



**Asia-Pacific  
Economic Cooperation**

**REPORT ON APEC SEMINAR ON FACILITATING  
TRADE AND ENVIRONMENTAL PROTECTION**

*Ha Noi, Viet Nam  
15 – 16 December 2009*

**Committee on Trade and Investment**

**December 2009**

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**AGENDA**  
**APEC SEMINAR ON FACILITATING TRADE AND ENVIRONMENTAL PROTECTION**  
*Sofitel Plaza Hotel, Ha Noi*  
15 – 16 December 2009

<b>Day 1: 15<sup>th</sup> December 2009</b>		
8.30 – 9.15	Registration	
9.15 – 9.30	Welcome Remarks	H.E Nguyen Nam Hai, Vice Minister of Industry and Trade of Viet Nam
9.30 – 12.00	<b>Session 1: The status and experiences of APEC member economies in dealing with trade-related environmental measures (TREM)s</b>	<u>Moderator:</u> Ms. Nguyen Huong Tra, Associate Expert, Viet Nam Chamber of Commerce and Industry (VCCI)
9.30 – 10.10	<i>Outcomes of Survey on TREMs in APEC member economies and recommendations drawn from the Survey</i>	Mr. Olivier Delessale – Expert Golden Bridge, Viet Nam
10.10 – 10.40	<i>Reviewing APEC's work on trade and environment</i>	Dr. Akihiko Tamura, Councilor for APEC, Ministry of Economy, Trade and Industry of Japan, Convenor of the APEC Market Access Group (MAG)
10.40 – 11.10	Coffee break	
11.10 – 11.50	Discussion	
12.00 – 13.30	Lunch break	At Sofitel Plaza Hotel
13.30 – 16.45	<b>Session 2: New developments of trade and environment agenda and implications on international trade</b>	Dr. Hu Tao, Ministry of Environmental Protection, China
13.30 – 14.10	<i>Implication of the trade and environment WTO negotiating agenda for developing economies (environmental considerations in WTO Agreements)</i>	Dr. Wen-chen Shih, Associate Professor of Law, National Cheng-chi University, Chinese Taipei
14.10 – 14.50	<i>New developments of trade-related environmental measures and implications on international trade</i>	Dr. Wen-chen Shih, Associate Professor of Law, National Cheng-chi University, Chinese Taipei

14.50 – 15.20	Coffee Break	
15.20 – 16.00	<i>EU' experience on addressing the issues of climate change, trade and sustainable development</i>	Ms. Anna Sabelstrom, Legal Advisor, Department of Trade and Sustainable Development, Swedish National Board of Trade
16.00 – 16.45	Panel Discussion and Q & A	
<b>End of Day 1</b>		
<b>Day 2: 16<sup>th</sup> December</b>		
9.00- 12.30	<b>Session 3: Strategy for the integration of environmental considerations into policy making process to promote sustainable development</b>	<u>Moderator:</u> Ms. Anna Sabelstrom, Legal Advisor, Department of Trade and Sustainable Development, Swedish National Board of Trade
9.00 – 9.30	<i>Taking Environmental Considerations into Trade Policies - China's Experiences of Green Trade</i>	Dr. Hu Tao, Ministry of Environmental Protection, China
9.30 – 10.00	<i>Mexican's experiences on Taking into account Environmental consideration into the Policy making process for sustainable development</i>	Ms. Cintia Rubi Amezcua Orellana Director of Trade Aspects, Ministry of Environment and Natural Resources
10.00 – 10.30	<i>Strategies for the integration of environmental considerations into policy making process to promote sustainable development --Chinese Taipei's experience</i>	Dr. Wen-chen Shih, Associate Professor of Law, National Cheng-chi University, Chinese Taipei
10.30 – 10.50	Coffee Break	
10.50 – 11.20	<i>How to take into account environmental considerations in members' economies trade policy: Chile's experience</i>	Ms Claudia Ayala, Economist Trade and Sustainable Development Department General Directorate for International Economic Affairs Ministry of Foreign Affairs Chile

11.20 - 11.50	<i>Trade and Environmental policy – the experiences of Viet Nam</i>	Prof. Nguyen The Chinh, Vice President of the Institute of Strategy and Policy on Natural Resource and Environment (ISPONRE)
11.50 – 12.30	Discussion	
12.30 – 14.00	Lunch break	
14.00 – 16.00	<b>Session 4: Trade and Environment towards sustainable development – the way forward for APEC</b>	
14.00 – 15.00	<i>Group discussions on how to further APEC's work on trade and environment</i>	
15.00 – 15.20	Coffee break	
15.20 – 16.00	<i>Presentation of outcomes by groups</i>	
16.00	Closing remarks	High – ranking official of the Ministry of Industry and Trade of Viet Nam
<b>End of the Event</b>		

**OPENING SPEECH BY VICE MINISTER OF THE MINISTRY OF  
INDUSTRY AND TRADE  
AT THE APEC SEMINAR ON**

**“FACILITATING TRADE AND ENVIRONMENTAL PROTECTION”**

*On 15/12/2009 in Sofitel Plaza Hotel, Ha Noi*

**Ladies and Gentlemen,**

First of all, on behalf of the Ministry of Industry and Trade of the Socialist Republic of Viet Nam, I would like to warmly welcome you to Hanoi to attend the APEC Seminar on “*Facilitating Trade and Environmental Protection*”, which is held on 15th and 16th December 2009.

