



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



MEMORANDUM

FOR : The Directors
Biodiversity Management Bureau
Climate Change Service
Ecosystems Research and Development Bureau
Environmental Management Bureau
Forest Management Bureau
Land Management Bureau
Mines and Geosciences Bureau
Legal Affairs Service

FROM : The OIC Director
Policy and Planning Service

SUBJECT : REQUEST FOR COMMENTS/ INPUTS ON THE COMBINED
DRAFT TEXT FOR THE TRADE AND SUSTAINABLE
DEVELOPMENT (TSD) CHAPTER UNDER THE PH-UAE CEPA

DATE : 11 APR 2024

This is in relation to the recently conducted Technical Working Group on Trade and Sustainable (TSD) Chapter under the PH-UAE CEPA facilitated by the DTI and attended by DOLE and DENR held on April 8, 2024 to combine the draft environment and labor text of the TSD Chapter.

Please be informed that the DTI already furnished the TSD Chapter text incorporating what has been discussed during the said meeting. In consideration of the pending issues that were raised, particularly on the environment text, the PPS would like to request the following:

- (1) Comments/inputs and/or recommendation on the combined draft text for the Trade and Sustainable Chapter, attached **as Annex A**.
- (2) Likewise, we would like to remind the remaining Offices who are yet to submit their nomination for the said initiatives. To date, please be informed that this Office has only received nominations from FMB, LAS, BMB, and CCS.

Further, we would appreciate receiving your **advance copy of your comments and/or recommendation on or before 15 April 2024** through this email addresses: psddivision@gmail.com and policy@denr.gov.ph. Enclosed are the relevant documents for your reference.

For your information and consideration, please.


CHERYL JOISE T. LEAL

CHAPTER XX
Trade and Sustainable Development

Article XX.1
Basic Principles

1. The Parties recall their commitment to bilateral and multilateral environmental and labor agreements to which ~~DENR: [they are individually a party] [where both are parties]~~ as well as the UN Sustainable Development Summit Outcome Document "Transforming Our World: 2030 Agenda for Sustainable Development" of 2015, the Paris Agreement and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up of 1998.
2. The Parties reaffirm their commitment to promote the development of international trade and investment in a way that contributes to the objectives of sustainable development and to integrate and reflect this objective in the Parties' trade and investment relations.
3. The Parties recognize that the economic, social and environmental dimension of sustainable development are interdependent and mutually reinforcing. They further recognize the benefits of cooperation on trade-related labor and environmental issues as part of a global approach to trade and sustainable development.
4. The Parties share a common aspiration to promote high standards of environmental and labor protection commensurate with each Party's needs, capabilities and national circumstances, and according to each Party's laws and regulations; and to uphold these in the context of sustainable development.
5. The Parties agree that the provisions of this Chapter shall not be used in a manner that would constitute a disguised restriction on trade or investment between Parties.

Commented (PH1): Requesting clarification from DOLE on what "labor agreements" mentioned in the paragraph refers to? The labor agreement or agreements between PH and UAE (usually for protection of OFWs) or various ILO conventions or declarations? The latter can be considered agreements. However, conventions and declarations would have distinct characteristics and purpose/objective.

Commented (PH2): DENR to revert on whether to use "individually as a party" or "where both are parties." Note that DOLE indicated that they can accept "where both are parties." For BITR's reference, may we request from DENR the list of MEAs where PH is a party and where both PH and UAE are parties.

Commented (PH3): Per U/ABG, consider other wording such as "in line with" or "in accordance with".

Article XX.2 Scope

1. Except as otherwise provided in this Chapter, this Chapter shall apply to measures adopted or maintained by the Parties affecting trade and investment-related aspects of labor and environmental issues.
2. ~~The reference to labor in this Chapter includes the issues relevant to the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up of 1998 and the ILO Decent Work Agenda.~~

Commented (PH4): DENR may consider having a similar provision on environment.

Article XX.3 Right to Regulate and Levels of Protection

1. The Parties recognize the sovereign right of each Party ~~[BITR: subject to the provisions of this Agreement.]~~ to establish its own levels of domestic labor and environmental protection and to adopt or modify accordingly its relevant laws, rules, ~~[BITR: and] regulations [BITR: plans, programs and priorities, policies or practices]~~ each Party shall seek to ensure that its laws, rules, ~~[BITR: and] regulations [BITR: plans, programs and priorities, policies or practices]~~ provide for and encourage high levels of labor and environmental protection, consistent with standards, principles and agreements referred to in Article XX.5 (International Labor Standards and Agreements) and Article XX.6 ~~[DENR: (Multilateral Environmental Agreements and Environmental Principles)]~~ and shall strive to improve the level of protection provided for in those laws, rules, ~~[BITR: and] regulations, [BITR: plans, programs and priorities, policies or practices.]~~

Commented (PH5): These may be too detailed to include. Can be internally implemented without mentioning in the agreement.

