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**TRADE AND AGRICULTURE DIRECTORATE
ENVIRONMENT DIRECTORATE**

Joint Working Party on Trade and Environment

REPORT ON THE OECD WORKSHOP ON “GREENING REGIONAL TRADE AGREEMENTS”

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BACKGROUND AND OBJECTIVE OF THE WORKSHOP

Since 2005, the OECD, under the Joint Working Party on Trade and Environment (JWPTE), has been investigating the trends of environmental provisions in regional trade agreements (RTAs) and their impacts on the environment. Under its work programme on trade and environment, the JWPTE has developed and released several publications on “RTAs and the environment” to deepen knowledge in this emerging area.¹

In a parallel effort, the JWPTE has organised a number of workshops from the past to create dialogue on RTAs and the environment, inviting participants from both OECD and non-OECD countries. The first workshop was organised in Paris in 2006 and was followed by several other workshops hosted in: Tokyo, Japan in 2007 (OECD, 2008a); Santiago, Chile in 2008 (OECD, 2008b); Paris, France in 2010 (George, 2011); and Hanoi, Vietnam in 2014 (OECD, 2015).²

There is considerable interest now on the broader question of how RTAs could pursue environmental and sustainable-development objectives throughout the agreements, e.g. in chapters related to market access, investment, and government procurement, and not only via language contained in environment chapters or side agreements. To date, however, there has been limited research on the possibilities in this area. For this reason, the JWPTE will examine the emerging issue of “greening RTAs” as a part of its work programme for 2017-18.

Corresponding to this interest and forthcoming work, a workshop on “greening RTAs” was organised on 10 June 2016 in Paris by the OECD under the auspices of the JWPTE, with financial support from the European Union (EU). The focus of the workshop was on chapters of RTAs that are concerned mainly with issues other than the environment, such as market access, investment, government procurement, technical barriers to trade (TBT), subsidies, implementation and capacity building.

The objectives of the workshop were: (1) to highlight the opportunities and challenges in greening RTAs; (2) to take stock of current experience and insights in greening RTAs from different regions and stakeholders; and (3) to identify key knowledge gaps and the possible way forward in greening RTAs.

The workshop consisted of an introductory session and three substantive sessions. The first session highlighted the concept of “greening RTAs” and the ways of framing the issues. The second session focused on regional initiatives and insights from Asia and Latin America. The final session facilitated discussion on the potential areas and possible approaches in “greening RTAs”. The agenda of the workshop can be found in Annex I.

The workshop attracted more than 70 participants bringing together experts in the field of trade and the environment from OECD and invited partner governments, international organisations, and academia. This report consolidates the outcomes of this workshop. Further details, including the presentations and list of participants, can be found in the website for the event.³

¹ See: Gallagher and Serret (2011), George (2014a, 2014b, 2013, 2011), George and Serret (2011), Gigli (2009), OECD (2007, 2012), and Tébar Less and Gigli (2008).

² <http://www.oecd.org/tad/events/joint-working-party-trade-environment-workshop-vietnam-2014.htm/>

³ <http://www.oecd.org/env/tools-evaluation/greening-rtas.htm>

INTRODUCTORY SESSION

The workshop started with opening remarks to set the scene in greening RTAs. Mr. Vangelis Vitalis, New Zealand Ambassador to the World Trade Organization (WTO) and JWPTE co-chair, gave a brief introduction to the broader international policy context by making three contextual remarks. First, he stressed that in parallel to multilateral efforts such as the COP21 Paris Agreement and the WTO Nairobi Ministerial Decisions, bilateral efforts including RTAs are emerging towards “mega-regionals” such as the Trans-Pacific Partnership (TPP) and Transatlantic Trade and Investment Partnership (TTIP), and this shift can heavily influence the way trade agreements can affect multilateral systems. Second, he emphasised that the increasing scepticism in civil society towards trade policy or globalisation, as seen in the case of these mega-regionals, calls for better communication and development of trade policies. Third, in terms of next steps, he pointed to the necessity to think very seriously about how trade can contribute to some of these societal concerns. Trade can make meaningful contributions with their legally binding obligations that can actually enforce the disciplines around areas where environmental challenges might be confronted. Trade can similarly make serious contributions to some of the Sustainable Development Goals (SDGs), including for instance in support of fossil fuel and fisheries subsidy reform. Corresponding to these issues, he concluded that this workshop provides an important opportunity to think about how RTAs can better address issues at the trade and environment interface.