Environmental protection for sustainable development remains a global challenge. Nowadays, countries can not only target for economic growth but also have to attach growth objectives to environmental protection and mitigation of climate change effects for the prosperity of the world community.

Trade and environment do not emerge as a new issue. Many researches have been undertaken on the relationship between trade and environment, including ones on the impacts of trade liberalisation on environment and growing concerns over the use of environmental objectives as disguised trade barriers. Looking from any perspective, it is undeniable fact that neither can we stop the tendency of trade liberalisation which is ongoing globally, nor can we ignore the vital importance of protecting environment from erosion due to increasing industrial wastes and unreasonable exploitation of natural resources. Hence, hamonizing trade and environmental protection always remains a big challenge that requires each economy to address properly.

As a dynamic Forum, which is actively responsive to issues of common interests in the region, APEC puts many efforts to promote cooperation among member economies on sustainable development, namely enhancing market access for environmental goods and services, promoting energy efficiency in production process and facilitating clean development mechanism (CDM) projects. In that light, APEC has sponsored Viet Nam to organise the APEC Seminar on “*Facilitating Trade and Environmental Protection*” to enable member economies to obtain an overview of the status of trade and environmental protection in the world in general and in its member economies in particular. Taking this opportunity, we would together examine challenges and opportunities that developing countries are facing on facilitating trade and

environmental protection, share experiences in incorporating environmental considerations into policy making process as well as to help strengthen cooperation among APEC member economies on sustainable development. The outcomes and contributions by experts and delegates in this Seminar will be delivered to APEC's fora and working groups as a reference in APEC's upcoming discussions and follow-up activities on sustainable development.

On this occasion, I would also like to thank you for coming a long way to Ha Noi in participation of this Seminar. On behalf of the Organizing Committee, I wish you join this event proactively and effectively; and in the mean time, spend your budgeted time discovering Ha Noi, a peaceful capital city of Viet Nam.

May I wish you all good health and success.

Thank you./.

**SUMMARY REPORT**  
**APEC SEMINAR ON FACILITATING TRADE AND**  
**ENVIRONMENTAL PROTECTION**

*Ha Noi, 15-16 December 2009*

The Ministry of Industry and Trade of the Socialist Republic of Viet Nam held the “APEC Seminar on Facilitating Trade and Environmental Protection” on 15<sup>th</sup> and 16<sup>th</sup> of December 2009 in Ha Noi under CTI 29/2009T Project. Attending the Seminar are experts, officials and academics from APEC economies as well as representatives of private sector and NGOs in Viet Nam.

Throughout the Seminar, delegates explored (i) the status and experiences of APEC member economies in dealing with trade-related environmental measures (TREM)s by hearing the outcomes of the Survey on TREMs in APEC economies; (ii) new developments of trade and environment agenda and implications on international trade; (iii) strategy for the integration of environmental considerations into policy making process to promote sustainable development and (iv) producing recommendations to push forward the issue of trade and environment under APEC framework.

**I/ The status and experiences of APEC member economies in dealing with trade-related environmental measures (TREM)s**

Under the first Part of the Project, a survey on the status of applying trade related environmental standards (TREM)s in APEC member economies is undertaken. In regard of the consequences on trade, there are two kinds of environmental measures, namely Environmental Related Trade Measures (ERTM) and Trade Related Environmental Measures (TREM)s. The former has a direct and obvious impact on trade (bans, quotas, trading permits etc. set up to protect environment). The latter has an indirect impact on trade. TREMs is classified into 2 kinds namely voluntary schemes implementing product-related environmental measures such as eco-labeling and marking; and mandatory requirements including domestic laws and regulations (administrative tools or economic instruments) and Multilateral Environmental Agreements (MEA).

Trade provisions for environmental purposes have been integrated in many agreements both at the bilateral and multilateral level. There is a wide diversity of FTAs, ranging from pure trade concerns to broad objectives among which, environmental purpose has been of increasing use. Most of the time, FTAs that include TREMs or ERTM are found where a developed economy is a party to the agreement. Also, cooperation has been proven to be more efficient than trade measures.

MEAs seem to be the preferred way to address environmental concerns. About one fifth of MEAs contain trade provisions and a majority of MEAs have been ratified by APEC economies (exception is Chinese Taipei, which has not yet joined any MEA). Principal measures include imports and exports prohibitions, trade restrictions very often associated with a phasing-out scheme, standards, licensing requirements, and prior informed consent procedures. Sometimes, MEAs also provide less stringent requirements for developing economies and support developed economies to provide technical and financial assistance to developing ones. It is indeed more efficient to encourage economies to meet environmental requirements rather than restricting their trade.