Article XX.4

Upholding Levels of Protection in the Application and Enforcement of Laws, Rules, Regulations or Standards

1. A Party shall not fail to effectively enforce its labor and environmental laws, rules, regulations and standards in a manner affecting trade or investment between the Parties.
2. [DOLE: Subject] [DENR: Without prejudice] to paragraph 1, Article XX.3 (Right to Regulate and Levels of Protection) of this Chapter, a Party shall not:
 - a. weaken or diminish the level of environmental [BITR: or and] labor protection provided by their respective laws, rules, regulations [BITR: or and] standards with the sole intention to encourage investment from another Party or to seek or to enhance a competitive trade advantage of producers or service providers operating in its territory; or
 - b. waive or otherwise derogate from, or offer to waive or otherwise derogate from, such laws, rules, regulations and standards in order to encourage investment from another Party or to seek or to enhance a competitive trade advantage of producers or service providers operating in its territory.
3. [DENR: Nothing in this Chapter shall be construed to empower a Party's authorities to undertake environmental law enforcement activities in the territory of the other Party.]

Commented [PH6]: For DOLE to consider in the context of enforcing labor protection provisions in labor agreements.

Article XX.5
International Labor Standards and Agreements

1. The Parties recall the obligations deriving from membership of the ILO and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted in 1998, to respect, to promote and realize the principles concerning the fundamental rights, namely:
 - a. freedom of association and the effective recognition of the right to collective bargaining;
 - b. the elimination of all forms of forced or compulsory labor;
 - c. the effective abolition of child labor;
 - d. the elimination of discrimination in respect of employment and occupation; and
 - e. a safe and healthy working environment.
2. [The Parties reaffirm their commitment, under the Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work of 2006, to recognize full and productive employment and decent work for all as a key element of sustainable development for all countries and as a priority objective of international cooperation and to promote the development of international trade [BITR: and investment] in a way that is conducive to full and productive employment and decent work for all.]
3. [The Parties reaffirm that, as set out in the ILO Declaration on Social Justice for a Fair Globalization adopted by the International Labor Conference at its 97th session in 2008, the violation of fundamental principles and rights at work shall not be invoked or otherwise used as a legitimate comparative advantage.]

Commented [PH7]: For DOLE's consideration whether to retain or exclude. If retained, focus should instead be on the ILO and the ILO Declaration on Fundamental Principles and Rights at Work. However, this maybe be too much for UAE to consider but will be beneficial to include said provisions with labor being an offensive interest of PH.

Article XX.6
Multilateral Environmental Agreements and Environmental Principles

1. [The Parties reaffirm their commitment to effectively implement and enforce their laws, rules, regulations and practices of the multilateral environmental agreements to which [DENR: they are a party,] as well as their adherence to environmental principles reflected in the international instruments referred to in Basic Principle (Article X.1).]

Article XX.7
Trade and Biodiversity

1. The Parties recognize the importance of the conservation and sustainable use of biological diversity and the role of trade in achieving sustainable development consistent with the Convention on Biological Diversity (CBD) and its protocols (Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization and the Cartagena Protocol on Biosafety), CITES, Convention on Migratory Species (CMS) and other relevant MEAs to which they are a party.
2. The Parties endeavor to communicate and cooperate, including but is not limited to, exchanging information, experiences, best practices in areas related to: (a) Biodiversity protection, (b) habitat rehabilitation, (c) preserving and enhancing cultural heritage, and (d) prevention of introduction of invasive alien species.
3. The Parties shall cooperate to promote safe, legal and sustainable trade of wildlife through enhancement of regulatory measures and systems, as well as on curbing illegal wildlife trade by strengthening enforcement capacities, reducing the demand side for illegally traded wildlife, and addressing drivers of illegal wildlife collection at source.

Article XX.8
Trade and Climate

1. The Parties recognize the importance of taking urgent action to combat climate change and its impacts, and the role of trade in pursuing this objective, consistent with the UN Framework Convention on Climate Change (UNFCCC), the Paris Agreement and with other MEAs and multilateral instruments in the area of climate change.
2. The Parties recognize the principle of common but differentiated responsibilities and respective capabilities, in consideration of different national circumstances in addressing climate change.
3. The Parties recognize the importance of collaboration and explore partnerships on adaptation, loss and damage, mitigation, and means of implementation.

Commented [PH8]: DENR to further assess provisions.

Article XX.9
Cooperation

1. The Parties shall strive to strengthen their cooperation on trade and investment related labor and environmental issues of mutual interest in relevant bilateral, regional and multilateral fora in which they participate.
2. The Parties may engage in economic activities consistent with Article XX.1 Basic Principle of this Chapter, subject to availability of funds and human resources [BITR: and to each Party's laws, rules, and regulations].
3. [DENR: Economic co-operation may be undertaken through ways and means considered appropriate by the <relevant Sectoral Body> and may cover topics related to the following areas] [BITR: Economic cooperation may cover topics related to]:
 - biodiversity conservation and protection;
 - blue and Green Economy;
 - climate and environment;
 - circular Economy;
 - renewable Energy]
 - [BITR: labor];
 - green jobs;
 - issues under the Sustainable Development Goals; and

Commented [PH9]: DOLE to identify specific areas of cooperation in labor.

- any other areas as mutually agreed by the Parties.]

4. [BITR: The Parties endeavor to exchange information on best practices and establish a mechanism to promote and facilitate trade and investment in environmental sustainability and social inclusion.]

Article XX.10
Implementation and Consultations

The Parties shall designate their focal points, which shall serve as points of contact for the purposes of implementing this Chapter.