



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



MEMORANDUM

FOR : **The Directors**
Biodiversity Management Bureau
Ecosystem Research and Development Bureau
Environment Management Bureau
Forest Management Bureau
Mines and Geosciences Bureau
Climate Change Service
Legal Affairs Service

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

SUBJECT : **REQUEST FOR INPUTS/COMMENTS ON CHAPTER X - TRADE AND ENVIRONMENT UNDER THE ASEAN TRADE IN GOODS AGREEMENT (ATIGA) UPGRADED NEGOTIATION**

DATE : **16 JAN 2024**

This has reference to the electronic mail from the Department of Trade and Industry, requesting the DENR's comments/inputs on the draft Environment Chapter. Please be informed that although the Department already submitted our initial comments regarding our support to the inclusion of the Trade and Environment Chapter in the ASEAN Trade in Goods Agreement (ATIGA) Upgrade Negotiation, the DTI is requesting a text-based inputs/comments on the attached Trade and Environment Chapter.

Relatedly, following the conduct of the ASEAN Regional Workshop on Remanufactured Goods held last 13 December 2023, we would like to request EMB's recommendation/position on the inclusion of the Remanufactured Goods in the ATIGA Upgrade Negotiation.

In this regard, considering that the 8th Trade Negotiating Committee (TNC) Meeting will be held on 23-26 January 2024, we would appreciate receiving your responses **on or before 18 January 2024**, through this email address: psddivision@gmail.com.

For your appropriate action, please.


CHERYL LOISE T. LEAL

MEMO NO. 2024 - 50

(Draft Text was reformulated on 21.9.2023 based on the discussion at the 5th TNC)

CHAPTER X TRADE AND ENVIRONMENT

5th TNC

KH MM LA PH VN MY BN will revert on the whole chapter by 31 Aug

6th TNC

BN MM agrees in-principle and will revert on the draft text by 31 Oct 2023

KH LA MY PH VN will revert on the draft text by 31 Oct 2023

ID will submit the proposed Article on Scope and Objectives within this meeting

ASEC to draft an Article on non-application of DS to this Chapter

IACTIG (13 November)

DENR to revert on their position by 30 November.

Article X.1 Basic Principles

6th TNC

Singapore can broadly go along with the article. However, there may be merit in investigating the possibility of streamlining articles X.1, X.2 and X.3 (and possibly even X.4) by merging them into 1 article. For instance, we note that Article 1 (Basic Principles) of the AANZFTA TSD Chapter comprises of elements from articles X.2, X.3 and X.4 in this draft text.

MM support this suggestion

ASEC to refer to AANZFTA TSD Chapter and streamline the text by 13 October 2023.

The Member States recognise the following principles of trade and environment cooperation:

1. taking action on climate change in a manner that promotes and does not restrict trade, investment and business, so as to facilitate the creation of tangible benefits in the economy and workforce, including in, clean energy trade, carbon markets, carbon capture, and the circular economy;
2. fostering better alignment and convergence of standards, technical regulations and conformity assessment procedures between countries, and strengthen the integration of markets and reduce potential barriers to trade and investment;
3. sharing knowledge, information and expertise that lend support to understanding and addressing the challenges of transitioning to net zero emissions economies;

4. recognising the critical role of non-government stakeholders, including the private and people sectors, civil society and relevant international organisations, as integral partners in advancing trade and environment cooperation;
5. ensuring that our collaborative work does not knowingly cause harm to the natural environment; and

Indonesia proposes to add the principle of “common but differentiated responsibilities and respective capabilities (CBDR-RC)” which is also the basic principle in various MEAs

Article X.2: Scope and Objectives

~~1. The Member States recognise that a healthy environment is an integral element of sustainable development and recognise the contribution that trade makes to sustainable development.~~

2. The objectives of this Chapter are to promote mutually supportive trade and environmental policies and practices; promote high levels of environmental protection and effective enforcement of environmental laws; and enhance the capacities of the Member States to address trade-related environmental issues, including through cooperation, in the furtherance of sustainable development.

3. Taking account of their respective national priorities and circumstances, the Member States recognise that enhanced cooperation to protect and conserve the environment and the sustainable use and management of their natural resources brings benefits that can contribute to sustainable development, strengthen their environmental governance, support implementation of international environmental agreements to which they are a party, and complement the objectives of this Agreement.

4. The Member States further recognize that it is inappropriate to establish or use their environmental laws or other measures, [SG: including unilateral ones,] in a manner which would constitute a disguised restriction on trade or investment between the Member States.

Article X.3: General Commitments

SG will revert on para 1 by 31 Aug

1. THThe Member States recognise the importance of mutually supportive trade and environmental policies and practices to improve environmental protection in the furtherance of sustainable development.

[SG: The Parties recognise that sustainable development encompasses economic development, social development and environmental protection, all three being interdependent and mutually reinforcing, and affirm their desire to promote the development of international trade and investment in a way that contributes to the objectives of sustainable development]

2. ^{SG}The Member States recognise the sovereign right of each Member State to establish its own levels of domestic environmental protection and [^{IO}~~its own~~] environmental priorities, and to establish, adopt or modify its environmental laws and policies [^{IO}~~accordingly~~] as well as comply with applicable environmental laws and regulations].