Mr. Shardul Agrawala, Head of the Environment and Economy Integration Division at the OECD Environment Directorate, then gave a brief overview of the JWPTE’s efforts related to RTAs and the environment. He first presented past reports on RTAs and the environment, which started with a flagship publication (OECD, 2007) followed by a series of annual updates⁴, and other specific reports including the checklist for negotiators (Tébar Less and Kim, 2008), the framework for evaluation (Gallagher and Serret, 2011), and the trends and policy drivers (George, 2014b). He also highlighted a number of workshops held in the past that engaged OECD and non-OECD members and experts to facilitate this work.⁵ The two current work streams on RTAs and environment were also presented which investigates: (1) the implementation of environmental provisions through a survey and desk analysis, and (2) empirical assessment of the effectiveness of environmental provisions through econometric analysis. He then highlighted the rationale and objectives of this workshop on greening RTAs. He reminded participants that the workshop was a brainstorming exercise to highlight some of the knowledge gaps and the possible areas and approaches where the OECD could contribute through the 2017-18 work programme.

⁴ See: OECD (2007, 2012), Tébar Less and Gigli (2008), Gigli (2009), Gallagher and Serret (2010), George and Serret (2011), George (2013), George (2014a)

⁵ See: George (2011), OECD (2008a; 2008b; 2015). See also footnote 2.

SESSION 1: GREENING RTAS - REALISING THE POTENTIAL BEYOND ENVIRONMENT CHAPTERS

Mr. Kuno Zurkinden, Advisor in the WTO Section of Switzerland's State Secretariat for Economic Affairs (SECO), introduced this session by calling for a need to clarify the rationale as well as the measures to green provisions in RTAs beyond environment and sustainable development chapters.

Mr. Aaron Cosbey, Senior Associate from the International Institute for Sustainable Development (IISD), made the first key note presentation to frame the discussion on greening RTAs. Three points were made to set the context: (1) RTAs have been increasing exponentially in the past decade; (2) important multilateral agreements have been agreed as of 2015, including the SDGs and COP21; (3) long-standing commitments exist at the multilateral, regional and bilateral levels (e.g., in the Marrakesh agreement and the preamble to the Doha Development Agenda) on the need for synergy between trade and the environment, or trade and sustainable development objectives, to be mutually supportive. He emphasised the importance of focusing beyond environmental chapters and sustainable development chapters in greening RTAs to fulfil the SDGs and to achieve the mutual supportiveness of environment and trade objectives.

Mr. Cosbey underscored important starting points for considering whether and how to green RTAs. First, he stressed the importance of defining the scope of what the term "greening RTAs" means. In particular, does it cover just environmental issues, or sustainable-development issues more broadly? Second, he indicated two approaches to greening RTAs: (1) find synergies between trade and environment objectives — for example, liberalisation of trade in environmental goods and services, or the restriction of environmentally harmful subsidies; or (2) remove obstacles to environmental or sustainable-development policy space within the existing law — for instance, allow local content requirement as conditions for the receipt of environmental subsidies. Third, he pointed out that, in contrast to the trade context of RTAs, which creates a "spaghetti bowl" effect of a multitude of different standards in different export markets, an environmental "spaghetti bowl" effect is unlikely to take place as these provisions pose obligations on the public sector rather than the private sector. Therefore, RTAs have the potential to become a laboratory to pioneer and experiment with environmental provisions that are difficult to pursue at the multilateral level.

