EU requested further information on the term "non-timber products" and will revert on this.

	<ul style="list-style-type: none"> - PH has a reservation on the Article 1 Paragraph 1 relative to the definition of the "labour" indicated as footnote. PH suggested the footnote can be dropped and include social protection on the draft text. - The provisions referencing the OECD, the PH is not party to. PH will conduct internal discussion and will provide alternate language. The EU suggested two options: 1) Either adding an additional paragraph that would refer to the OECD provision; or 2) omit the reference to the OECD and make use of other internationally agreed principles as reference. - The discussion of "materially defeats", the EU provided the definition as "<i>Severe, repeated and systemic, lack of action which renders the Paris Agreements (PA) impossible and high improbability of breach</i>". The PH will check on the interpretations provided by the EU. The PH suggested using "<i>breach</i>" instead of "<i>defeats</i>" as used in the Vienna Convention on the law of treaties (VC) Article 60. The EU will also revert to the proper language used in VC. <p>OFFENSIVE INTERESTS</p> <p>PH suggested the inclusion of the following:</p> <ol style="list-style-type: none"> 1. ILO fundamental Principles and Rights at Work in the Article [XX].1 para 1, 2. Rio Forestry Principle" either in the Article [X].1: Context and Objectives or in the Article [X].8: Trade and forests per se. The EU pointed its importance but will revert back on this; 3. promotion of nature-based solutions (NBS) as an area of cooperation; 4. definitions of the following: 5. "sustained or recurring course of action or inaction, fail to effectively enforce" as footnote; 6. "extent of measures" as a footnote; 7. "labor" based on the definition of ILO Fundamental Principle and Rights at Work. <p>Discussion on the inclusion of resources efficiency and circular economy as a separate article. The EU is flexible on having additional articles on this topic.</p> <p>On 3a, as a reference to climate-resilient infrastructure, the PH suggested referencing these with NBS, PH will provide best practices.</p> <p>On 3b, the PH suggested having a means of implementation for the ambitious targets specified in Article 2c.</p>
<p>CROSS-CUTTING AREAS</p>	<ul style="list-style-type: none"> • In Article [X].10: Trade and investment supporting sustainable development: Status. The EU will harmonize how the "sustainability scheme" is used. • On the elimination of custom tariff under Article X.10, PH suggested to consider the outcomes of the Market Access Negotiations and other related chapters. • On the Inquiry on where the communications and opinions from interested persons will be submitted under Article [XX].13: Transparency. The EU remarked that this is linked

	<p>to good regulatory practices. The EU further stated that the establishment of the TSD Committee or Domestic Advisory Groups (DAGs) will further help address transparency-related concerns.</p> <ul style="list-style-type: none"> • On Article [XX].13: Transparency. PH seeks clarification on the relation between Article [XX].6 of the Transparency Chapter with Article [XX].13 Transparency under the TSD Chapter.
WAYS FORWARD	<ul style="list-style-type: none"> • Conduct of internal discussion on the pending Articles tentatively on 08 November 2024; • Draft a language on the additional provision proposed by the Philippines (NBS, Circular Economy and Resource Efficiency) • Conduct of Stakeholder Consultation on the TSD and ERM Chapter; • Conduct of Intersessional Meeting between the Philippines and EU prior to the 2nd round of negotiation (and of November 2024 and 6-10 January 2025) • 2nd round of Negotiations will be on February 2025 in the Philippines; • 3rd round of Negotiations will be on June 2025.
ATTACHMENTS	<ul style="list-style-type: none"> • Joint Report on the TSD Chapter adopted by the EU and PH

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**1ST ROUND OF NEGOTIATIONS OF THE PHILIPPINE – EUROPEAN
UNION FREE TRADE AGREEMENT (PH – EU FTA)
Energy and Raw Materials (ERM) Chapter**