3. Without prejudice to paragraph 2, the Member States recognise that it is inappropriate to encourage trade or investment by weakening or reducing the protection [^{IO}~~afforded provided~~] in their respective environmental laws. [^{IO} Accordingly, Therefore] a Member State [^{IO}~~shall may~~] not waive, [^{IO} reduce, or bid something that has become a provision of environmental law or multilateral environmental agreements by weakening, reducing or violating the applicable environmental protection provisions] [^{IO}~~or otherwise derogate from, or offer to waive or otherwise derogate from, its environmental laws in a manner that weakens or reduces the protection afforded in those laws in order~~] to encourage trade or investment between the Member States.

4. ^{SG TH}~~The Member states recognise that it is inappropriate to use environmental standards as a disguised means of trade protectionism.~~

Article X.4: Multilateral Environmental Agreements

1. THThe Member States recognise that multilateral environmental agreements to which they are party play an important role, globally and domestically, in protecting the environment and that their respective implementation of these agreements is critical to achieving the environmental objectives of these agreements. Accordingly, each Member State affirms its commitment to implement the multilateral environmental agreements to which it is a party.

[SG: The Parties recall their commitment to the multilateral environmental agreements to which they are individually a party, as well as the 2030 Agenda for Sustainable Development.]

2. TH The Member States emphasise the need to enhance the mutual supportiveness between trade and environmental law and policies, through dialogue between the Member States on trade and environmental issues of mutual interest, particularly with respect to the negotiation and implementation of relevant multilateral environmental agreements and trade agreements.

Article X.5: Environmental Goods

1. The Member States recognise the importance of trade and investment in environmental goods, including clean technologies, as a means of improving environmental and economic performance, contributing to green growth and jobs, and encouraging sustainable development, while addressing global environmental challenges.
2. Accordingly, the Member States shall strive to facilitate and promote trade and investment in environmental goods.
3. [The ATIGA Joint Committee] shall consider issues identified by a Member State or Member States related to trade in environmental goods listed in ANNEX 1, including issues identified as potential non-tariff barriers to that trade, with a view to expeditiously resolve them. The Member States shall endeavour to address any potential barriers to trade in these environmental goods that may be identified by a Member State, including by working through [the ATIGA Joint Committee] and in conjunction with other relevant committees established under this Agreement, as appropriate.
4. The Member States shall cooperate in international fora on ways to further facilitate and liberalize global trade in environmental goods, and may develop cooperative projects on environmental goods to address current and future global trade-related environmental challenges.
5. The Member States may continue to update the list of environmental goods, at **ANNEX 1**, that contribute to and enable objectives such as the:
 - i. reduction, [^{LD} handling] mitigation [^{LD} control of environmental damage] and remediation of the pollution of the air, [^{LD} waterways] and the land;
 - ii. protection of natural resources and biodiversity;
 - iii. mitigating greenhouse gas emissions such as through a transition to the use of renewable and sustainable energy [^{LD} resources] and technologies;

- iv. efficient and sustainable [TH: consumption use] and production, reuse or recycling of resources [^D through a circular economy approach];
- v. reduction in the negative effects on human health, [^D social] and the environment; and
- vi. adaptation and strengthening of resilience against climate change; and
- vii. effective identification, measurement, accounting [^D and monitoring and evaluation] of the environment in support of its protection and remediation.

Article X.6: Environmental Cooperation

1. The Member States recognise the importance of cooperation as a mechanism to implement this Chapter, to enhance its benefits, and to strengthen the Member States' joint and individual capacities to protect the environment, and to promote sustainable development as they strengthen their trade and investment relations.

2. The Member States are committed to expanding their cooperative relationship on environmental matters, recognising it will help them achieve their shared environmental goals and objectives, including the development and improvement of environmental protection, practices, and technologies.

3. Member States will undertake the following cooperative activities:

- a. expand regional mechanisms, approaches and processes outlined in **ANNEX 2** to identify, reduce and remove non-tariff barriers;
- b. explore information exchanges, and dialogues on technical regulations, collaborations on standards development and adoption of internationally recognised standards, mutual recognition of conformity assessment procedures in relation to the green economy;
- c. promote and facilitate green economy trade and investment cooperation with relevant government agencies, to expand opportunities for business and industry;
- ~~d. identify green economy-related trade facilitation initiatives, including through digitalisation as outlined in [Annex X, paperless trade and relevant work conducted under] Chapter CPTF-ATIGA; and~~

e. explore principles and proposals put forward by any Member State on the rules of origin (ROOs) for environmental goods which facilitate trade, recognise modern sustainable production methods and logistics, and take into consideration supply chain realities and evidence-based analysis.

4. Economic co-operation under this Chapter is subject to the availability of funds and human and other resources, and to each Party's laws and regulations.