In his presentation, several potential areas were highlighted in greening RTAs beyond the environment and sustainable development chapters including investment, subsidies, government procurement, intellectual property rights (IPRs), trade in services, technical barriers to trade (TBT), sanitary and phytosanitary measures (SPS), standards and regulatory convergence. Investment, in particular, was pointed out as an important area for progress, especially given the concerns that civil society have raised in the context of the TPP and TTIP. Some of his suggestions included:

- make clear that non-discriminatory measures of general applications in service of the environment cannot constitute indirect expropriation;
- consider investor obligations, such as environment impact assessment, corporate social responsibility and environmental management, and make those a prerequisite for access to investor state dispute settlement;
- circumscribe most-favoured nation (MFN) obligations to disallow the import of substantive obligations from other agreements into the new agreement;
- address process improvements, such as appellate mechanism or roster of panellists;

- and permit the use of performance requirements that contribute to the environment or sustainable development.

Regarding subsidies, Mr. Cosbey proposed that regional initiatives to reduce or eliminate environmentally harmful subsidies could be considered in RTAs, such as fishery subsidies that are already addressed in the TPP. More controversially, rules governing subsidies that internalise environmental externalities or correct market failures could be considered for some kind of special treatment. Regarding IPRs, patent disclosure (in line with the Nagoya Protocol⁶ obligations on access and benefit sharing) could be required as a prerequisite to granting patents. Within government procurement, rights to discriminate on the basis of environmental criteria could be considered, possibly explicitly recognising that those criteria could include requirements based on processes and production methods (PPMs).

A second keynote presentation was given by Mr. Peter Govindasamy, the Director of the International Trade Cluster at Singapore's Ministry of Trade and Industry. He indicated the potential conflict that could arise in the intersection between trade agreements and the COP 21 Paris Agreement, and emphasised the need for close co-ordination between trade negotiators and environmental officials to identify the point of equilibrium to meet trade and environment objectives in a coherent manner.

Mr. Govindasamy addressed how the WTO and RTAs can facilitate economic growth while meeting the climate challenges effectively, and focussed on two specific areas: non-tariff measures (NTMs) and trade in services. Regarding the notion of NTMs, it is important to make a distinction between NTMs and non-tariff barriers (NTBs), he said. NTMs, such as minimum energy-performance standards, are necessary to meet climate objectives. Not all NTMs are prohibited by WTO or RTA laws; however, it is generally recognised that WTO members — and, by extension, parties to RTAs — should not use NTMs as disguised protectionist measures. Even if an NTM is not illegitimate, it could have trade effects and parties must pay attention to the design and application of their NTMs. Good regulatory practices should be identified to ensure that NTMs that are needed for environmental purposes do not create unnecessarily burdensome trade effects.

Second, he highlighted the need to focus on services, including environmental services and energy services, as a complement to the liberalisation of the environmental goods process at the WTO. Some of these services have been committed in RTAs and to a lesser extent in the WTO. For a holistic treatment of these services, parties should leverage the elements of the collective requests that were stipulated after the Hong Kong ministerial declaration in 2005. Environmental services and energy services are predominantly supplied through “Mode 3”, through commercial presence.⁷ In this regard, countries should undertake ambitious commitments under Mode 3 and remove barriers to commercial presence such as foreign equity limitations, joint-ventures requirements, economic needs tests⁸ and discriminatory licences and procedures. The WTO's General Agreement on Trade in Services (GATS), because of its intrinsically regulation-intensive nature, starts with the recognition that members have the right to regulate. Nevertheless, this

⁶ The *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity* is an international agreement that aims at sharing the benefits arising from the utilisation of genetic resources in a fair and equitable way. It entered into force on 12 October 2014, 90 days after the date of deposit of the fiftieth instrument of ratification. See: <https://www.cbd.int/abs/>