AFTER ACTIVITY REPORT

DATE AND TIME	October 18, 2024 AM
VENUE	Comet Meeting, Louise, place Stéphanie, Brussels Belgium
OBJECTIVE/S	The 1st Negotiating Round aims to lay the groundwork for a productive and collaborative dialogue towards text-based discussions. It is also expected that the Negotiations for the following Chapters that are under the purview of the DENR are expected to commence during the round namely, Trade and Sustainable Development (TSD) and Energy and Raw Materials (ERM).
HIGHLIGHTS OF DISCUSSIONS	<p>[X].1 Objectives</p> <p><i>Paragraph 1.a:</i></p> <ul style="list-style-type: none"> • The PH shared that the national net zero goals still needs to be discussed by the Philippines internally. PH has a reservation on having a respective goal. However, the country welcomes contributing to the net zero goals, since the alignment on the energy transition is consistent with the Paris Agreements. • The PH expressed their alignment on the 1.a with a goal on energy transitions. The PH may have some concerns on raw materials, this will be brought up in the next meeting. The PH further discussed the Initiatives on the Energy Transition Plan, part of the NDC submitted in 2021. Broadly this is something that the PH could support. • The EU informed that in the Paris Agreement, there is no possible path that would not require net zero. Since there is no date on the text, it doesn't attribute a period that the PH should adhere to. The EU further informed that net zero goal will be the main goal of the chapter. The Deployment of investment will be based on that specific objective. <p><i>Paragraph 1.b:</i></p> <ul style="list-style-type: none"> • The PH sought clarification on the term Green Technologies. The EU informed that the formulation would give both parties options. Openness allows for the use of different technologies which are aligned with the Paris Agreements Goals. <p><i>Paragraph 1.c:</i></p> <ul style="list-style-type: none"> • The PH sought clarification of the term environmental sustainability. The EU informed that they have no definition that this would give both sides an option to pursue the policy objectives. <p>Article [X].6: Authorisation for exploration and production of energy goods and raw materials:</p> <p><i>Paragraph 1:</i></p>

- The PH raised possible constitutional restrictions on foreign participation on exploration and energy materials. The PH discussed Article 12 of the constitution and foreign negative list.
- PH emphasized on the Rules specific to minerals, oil petroleum and natural oil. Wind solar, ocean and hydropower were exempted in this law. The idea is to provide potential sources of energy. PH will share all relevant constitutions and limitations.
- The EU inquired how this will be treated in relation to the ASEAN investment agreement as well as on the National Treatment.
- The PH clarified the word explore and produce, the PH further inquired if produce would also constitute extract. The EU informed that this would definitely cover the whole process, oil and gas until it docked out from the ground. The production includes all the different stages, extraction and different dredge of raw material mentioned in the Annex.
- The EU requested PH to make a reference of specific products or goods and an example on how this provision will apply.

Paragraph 2:

- On inquiries of the PH regarding the granting authorities or on how to contemplate the phrase "*fixed in a manner that does not interfere with the management and the decision-making process of the entity*", The EU noted that there is no basis to identify to authorize more or less on the basis of the amount of contribution paid. The level or forms of financial contribution to a level, the licensing, interference in the management in the process of that entity. The PH requested to have footnote footnotes to explain the phrase.
- The EU further informed that the example is that the situation of the state of authorities that exploitation of carbons in the forms of financial contribution to de facto has a direct control of the mining activities.
- The PH requested further information on the possible regulations of the EU and possible examples for this provision.
- PH further explained that on the fixed in a manner that does not interfere phrase, the PH regime has a fixed rate/ percentage on mining activities such as small scale mining and exploration, development and utilization of natural resources. PH to share information on how the contribution in terms of mining taxes and royalties are being determined in the Philippines.

Paragraph 3:

- The PH briefly discussed the appeals process domestically. The PH to conduct internal consultation on publications. The PH sought clarification on what would constitute publication of information/ general circulation. The EU agreed that publication would cover different systems.