Since trade liberalization has brought countries to reduce import tariffs substantially, concerns over the use of non-tariff barriers have been raised. Many economies have used environmental objectives as an excuse to favor domestic producers over competing imports. It is a new form of disguised protectionism. In this regards, the WTO recommends environmental incentives, e.g. eco-labeling, rather than direct trade measures. It also emphasizes that support should be provided to developing economies to help them meet environmental standards.

APEC economies support the idea of developing an action plan to promote cooperation on trade and environmental protection. Besides international fora, in which economies take part to tackle this matter, APEC can play a fundamental role in straightening the debate and providing new solutions to make environmental and trade concerns mutually supportive.

The overall approach should push for voluntary standards in lieu of mandatory requirements. Although the later are sometimes preferable, voluntary standards have been proven to be more efficient because they are less trade distorting, more flexible and easier to comply with. Also, economies should move toward more harmonization between them. When possible, it is strongly advised to adopt international standards rather than creating domestic specific requirements. Home-made standards can be very cumbersome and costly for companies since they raise transaction costs and are time consuming. Sometimes however, a certain degree of competition between standards setting is necessary to select the best ones. An alternative approach consists mutual recognition agreements. Furthermore, it is sometimes more recommended to prefer mutual recognition over harmonization since standards are not appropriate everywhere. What is important is the convergence of principles rather than a rigid harmonization of standards. In addition, TREMs should focus both on production process and product consumption, with a preference for the later, rather than product disposal. That way, measures are more likely to be effective to solve primary environmental problems. Finally, foreign suppliers should be associated to the preparation of environmental schemes in order to prevent the creation of new non-tariff barriers and to maintain a fair competition in international trade.

Apart from the kind of TREMs economies should implement, they should also perform, when appropriate, impact assessments. Their objective should be twofold: they should assess to what extent they are going to have any impact on improving the environmental problem they

intend to solve and they should also see how they are likely to distort trade, both at the national level and on foreign suppliers. Impact assessment can assist in choosing best measures and reject inefficient ones. It can also help avoiding conflict and provide materials for enhanced cooperation in APEC.

In order to straighten transparency and communication, economies should first rely on the WTO since it is the most widely used source covering most economies. APEC, on its part, could be complementary by creating a database of TREMs adopted by APEC economies and by providing training activities for official and reinforce communication between decision makers and companies.

Cooperation at the APEC level should lead to gain more support from developed to developing economies to help them meeting environmental requirements. Developed economies should provide technical and financial support to developing economies rather than sanctioning them for not being able to comply with or adopting similar requirements than theirs. This strategy turns out to be more effective since it is less trade distorting. More generally, cooperation should not mean imposing higher mandatory standards to everyone. The race for better environmental control will not be successful if it is imposed by force. Rather, it is advised to favor voluntary approaches based on common agreed principles decided at the APEC level. Fixing goals and objectives should be APEC's mission rather than imposing the method. A bottom-up approach based on individual initiatives and responsibilities will be more efficient and more sustainable than mandatory requirements.

At the Seminar, Dr. Akihiko Tamura, Councilor for APEC of the Japanese Ministry of Economy, Trade and Industry (METI) briefed the Seminar about the APEC's work on trade and the environment. The Market Access Group (MAG), a sub-group of the Committee of Trade and Investment (CTI), was established in 1998 to advance CTI's works on tariffs and non-tariff measures (NTMs). MAG's priorities recently include environmental goods and services (EGS), rules of origin under FTA/EPA and trade in IT products. Dr. Tamura emphasized the increased trend of trade in environment, 95% up from 1999 to 2002. EGS has been included in the Doha negotiations. He emphasized the role of trade liberalization which helps boost trade in EGS and highlighted WTO's important role in eliminating tariff for EGS. He also noticed that the Asia-Pacific has an important role in promoting EGS trade. Figures show that Asian economies enjoyed great share in trade in EGS (such as electric appliances washers, microwaves, vacuums and lighting devices etc...). A number of activities have been carried out in MAG on EGS and closer cooperation among APEC members is needed to bring more fruitful outcomes to this exercise. This work needs to be advanced from both member economies' as and APEC's levels. APEC plays an important role in providing member economies with cooperation framework and assisting them through capacity building to carry out effective activities and initiatives on EGS.

## **II/ New developments of trade and environment agenda and implications on international trade**

Dr. Wen-chen Shih, Associate Professor of Law, National Cheng-chi University, Chinese Taipei presented the implication of the trade and environment WTO negotiating agenda for developing economies. The trade and environment negotiation in the WTO Doha Round was launched at the Fourth WTO Ministerial Conference in Doha, Qatar in November 2001. It contains 21 subjects, including negotiations and implementation – related issues. It is important that guiding principles are agreed among members, namely concept of single undertaking, special & differential treatment for developing and least developed members and sustainable development.