⁷ Four modes of trade in services are defined under GATS depending on the territorial presence of the supplier and the consumer. Mode 3 defines a state where services are supplied by a service supplier of one Member, through commercial presence, in the territory of any other Member. https://www.wto.org/english/tratop_e/serv_e/cbt_course_e/c1s3p1_e.htm

⁸ This is a test that conditions market access upon the fulfilment of certain economic criteria. https://www.wto.org/english/tratop_e/serv_e/mouvement_persons_e/mouvement_persons_e.htm

regulatory autonomy should not be used for protectionist purposes. In order to strike the right balance, RTAs could refer to a provision in GATS Article VI:4 which mandates the development of disciplines on domestic regulations. RTAs should go even further and explore how to strengthen the disciplines on regulatory aspects in facilitating trade in those services that are vital to meeting environmental challenges.

Finally, Mr. Govindasamy raised an emerging issue at the International Organization for Standardization (ISO) on the development of a carbon footprint standard, and its relationship with sustainable government procurement. He stressed the need to ensure that national circumstances are taken into consideration in the development of such standards as in the case of the COP21 Paris Agreement.

The proceeding discussions led to active interventions which ranged widely over a number of issues. In response to a question asking for a clear rationale in greening RTAs, Mr. Cosby made two points. First, public acceptability is paramount. If an RTA is not seen to conform to environmental and sustainable-development objectives, it can face considerable opposition from civil society. Second, the objectives of trade agreements should not focus solely on increasing trade but rather on increasing human well-being. As shown by the broad international consensus behind the SDGs, the trade agreements of the future will need to promote environment and sustainable-development objectives as well.

In response to a question on how environmental provisions could look like in different chapters in trade agreements and whether this implies a big change in the domestic regulatory framework, Mr. Cosby replied that it depends on the substance. For example, the possibility of demanding origin disclosure on patent applications could involve an obvious change in the domestic regulatory structure for intellectual property rights. On the other hand, on investment agreements, carving out non-discriminatory application for public-welfare objectives from the coverage of indirect expropriation actually safeguards the existing domestic regulatory processes. Pioneering provisions, which go beyond what are currently found in environment or sustainable-development chapters, can be found in some cases such as: green procurement criteria; exemptions from indirect expropriation; appellate mechanisms and a roster of arbitration panels in investment agreements; and obligations on fisheries subsidies. UNEP and IISD are currently working on a sustainable toolkit for trade negotiators that explores some of these provisions and policy options. (See also session 3)

Following the preceding discussion, one delegate questioned whether action really needs to take place to “green” RTAs in a systematic way, or whether it is already evolving in a spontaneous way. Mr. Cosby answered that these pioneering provisions were easily found for some areas whereas they were extremely difficult to find for others. For example, in almost every new trade agreement, there are standard provisions stating that Article XX (b) of GATT covers the environment as well as human, animal or plant life or health. In other areas, satisfactory language is missing, or at best is scattered in texts of a few RTAs. The variety of different approaches in addressing environmental objectives in RTAs suggests that the issue of greening RTAs a ripe area for exploration, requiring new analytical work to identify best practices and knowledge gaps.

On an additional note, it was suggested that the possibility of exploring greening commodity agreements such as the International Tropical Timber Agreement⁹, the International Coffee Agreement¹⁰, or regional fishery-management agreements, could provide further interesting areas to explore.

One question was raised on the issue of whether or not there already is policy space for environmental subsidies. Green subsidies on the consumption side have never been challenged unless they have been tied to a prohibited action such as a local-content requirement. Mr. Cosby replied that whether these kinds of

⁹ <http://www.itto.int/itta/>

¹⁰ http://www.ico.org/ica2007.asp?section=About_Us

environmental subsidies are currently constrained by trade rules is a good question. The most important way in which they are challenged is if they are associated with a local content requirement that is a prohibited trade related investment measure (TRIM). Therefore, the question then is whether these kinds of local content requirement can work or not and whether they should or should not be prohibited by trade law. The now-expired Article 8 of the Agreement of Subsidies and Countervailing Measures (ASCM) provided special treatment (non-actionability) for a very narrow category of environmental subsidies. However, no WTO member ever availed itself of such protection (which would have required specific and prior notification of the subsidy).