Article [X].7: Assessment of environmental impact

Paragraph 1:

- The EU proposed to add the word "of" before raw materials

- The PH expressed that generally the PH conducts an Environmental impact assessment (EIA) and sought clarification on the use of the word *"may have significant impact"*, since some areas of the rules require EIA when there is likely significant impact. PH sought clarification when the impact assessment may be required.
- The EU agreed on having *"likely to have significant impact"*. The FTA intention is to ensure for the projects where logically has an environmental impact, EIA will be conducted. This is to provide a minimum requirement and will be based on the government's discretion.
- The EU further explained that the "likelihood" of an impact is much lower than any "impact" to the environment.
- The PH welcomed for each party to set the trigger of the EIA. The term *"may"* refers to possibility and the *"likely"* refers to probability, and the mention of significance is different. The likelihood is also in reference to the Rio Declaration. Although the PH welcomed having a policy space.

Paragraph 2:

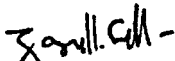
- The PH sought clarification on having the climate as a factor on assessing the EIA, or whether this would also contemplate emission/carbon accounting. The EU informed that this provision is related to the climate in general and not carbon accounting, the EU will revert.
- On cultural heritage and landscape, the PH to check with NCCA, the EIA is a planning tool to allow other agencies, LGU to decide whether to allow a project to not and mainly cover environmental impacts. The EU informed that the provisions will not mainly mean that the identified factor should be included in one document. But, the EU is flexible to include a footnote for clarification/definition.
- The PH requested information on EIA and how the Cultural and Landscape is incorporated in the system.


Paragraph 3:

- On the time period the EU is not prescribing a period or timeline. Although they would flag and consult the party.
- PH sought clarification on the term *"interested person"*, is the EU understanding this would include any person even if they're not part of the FTA. The EU informed that this may refers to owner of the land, where the certain mineral deposit is or the communities (IPs), NGOs (affiliated worldwide, WWF), stakeholder who has direct impact on this provisions.
- The PH mentioned that *"stakeholders"* is a more familiar term. Further seeks assurance that the determination of the "interested parties" would only refer to each parties' jurisdictions and not include third parties. If this is the case, PH could generally support the provisions.
- On 3b, the PH informs that this broadly aligned with the domestic regulations, the same with 3b.

AGREEMENTS/ CONCLUSIONS	<p>The PH and EU agreed to have an intersessional meeting with the DOE and discuss only the three articles with environment-related matters. The discussions are conceptual-based on Article [X].1 <i>Objectives</i>, Article [X].6: <i>Authorisation for exploration and production of energy goods and raw materials</i> and Article [X].7: <i>Assessment of environmental impact</i>.</p> <p>The European Union (EU) provided an overview and content of the Energy and Raw Materials (ERM) Chapter. The PH mainly sought clarification on the treatment for the above articles under the ERM Chapter, while the EU welcomed to receive any comments and inputs, to prepare for the intersessional meeting.</p>
WAYS AHEAD	<ul style="list-style-type: none"> • An online round meeting to be scheduled on October 22, 2024 at 9AM (EU time), with the lead negotiator from the PH DOE. • Joint report would be finalized after the online meeting on October 22. The EU will prepare the draft for the online Joint debrief. • Intersessional Meeting (2 hours at most) tentative on November and December. PH to revert on the final schedule after internal consultations. • PH to provide all the references (documents) by next week.
ATTACHMENTS	<input type="checkbox"/> Activity Photos <input type="checkbox"/> Invitation Letter

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ACTIVITY PHOTOS



**EU-Philippines FTA – Round 1
Brussels, 14-18 October 2024**

WORKING GROUP ON TSD

JOINT REPORT

I. Summary of the discussions:

Discussions on the Trade and Sustainable Development (TSD) Chapter took place over the course of 4 days, from 14-17 October 2024, and covered all articles outlined in the EU proposal for the chapter, which are: Objectives, Right to regulate and levels of protection, Multilateral labour standards and agreements, Trade and gender equality, Multilateral environmental governance and agreements, Trade and climate change, Trade and biological diversity, Trade and forests, Trade and sustainable management of fisheries/marine biological resources and aquaculture, Trade and investment supporting sustainable development, Trade and responsible business conduct, Scientific and technical information, Transparency, Committee on TSD and contact points.