Under the Trade and Environment negotiations mandates, paragraph 31 – 33 of the Doha Ministerial Declaration mandated WTO Members to launch negotiation on “trade and environment”. It is a fact that the first negotiation round in the history of the GATT 1947 and the WTO put into the official negotiation agenda issues related to trade and environment to address and/or improve environmental-related concerns within the WTO legal regime. Since then, there has witnessed the development of international environmental regimes in late 1980s and early 1990s, especially the World Commission on Environment and Development in 1987 and the United Nations Conference on Environment and Development (the Rio Conference) in 1992.

Under the WTO legal framework, environmental considerations are taken seriously. The Preamble of the Marrakesh Agreement establishing the World Trade Organization states that it is “seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development”. The Article XX of GATT contains regulations such as (b) necessary to protect human, animal or plant life or health’ and (g) relating to the conservation of exhaustible natural resources. In addition, the work programmes of the Committee on Trade and Environment also include among others, trade rules, environmental agreements, disputes, environmental protection and the trading system, transparency of environmental trade actions, environment and trade liberalization.

However, there remains major controversies in trade and environment such as products vs. production and process methods; multilateral environmental agreements containing trade measures vs. WTO; risk assessment vs. precautionary principles; protection of intellectual property rights vs. public health and dissemination of technology; eco-labeling; transparency in the dispute settlement process.

Trade-related environmental measures and its implications on international trade are one of the Seminar’s focus. It is commonly understood that trade-related environmental measures (TREMs) are adopted for the purpose of environmental protection. They fall into 2 categories namely unilateral TREMs (trade restrictive measures adopted according to domestic laws of individual country); and multilateral TREMs (trade restrictive measures set out or adopted under the mandates or authority of multilateral environmental agreements (MEAs)).

These two types of TREMs in the WTO raise disputes on norms as whether TREMs will be held incompatible with the WTO rules or vice versa; and conflict of jurisdiction as whether dispute arising from the application of TREMs can be subject to review by more than one international or regional tribunals. Relating to conflict of norms, to solve these controversies in unilateral TREMs, there is a need of interpreting and applying Article XX (b), (g) or other environmental-related WTO covered agreements. In multilateral TREMs, DDA trade and environment negotiation (paragraph 31 of the Doha Ministerial Declaration) should be applied.

Nowadays, TREMs has developed to a new level to meet the current demands. New types of TREMs include traditional border measures, for example border tax adjustment for import and export and investment measures, financial mechanisms. In multilateral TREMs, investment measures include Clean Development Mechanism (CDM) and Joint Implementation under the Kyoto Protocol, various carbon funds” under multilateral or regional development banks. Financial mechanisms cover multilateral fund of the Montreal Protocol, Global Environment Facility acting as financial mechanism under UNFCCC, CBD, CCD, and Stockholm Convention. Trade liberalization regulates emissions trading under the Kyoto Protocol. All these measures are optional.

They have certain implication on international trade. The traditional TREMs mainly adopted “traditional” trade policy instruments such as trade prohibition or restrictions, import/export control measures, product standards, which made it easier to identify impacts on international trade. However, the legality of such TREMs under the WTO framework remains controversial. Meanwhile, new types of TREMs use both traditional border measures and new policy instruments whose impact on international trade, as well as relationship with international trade rules, are indirect and difficult to determine.

Ms Anna Sabelstrom, a Researcher on Trade, Environment and Climate Change and Legal Adviser at the Swedish National Board of Trade shared the experiences of the Swedish Climate Change Project in response to trade, climate change and sustainable development. The Swedish National Board of Trade was established to facilitate an effective Internal Market, an open trade policy in the EU and strong multilateral international trading system. It also helps provide the Swedish government with analyses and input on trade policy matters and remains a contact center for questions regarding free movements within EU/EES; increase public knowledge about foreign trade and trade policy; and trade expertise for trade related capacity building and development cooperation.

The European Union has launched a climate-energy legislative package in response to the calls to address climate change such as EU Renewable Energy Directive 2009/28/EC, Revised EU Emission Trading Scheme 2003/87/EC (ETS) and the “Effort –sharing” decision 2009/..., which specifies binding emission targets for EU member states not subject to the ETS. The EU has also set out quality standards for fuels and biofuels, emission performance specifications for new passenger cars and regulatory framework for carbon capture and storage. Furthermore, the EU has created trade policy instruments linked to environment and climate change, including

free trade agreements-negotiations covering Sustainability Impact Assessments (SIA), additional trade preferences to countries committed to implementing environmental and social standards (GSP) and liberalizing environmental goods and services in the WTO.

The Swedish Climate Standards Project was launched in January 2008 by the Swedish Ministry of Foreign Affairs. This Project aims at encouraging global standards to become a tool for climate change mitigation and strengthening developing economies' participation and voice in standardization process, increasing trade with climate technology/climate friendly goods and services as well as promoting sustainable development. One of the efforts in this regard is the organization of the Conference on "Climate Change, Standardization and Trade in a development perspective", which was held in Stockholm from 23 – 25 November 2009 with the participation of about 50 developing economies. In addition, a five-year programme on a global basis accompanying the ISO work, including needs assessment, establishing quality infrastructure, awareness raising, train-the trainers and best practice conferences is under plan.