Similarly, there was a question on policy space for green government procurement. Green procurement has been used extensively, and is compatible with the plurilateral Government Procurement Agreement (GPA) as long as the criteria do not discriminate in terms of country of origin. Mr. Cosby acknowledged that there is currently space within the trade law to pursue green procurement. However, he said, it is important to revisit green procurement especially after the panel results of the India National Solar Mission case at the WTO, which is still under appeal.¹¹

Another question called for concrete examples on why the development of international standards such as carbon footprint and sustainable procurement must take account of national circumstances. Mr. Govindasamy answered that Singapore, because of its geographical constraints, has limited access to renewable-energy options such as hydro-electric power, tidal power and solar power, and as a result relies about 90% of their energy on natural-gas imports. In the development of this standard, their concern is that their inability to access renewable-energy options may burden their exports. Therefore, the methods for carbon-footprint standards being developed at ISO should take into account of national circumstances, in his view.

Finally, Messrs. David Gaukrodger and Joachim Pohl of the investment division of the OECD's Directorate for Financial and Enterprise Affairs (DAF) shared insights on parallel work within the investment-policy community on greening international investment agreements. Their work consists of investment for green growth (OECD, 2011) and more recently on statistical surveys of investment treaty language relating to the environment and analytical work on fair and equitable treatment (FET) provisions.

¹¹ https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds456_e.htm

SESSION 2: CURRENT STATE OF PLAY - INTERNATIONAL EXPERIENCE ON GREENING RTAS

The second session was chaired by Ms. Kaja Brundtland Edrén, Senior Adviser at the Section for Trade Policy and International Economic Analysis at the Ministry of Foreign Affairs, Norway. This session aimed to highlight the current practice of greening RTAs beyond environmental and sustainable development chapters in countries and economies from different regions, by focussing on two different RTAs from the Asia-Pacific region and the Americas.

The discussion was preceded by a presentation of Ms. Claudia de Windt from the Organization of American States (OAS), who gave an overview of American countries' experiences with greening RTAs. Her presentation discussed environmental trends in RTAs in the Americas, their challenges, and possible next steps.

First, she noted the increasing recognition by the Central American countries of the importance of sustainable development. She described the different types of environmental provisions and obligations in the RTAs of the three main trading partners of Central American countries (Canada, the European Union, and the United States), and summarised their key common elements: effective enforcement of environmental law; environmental co-operation; citizen engagement; and participation.

She then explained the difficulties and challenges that confront policy makers when including and implementing environmental provisions in RTAs in the Americas. She stressed that there are significant asymmetries among countries in the level of capacity to address technical issues of environmental provisions. She also added that there is lack of coherence between trade and environmental policies. Provisions to enhance environmental protection are included in environmental chapters, but in other chapters of trade agreements, environmental objectives are typically ignored.

Ms. de Windt concluded that coherence and an integrated policy framework in greening RTAs is very important. She stressed that, because of such tensions among chapters in RTAs, without a coherent set of objectives RTAs may generate less environmentally positive impacts than expected. Another important aspect was that most economies of member states of the OAS are based on the production of natural resources, rather than of value-added manufactures. Such an intrinsic relationship between trade and natural resources in the economy highlights the need for having an integrated, sustainable-development approach in trade agreements. Establishing a common concept is extremely important in achieving meaningful outcomes, such as the interpretation of expropriation or environmental law within an agreement, she said. Finally, she reiterated that trade is clearly stated as one of the key measures in achieving the SDGs and that this further underscores the importance of ensuring that trade agreements are supportive of sustainable development.