The Philippine side comprised representatives from the Department of Labour and Employment, the Department of Environment and Natural Resources and the Department of Trade and Industry and the Department of Foreign Affairs. The EU side was represented by the Directorate-General for Trade and supported by relevant sectoral experts from the Directorate-General for Employment, Social Affairs and Inclusion, Directorate-General for Justice and Consumers, Directorate-General for Environment, Directorate-General for Maritime Affairs and Fisheries and Directorate General for Trade who participated partly in person and partly online. The EU Delegation to the Philippines also attended part of the meetings.

Discussions were held on the basis of the EU proposal as shared with the Philippines in July 2024. The discussions followed a round of three pre-calls ahead of the meeting in the first two weeks of October 2024.

The EU side introduced into the EU's TSD approach overall and provided short introductions on each article. The Philippines side raised questions for clarifications, observations, and possible future suggestions. The EU side offered clarification and other relevant information in relation to its proposal and to queries raised by the Philippine side. It was understood that discussions in this round did not exhaust all possible comments, questions and clarifications that each side may have, and that further intersessional exchanges would follow, with a view to advancing progress.

The EU side also shared experience on ongoing implementation of TSD chapters and stakeholder engagement in relation to their past FTAs. The EU proposal will be further elaborated in the framework of the Institutional Provisions Chapter.

Both sides consider the discussions as having been constructive, productive and having helped to enhance mutual understanding.

II. Follow-up actions:

Party	Action	Deadline
PH	Share additional requests for clarifications as appropriate	November 2024
EU	Will provide a list of links to reference documents, legal texts, FAQs and impacts assessments mentioned during the discussions	25 October 2024
Both	Set up an intersessional meeting as appropriate	November 2024

III. Leads negotiators and Contact points

EU	The Philippines
<p>Name: Benedikt Madl Title: Policy officer, Dr. Bilateral relations in Trade and Sustainable Development, Directorate-General for Trade Email: benedikt.madl@ec.europa.eu</p>	<p>Name: Atty. Alvin B. Curada Title: Atty, Director, Bureau of Working Conditions, Department of Labor and Employment Email: abcurada@dole.gov.ph</p> <p>Name: Atty. Rosette S. Ferrer Title: Chief, Legal Research and Opinion Division, Department of the Environment and Natural Resources Email: rsferrer@denr.gov.ph</p> <p>Name: Lattice Angelique A. Andriano Senior Trade-Industry Development Specialist, Department of Trade and Industry LatticeAngeliqueAndriano@dti.gov.ph</p>

**EU-Philippines FTA – Round 1
Brussels, 14-18 and 22 October 2024**

WORKING GROUP ON ENERGY AND RAW MATERIALS

JOINT REPORT

I. Summary of the discussions:

The discussions on the Energy and Raw Materials (ERM) Chapter were conducted on 18 October 2024 in Brussels, Belgium, and 22 October 2024 via Zoom videoconference. The EU side was represented by the Directorate-General for Trade, and the Philippine side comprised representatives from the Department of Energy and the Department of Environment and Natural Resources.

During the round, the tabled text on the ERM Chapter tabled was presented by the EU. The discussion covered the Articles 1,2,3,5,6, and ~~up until Article 7~~ *(with the remaining articles to be presented at the succeeding intersessional meetings)*, while Article 4 still requires the Philippines' internal consultation. The Agreement was not to focus yet on blacking of the text but to clarify any questions and for the Philippines to flag any major issues in said the Chapter.

During the discussions, there were some clarifications but up to this point, only one principle issue was identified which will require further detailed discussions: the restrictions on foreign ownership. This could impact notably the raw materials sector. ~~(to note: Article 4 was not discussed where the Philippines need to consult internally).~~

II. Follow-up actions:

Party	Action	Deadline
PH	- Provide further information on the restrictions of foreign ownership (as relevant for the products covered by the chapter) and how this was addressed in other FTAs/agreements (e.g. ASEAN Investment Agreement)	Week of 4/11
EU	- Provide the Environmental Impact Assessment Directive.	Week of 4/11
Both	- Agree to conduct intersessional meetings on 10 December 2024, and 20 January 2025 (9:00 AM onwards CTE)	Week of 4/11

III. Lead negotiators and Contact points

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