### **III/ Strategy for the integration of environmental considerations into policy making process to promote sustainable development**

In this session, speakers and representatives from China, Chile, Mexico, Chinese Taipei and Viet Nam share their experiences on green development.

Dr. Hu Tao from the Ministry of Environmental Protection of China introduced APEC's participants about the Green Economy Era, which was initiated by President Hu's leadership. This Era covers new concept of scientific development, harmonious society, all round Xiaokang Society target, resource saving and environmental-friendly society, changing of economic growth model from energy and resource based to hi-tech, service oriented, as well as 20% energy intensity and 10% sulfur reduction target in 11<sup>th</sup> five year plan, and economy for low carbon, low sulfur, low Nox, low PM, etc. China takes seriously environmental considerations into its trade policies to make it a Green Trade Policy, in which environment is classified into indoor, outdoor, local, national and global to assess its impact. Under the Green Trade Policy, it is divided into level (product, firm, sector, macro economy) and instruments to manage, for example, import - export; tariff and non-tariff. At product level, China launches eco-label goods and services promotion such as environmental-friendly product scheme, energy saving scheme, organic food and green food scheme, eco-label mutual recognition, green tourism, green hotels, etc. At firm level, China is applying ISO 14000 certificates, green name list to recognize environmental friendly enterprises and black name list to share information on polluting industries among Ministry of Environmental Protection (MEP), Ministry of Commerce (MOFCOME), Ministry of Finance (MOF), and National Development and Reform Commission (NDRC). At sectoral level, the government invented investment guidelines for encouraged sectors, allowed sectors, restricted and prohibited sectors. At macro economy level, the government has a stimulus plan for combating financial crisis in which also takes into account green development.

Ms Claudia Ayala, an Economist from the Ministry of Foreign Affairs of Chile presented her economy's experiences on taking into account environmental considerations in trade policies. In November 2009, Chilean Congress approved a Bill of Law that establishes the Ministry of Environment, a Service for Environmental Assessment of Investment Projects and a Superintendence for Compliance. There is a project to establish Environmental Tribunals to complement the former institutions. In terms of international cooperation, over the last 15 years, Chile has increased its profile in the international environmental debate, and has become member of the main multilateral environmental agreements (MEAs), many of them containing trade clauses to achieve their environmental objectives. Chile has also negotiated many FTAs with most of its trade partners, acknowledging the importance of incorporating environmental dimension in the process of economic internationalization. The scope and depth of environmental provisions in FTAs varies significantly. Chile considers FTAs, which incorporate environment provisions an appropriate tool to promote higher level of environmental protection, better environmental management and minimizing the risks of disguised environment barriers to trade. Under APEC, Chile presented in April 2009 a Study on Convergences and Divergences in APEC FTAs/RTAs, which analyzes specific environmental provisions in 42 RTAs/FTAs of the APEC region. The analysis traces the trajectory of environmental provisions in RTAs/FTAs, starting with the oldest texts, signed in 80's, to those ones signed after 2000.

Ms. Cintia Orellana from the Ministry of Environment and Natural Resources of Mexico introduced the Seminar about Mexican institutional integration mechanism on sustainable development through specific programs and actions namely the Special Program on Climate Change (SPCC-Derived from the National Strategy on Climate Change), Education and Environmental Culture Program, Sustainable Urban Development Program, Environmentally Sustainable Tourism Program and Ecological Land Planning through the creation of inter-sectoral institutions: Inter-ministerial Commission on Climate Change (seven Cabinet Ministers), Inter-ministerial Commission for Sustainable Management of Seas and Costal Zones, Group of Ecological Land Planning. In general, Mexico has adopted an ambitious approach for facing environmental governability. Sustainable development stands as main criteria for formulating policies in different sectors as well as a common and shared responsibility among different sectors and institutions. Accordingly, Mexico is taking firm steps towards the integration of environmental policies in other sectoral agendas as a means to achieve sustainable development.

According to Dr. Wen-chen Shih, Associate Professor of Law from the National Cheng-chi University of Chinese Taipei, her economy is quite active in dealing with sustainable development. Chinese Taipei has established a legal framework toward sustainable development, which includes Basic Environmental Act, pollution prevention or control legislations (covering atmospheric pollution, water and marine pollution, soil and groundwater pollution, waste and toxic material management), biodiversity-related legislations (covering species protection, habitat protection, natural resources utilization) and procedural legislations. Besides, Chinese Taipei also has an institutional framework to control, enforce and supervise its course, including Environmental Protection Administration, Council of Agriculture (Forestry Bureau), National

Council for Sustainable Development and Local Authorities. It is drawn from Chinese Taipei's experiences that legal and institutional framework provide the basic groundwork and a burgeoning civil society plays an important role to monitor and advocate as they can suit if any violations are found and force the authorities to strictly implement and supervise the case. A committed government and bureaucracy is one of the most crucial factors to realize these goals.