The second presentation was made by Mr. Muralitharan Paramasua, from Malaysia's Ministry of Natural Resources and Environment. Mr. Paramasua gave an overview of RTAs in the Asia-Pacific region including the free trade agreements (FTAs) of ASEAN Member States and the TPP, and summarised that most lack progressive environmental provisions. He elaborated that environmental chapters or provisions can be found only in a few of the FTAs to which ASEAN Member States are a party; mainly reference to the environment or sustainable development appear only in the preamble or the general-exceptions chapters. He pointed out that environmental provisions are still considered as of secondary importance in the ASEAN region. In his view, Asian economies should be giving more emphasis to incorporating environmental provisions in their FTAs. For this, he suggested that ASEAN Member States include environmental chapters as well as environmental provisions in other chapters, such as those covering

technical barriers to trade (TBT), market access, government procurement, and trade in services. He added that making environmental provisions subject to enforcement provisions is crucial to avoid making environmental provisions “toothless tigers”.

The two presentations were followed by interventions, which provoked lively discussions. One delegate asked Ms. de Windt to elaborate on the recent arbitration decision under DR-CAFTA relating to an alleged expropriation to which she had previously alluded. Ms. de Windt explained that this case concerned the expropriation for a mining license in the Dominican Republic and that the decision was rendered in favour of the government’s right to regulate (it had invoked an environmental reason for denying the license). In this regard, she emphasised again the importance of regulatory coherence, noting that more specific and tailored language relating to environmental protection is vital to securing a government’s right to regulate for environmental purposes.

Another participant asked Ms. de Windt what, in her view, are the most important issues to include in greening RTAs. In response, Ms. de Windt said that we could be ambitious, but knowing the environmental consequences of tariff reduction in each sector would make it easier to prioritise the environmental issues that should be addressed in an RTA. She added that examining the linkages between commitments of the 2030 Agenda for SDGs and role of trade would also provide a good starting point.

On the question of whether there is any particular path by which the greening of RTAs in ASEAN might evolve, and what would be the future of ASEAN RTAs, Mr. Paramasua replied that there is no specific best practice in ASEAN. He expressed confidence that RTAs will move toward embracing environmental goals, but he expected that progress would be very slow.

In sharing domestic experiences, one participant flagged that the transition from agreements based on environmental co-operation to those based on high environmental standards with strong enforcement and commitment provisions has been a difficult exercise. Ms. de Windt added that tackling those challenges would provide lessons for future RTA negotiations. She explained that the OAS has a database on environmental provisions developed with Canada that could be used to analyse how those provisions have actually worked. She also said that matching these challenges with corresponding co-operation activities would facilitate better implementation.

Overall, the session highlighted the different status of environmental provisions in RTAs across different regions, particularly between ASEAN and Latin America, and the different approaches they were taking towards greening RTAs. It provided an opportunity to recognise the variability in positions and priorities due to specific country contexts, and the value of sharing experiences as well as seeking alternative ways to address environment and sustainable development objectives in trade agreements.

SESSION 3: GREENING RTAS — ROUNDTABLE DISCUSSION AND NEXT STEPS

Mr. Joseph Ferrante, Senior Advisor to the US Environmental Protection Agency and JWPTE co-chair, moderated the roundtable discussion. He started off by underscoring that it was a key session, as its aim was to identify possible pathways forward. He then made two observations. First, because negotiating parties have different starting points and perspectives, there is no common baseline from which the greening of RTAs must start. Second, he drew attention to evolution of ideas over time as provisions get proposed and implemented, many via co-operation mechanisms. Evaluating environmental provisions and adjusting the design of new provisions or co-operation activities in light of experience therefore takes time. He mentioned also the potential opportunities in greening RTAs across a number of areas, including: regulatory coherence and regulatory issues; investment; government procurement agreements to foster environmental purchasing and performance requirements; environmentally harmful subsidies and environmentally beneficial subsidies. Other possible changes include ensuring that dispute-settlement panels are informed by environmental expertise, and securing exceptions that are in line with those in GATT Article XX and GATS Article XIV.