In the case of Viet Nam, according to Dr. Nguyen The Chinh from the Institute of Strategy and Policy on Natural Resource and Environment (ISPONRE), the Government of Viet Nam has developed the Socio-economic Strategy 2001 – 2010, which aims at both economic development and environmental protection. In particular, in 2004, the Government established “Orientations for Sustainable Development Strategy in Viet Nam” to improve her trade policy system towards sustainable development, help prevent and minimize environmental pollution in different industries as well as support enterprises in meeting with the requirements of international economic integration. These policies also facilitate scientific research on the harmonization of trade and environment policies.

#### **IV/ Recommendations:**

In order to produce some recommendations on advancing APEC's cooperation on trade and environment, the Seminar has broken into 3 groups to discuss 3 different questions. Below are the outcomes of group discussion:

##### **1. Group 1: *What topic should APEC focus on in its future researches with regard to the issue of facilitating trade and environmental protection?***

It seems to be a very interested topic as the group made a long list of recommendations for future research in APEC. Group members could not shorten the list since views are diversified. They finally came to a decision of taking forward the full list to the plenary for final voting to select the 3 most preferable ones. The following outcomes have been presented in prioritized order with the first one being most interested to the Seminar's participants.

1. Research on possible common criteria for EGS that has sufficient flexibilities for countries at different stages of development
2. Assess the impact on export-oriented APEC developing economies of different product standards that are adopted in the name of environmental protection, and the solution to address that impact
3. How to learn from ‘success stories’ within and outside the APEC regions in balancing the goals of economic development and environmental protection
4. (i) Examine and assess impact of carbon border measures (tariffs, taxes..) on the APEC developing economies  
(ii) How to use product standard as a positive tool for the transfer of technology and the promotion of sustainable development

- (iii) The possibilities of creating a Trade and Environment Working Group within the current APEC framework
5. (i) Sustainable development impact of EGS liberalization in tariffs and NTB
    - (ii) Cost—benefit analysis at the firm level of complying with different national environmental standards vs. international environmental standards
    - (iii) Environmental impact of the service sectors
  6. Compliance cost for APEC developing economies for complying with TREMs
  7. The relationship between TREMs design & applications and poverty reduction within individual APEC economies
  8. New opportunities for a new development path/model that is different from the export-oriented model from the perspectives of environmental protection

**2. Group 2: *What actions do you expect from APEC to help build capacity for developing economies with regard to facilitating trade and environmental protection?***

The first and foremost statement coming from the Group is that capacity building should be *demand-driven*, which reflect to the greatest extent the interests of developing economies. Recommended activities include: possible definition for EGS under APEC framework, dissemination of researches and studies, participation from businesses and NGOs, building APEC awareness, dialogue between trade and environment, interaction among APEC related WGs and committees, in dept research in each APEC economies and publication of APEC trade and environment related books and documents.

**3. Group 3: *In what direction should APEC further its work on EGS? What kind of capacity building do developing economies want to seek from APEC?***

The outcomes show that the need to have a clear definition about EGS, including that regards to Production and Processing Method (PPM) and Environmentally Preferable Products (EPP) are of great interest to participants. Group members also emphasized the importance of raising awareness across different sectors (public, private and business) in APEC members economies. This can be done through the dissemination of current researches or studies conducted by APEC members on their experiences to meet environmental standards and promote mutual recognition agreements (MRAs), the organization of train-the-trainer training course or online information exchange via APEC website. It is also recommended that APEC economies undertake in-depth researches on the review of trade related measures and standards; impact assessment when adopting new environmental measures and review of environmental regulations in FTAs among APEC economies. Cooperation with NGOs and business sector should also be strengthened so as to reflect their interests into APEC work on EGS.

# THE IMPACT OF ENVIRONMENTAL REGULATIONS ON TRADE WITHIN THE APEC REGION

December 14<sup>th</sup>, 2009  
Hanoi, Vietnam  
Golden Bridge

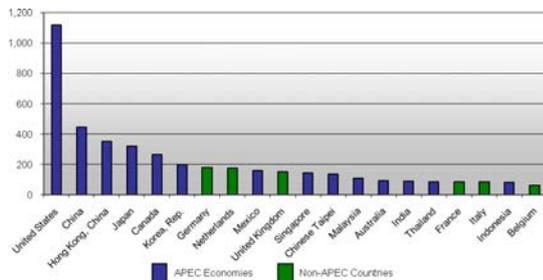


## I – WHY DO WE ANALYZE THE IMPACT OF ENVIRONMENTAL REGULATION ON TRADE?

- Because most of studies focus on the impact of trade on environment
- Because it is a topic that has been heavily discussed at the WTO
- Because the APEC has also been interested in this question:
  - TREM – ERTM (1998)
  - Compliance cost (2004)
  - Business expectations on new priority area of Voluntary Action Plan (VAP) – (2008)

- Because the APEC economies are clearly trade-oriented:
  - 40% of world population
  - but 45% of world trade
  - And 53% of world's GDP
  - Total trade growth: +10.6% annually over the last 10 years
  - Total trade : USD 11 775 billion in 2007
  - Intra-trade is prevailing : USD 7 960 billion in 2007 (+10% over the last 10 years). Among the 20 top APEC trading partners, only 6 are non member economies (European economies).

### TRADING PARTNERS



## II - WHY DO WE FOCUS ON TREM RATHER THAN ERTM ?

- In regard of the consequences on trade, there are two kinds of environmental measures:
  - Environmental Related Trade Measures or **ERTM** have a *direct and obvious* impact on trade (bans, quotas, trading permits etc. set up to protect environment)
  - Trade Related Environmental Measures or **TREM** have an *indirect* impact on trade.
- The impact of TREM on trade is neither direct nor obvious. It should be assessed to tackle protectionism on behalf of environmental protection.

### CLASSIFICATION OF TREMS

- Voluntary schemes implementing product-related environmental measures
  - Eco-labeling
  - Environmental management certification
- Mandatory requirements
  - Domestic Law and Regulation (administrative tools or economic instruments)
  - Multilateral Environmental Agreements (MEA)

### The 8 MEA having significant impact on trade

- The Montreal Protocol on substances that deplete the Ozone layer
- The Convention on International Trade in Endangered species of wild fauna and Flora (CITES)
- The Basel Convention on the Control of Transboundary Movement of Hazardous Waste and their Disposal
- The Convention on Biological diversity
- The Cartagena Protocol on Biosafety
- The United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol
- The Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for certain Hazardous chemicals and pesticides in international trade
- The Stockholm Convention on Persistent Organic Pollutants (POPs)

### EXAMPLES OF TREMS IN MEA AND FTA

- TREMS in MEA:
  - Most commonly used are: total bans or restricted exports/imports
  - Other measures can include: licensing, labeling requirements, quotas system, and trading permits
  - Notification system
- TREMS in FTA ratified by APEC economies:

a) No	b) Yes, inclusion of environmental provisions in the preamble / text of agreement (s)	c) Yes, inclusion of a specific chapter on environment	d) Yes, adoption of an environmental side agreement	e) Yes, other form (s) of environmental commitments. Please specify
(1)	(4)	(5)	(4)	(3)

### HOW DO TREMS ARE EXPECTED TO IMPACT TRADE?

- Compliance costs to environmental regulation
- Debate: "Pollution haven" hypothesis
  - Lucas & al. (1992)
- Impact on net exports & imports
  - Cole and Elliott (2003)
  - Ederington and Minier (2003)

### III - OUR STUDY: THE IMPACT OF ENVIRONMENTAL REGULATION ON TRADE IN THE APEC MEMBER ECONOMIES

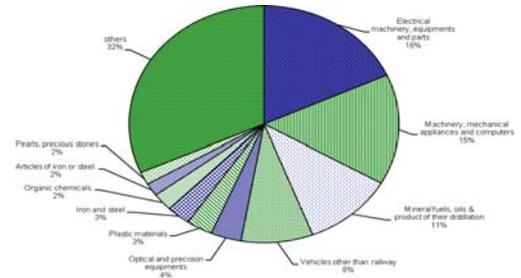
### THE ECONOMIC SECTORS WE FOCUS ON (1/2)

- Agricultural, forestry and fishery products;
- **Electrical and electronic devices (other than telecommunication equipments);**
- **Telecommunication equipments;**
- **Mechanical appliances;**
- Telecommunication;
- Textile and footwear;
- **Automobile industry;**
- Chemical products (other than pharmaceutical);
- Pharmaceutical products.

### THE ECONOMIC SECTORS WE FOCUS ON (2/2)

#### APEC economies' exports by sectors

(Source: UNCOMTRADE, own calculations)



### THE QUESTIONNAIRE TO COMPANIES

- The questionnaire focuses on the impact of TREMs on:
  - Market access
  - Market effect
  - Compliance effects
- It has been sent to 1779 companies among 14 of the 21 APEC economies
- Very low return rate: 0.4% (8 out of 1779) => we can not draw any conclusions and do not develop these topics in the study

### THE QUESTIONNAIRE TO STATE ADMINISTRATIONS

- The questionnaire focuses on:
  - The elaboration of TREMs
  - The communication on TREMs
  - The assessment and harmonization of TREMs
- It has been sent to relevant contacts in the 21 APEC economies.
- The return rate is 47% (10 out of 21).
- The results of the study are mainly based on these questionnaires.

### OVERVIEW OF TREMs IN THE APEC ECONOMIES (1/2)

#### Mandatory Requirements

- **Direct administrative tools:**
  - Very few have been used recently.
  - They are directed to lower the use of pollutants or to improve energy efficiency.
  - They target either the production process or the product consumption stage.
- **Environmental economic instruments:**
  - Very scarce as well.
  - Mostly consist in financial incentives for environmental-friendly products.
  - Others include: trading schemes and import permits.
- **Recommendation:**  
Establish a listing of new measures, constantly updated

### OVERVIEW OF TREMs IN THE APEC ECONOMIES (2/2)

#### Voluntary schemes

- **More voluntary standards than mandatory requirements**
  - Mostly energy-saving schemes

	Packaging labeling	Recycling labeling	Energy-saving labeling	Organic food labeling	Carbon footprint labeling	Marking requirements
COUNT	6	9	47	6	4	1
OCCURRENCES (number of countries with least one)	2	3	7	3	3	1

- **Recommendation:** The APEC member economies should try to favor a « bottom-up » approach.