Mr. Ernesto Guevara, Director of Technical Requirements for Foreign Trade, Vice Ministry of Foreign Trade of Peru, presented insights based on their experience. He mentioned co-ordination and communication across ministries and negotiating groups was fragmented and inadequate, making it more difficult to take an integrated approach towards sustainable development over the whole of an RTA. He highlighted a number of areas where environment provisions could be introduced beyond environment chapters including, market access, investment, TBT and SPS. On market access, he mentioned that the inclusion of provisions on trade in the products of modern biotechnology has been a huge step for Peru. On investment, it was suggested that performance requirements should not impede a party to adopt environmental measures; commitments should be in place to ensure that investment activities are undertaken in-line with environmental objectives, and regulatory actions by a party to protect the environment should not constitute indirect expropriation. He concluded that seeking synergy between environment chapters and other chapters should be the aim. However, it will require strong political support for environmental provisions to be included in other chapters of RTAs.

Ms. Ying Zhang, of the Trade, Policy and Planning Unit of the UN Environment Programme, presented their forthcoming Sustainability Toolkit for Trade Negotiators, which is a component of their broader project on the Environment and Trade Hub.¹² The toolkit aims to provide guidance to trade negotiators to ensure that bilateral and regional trade agreements are developed in a way to contribute to environmental and sustainable-development objectives. It specifically looks into the ways in which environmental issues could be integrated within an agreement, and suggests provisions and policy options based on practical examples or model disciplines available from international organisations. Following the launch of the toolkit (expected in 2016), further workshops are planned for dissemination and training activities, tailored to addressing countries' specific needs.

Mr. Shunta Yamaguchi, Policy Analyst of the OECD Environment Directorate, presented the possible next steps in the OECD work programme. He highlighted a number of areas in RTAs mentioned during the discussions (such as investment, subsidies, market access, trade in services and intellectual property rights) that would be strong candidates for "greening". There might be other opportunities as well to take topic-driven approaches, work within commodity agreements, and link capacity building with co-operation commitments. Finally, he highlighted a need to identify priority areas, as not all areas can be greened at the

¹²

<http://web.unep.org/greeneconomy/what-we-do/environment-and-trade-hub>

same time. He concluded that these potential ideas will be presented in a scoping paper for the JWPTE towards the end of 2016.

The preceding discussions covered a number of issues on how to better engage with trading partners in greening RTAs. Multilateral agreements such as SDGs and COP21 were highlighted as important drivers in pursuing environment provisions beyond environment and sustainable development chapters. Essential to making progress, however, is developing a common understanding across ministries of a country's environmental and sustainable development objectives. This process will typically require several rounds of discussions.

One participant returned to the issue of subsidies and highlighted that disciplining environmental harmful subsidies, as seen in the TPP agreement on fisheries subsidies, could be clearly dealt within the context of RTAs as it only imposes commitments on the parties to an agreement. However, language in RTAs aimed at providing greater policy space for subsidies justified on environmental grounds can only bind the parties to the agreement; they cannot abrogate the rights of non-parties to challenge any policy, such as an associated local-content requirement, that in their consideration violates a WTO rule. That limits the extent to which RTAs can change the commercial landscape in this area.

Finally, in terms of next steps, several points were highlighted through the discussions as fundamental elements to be addressed in greening RTAs. First, governments should make the rationale for greening RTAs beyond environment and sustainable development chapters clear to all stakeholders. Second, the potential areas in greening RTAs need to be identified. Third, among them, priority areas should be specified according to a defined framework or set of criteria for narrowing the scope. Fourth, new approaches could be explored. This process would also need to take account of different circumstances and country contexts.

The workshop was concluded by closing remarks from Mr. Joe Ferrante (US EPA). He thanked all the participants for their substantive inputs as well as the contributions from the EU and organisers for hosting this event.

ANNEX 1. WORKSHOP AGENDA

Friday 10 th June 2016	
8:30	REGISTRATION
9:00	<p>OPENING REMARKS AND INTRODUCTION — SETTING THE SCENE</p> <p>Speakers:</p> <ul style="list-style-type: none"> Opening remarks (on behalf of the JWPTE) Vangelis Vitalis, JWPTE co-chair, Ambassador, Permanent Representative of New Zealand to the World Trade Organization (WTO) Introduction — Emerging interest in greening RTAs Shardul Agrawala, Head of Environment and Economy Integration Division, OECD
9:15	<p>Session 1: GREENING RTAS — REALISING THE POTENTIAL BEYOND ENVIRONMENT CHAPTERS</p> <p>Moderator: Kuno Zurkinden, State Secretariat for Economic Affairs – SECO, Switzerland</p> <p>Objective This session will aim to identify the potential opportunities and approaches in greening RTAs beyond environmental and sustainable development chapters and to shed light on various efforts led by governments, intergovernmental organisations and research institutes.</p> <p>Keynote speakers:</p> <ul style="list-style-type: none"> What do we really mean by “greening RTAs”? What are the opportunities beyond environment chapters? Aaron Cosby, Senior Associate, International Institute for Sustainable Development (IISD) What could be approaches for “greening” other chapters in RTAs (such as investment, government procurement, market access, TBT, co-operation and capacity building or dispute settlement etc.)? Peter Govindasamy, Director, International Trade Cluster, Ministry of Trade & Industry, Singapore <p>Discussion</p> <p>Key Issues</p> <ul style="list-style-type: none"> What are the opportunities in greening RTAs beyond environment chapters? What are the limitations of having a dedicated environment chapter? In an ideal world, what would a “green” RTA look like?
10:45	COFFEE
11:00	<p>Session 2: CURRENT STATE OF PLAY — INTERNATIONAL EXPERIENCE ON GREENING RTAS</p> <p>Moderator: Kaja Brundtland Edren, Senior Adviser, Section for WTO and OECD, Ministry of Foreign Affairs, Norway</p> <p>Objective This session aims to highlight the current practice of greening RTAs beyond environmental and sustainable development chapters in countries and economies from different regions by focussing on 2 different RTAs from Asia-Pacific and the Americas.</p>

	<p>Keynote speakers:</p> <ul style="list-style-type: none"> Greening RTAs in the Americas Claudia de Windt, Senior Legal Specialist, Department of Sustainable Development, Organization of American States (OAS) Examples of greening articles from the TPP and Asia-Pacific Muralitharan Paramasua, Undersecretary, Strategic Planning and International Division, Ministry of Natural Resources and Environment (NRE) Malaysia <p>Discussion</p> <p>Key Issues</p> <ul style="list-style-type: none"> What is the current state of play of greening RTAs in different regions? Are there any commonalities or differences between different regions? Are there any best practices that can be identified?
13:00	LUNCH
14:30	<p>Session 3: GREENING RTAS — ROUNDTABLE DISCUSSION AND NEXT STEPS</p> <p>Objective This session aims to identify the key knowledge gaps as well as the way forward and the next steps in greening RTAs beyond environmental and sustainable development chapters.</p> <p>Speaker:</p> <ul style="list-style-type: none"> Way forward in greening RTAs Joseph A. Ferrante, JWPTE co-chair, Senior Advisor, US Environmental Protection Agency <p>Stakeholder Roundtable:</p> <ul style="list-style-type: none"> Insights from Peru Ernesto Guevara, Director, Technical Requirements for Foreign Trade, Vice Ministry of Foreign Trade, Peru Provisional Toolkit on Greening RTAs — Update from UNEP Ying Zhang, Associate Programme Officer, Trade, Policy and Planning Unit, UN Environment Programme Possible next steps in the OECD work programme Shunta Yamaguchi, Policy Analyst, OECD <p>Discussion</p> <p>Key Issues</p> <ul style="list-style-type: none"> What are the key knowledge gaps in making RTAs greener? Where are the potential areas and the possible approaches in greening RTAs? What are the next steps to support the transition towards greening RTAs and to better facilitate their successful implementation?
End of Workshop	

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