**THE ELABORATION OF TREMs (1/4)**  
**National or international standards?**

- **Result of the study**
  - 2/3 of APEC economies claim not to give priority between “home-made” and international standards.
  - 1/3 give priority to international standards.
- **Recommendations:**
  - APEC economies should, when most appropriate, adopt international standards, that lower transaction costs
  - When national standards are more suitable, a mutual recognition process should be launched.

**THE ELABORATION OF TREMs (2/4)**  
**What life cycle stage should be targeted?**

□ **Results of the study:**

Production process	Product use / consumption	Product disposal
(5)	(5)	(5)

□ **Environmental priorities for APEC economies:**

Limiting air pollution	Limiting water pollution	Increasing solid waste recycling	Preserving biodiversity	Limiting global warming	Stopping deforestation	Other(s)
(6)	(7)	(6)	(2)	(5)	(0)	(1) (Limiting Toxic and hazardous wastes)

**THE ELABORATION OF TREMs (3/4)**  
**What life cycle stage should be targeted?**

- **Recommendations:**
  - To target the most relevant life cycle stage, each economy should make a decision according to its environmental priority.
  - Concerns should be correlated to scientific research => “No results are definitive!”

**THE ELABORATION OF TREMs (4/4)**  
**How do APEC economies consider the potential impact of their new TREMs on trade?**

□ **Results of the study:**

- When they adopt a new TREM, most of member economies claim that they take into account both environment and potential impacts on trade with the same level of importance.

□ **Recommendation:**

- Perform ex ante impact assessments of both trade and environment when adopting new environmental measures.

**COMMUNICATION AND TRANSPARENCY ON NEW TREMs (1/4)**  
**Do you associate foreign suppliers to the elaboration of new TREMs?**

□ **Results of the survey:**

No	Yes, but only few of them participate in comparison with local producers	Yes, foreign suppliers as well as local producers participate in the design and preparation of these schemes
(1)	(2)	(6)

- **Recommendation:**  
 As a general rule it is always better to associate, rather than not, all parties, local and foreign, to the design and preparation of these schemes.

**COMMUNICATION AND TRANSPARENCY ON NEW TREMs (2/4)**

□ **How long do APEC economies communicate in advance before enforcing a new TREM:**

- 50 %: from one to six months before enforcing new environmental measure.
- ~ 20 %: more than six months in advance.
- ~ 20 %: do not notify at all.

□ **Favorite ways of communication:**

- Mostly: Official government websites and Chambers of Commerce and Industry
- Other ways: international forums (e.g. WTO)

### COMMUNICATION AND TRANSPARENCY ON NEW TREMs (3/4)

#### □ What role for the APEC?

a) Make catalogues of trade and environment measures	b) Notify new and revised laws and measures to other member economies in due course	c) Hold more training activities so that officials who work with environment and trade development departments can gain accurate information in timely manner	d) Improve databases	e) Improve consultation mechanisms to facilitate mutual understanding and consensus building between trade and environmental sectors	f) Increase cooperation on environment
(3)	(3)	(7)	(3)	(5)	(4)

### COMMUNICATION AND TRANSPARENCY ON NEW TREMs (4/4)

#### □ Recommendations:

- Training or other consultation mechanisms.
- Database of trade and environmental related measures.
- Participating in regional consultation bodies: 50 % are not part of any.
- Due to its large size and its diversity, APEC would be a perfect regional forum for such a cooperation and would work as a supplement to the WTO.

### IMPACT ASSESSMENT

#### □ Impact assessment of TREM on trade

- The majority perform assessments unevenly depending on each measure
- 1/10: economy does not perform any impact assessment of its environmental measures
- 2/10: always performs assessment, regardless the measure.

### MUTUAL RECOGNITION OF TREMs AND HARMONIZATION (1/2)

#### □ Mutual recognition:

- Most member economies meet difficulties for some of their certification systems to be recognized as equivalent by other APEC members

#### □ Recommendations:

- When possible, conform to international standards.
- National standards may be desirable for getting the best standards and to fit some countries' specificities

### MUTUAL RECOGNITION OF TREMs AND HARMONIZATION (2/2)

#### □ Level of stringency of TREMs:

- Most member economies see themselves as having equivalent level of stringency than other economies.

#### □ Recommendations:

- Similar level of stringency means less confrontations...
- Provide help to developing countries to meet the standards.

### COOPERATION MONITORED BY APEC

#### □ Regional cooperation in environmental protection

=> Should APEC implement environmental action plans to promote regional cooperation in environmental protection?

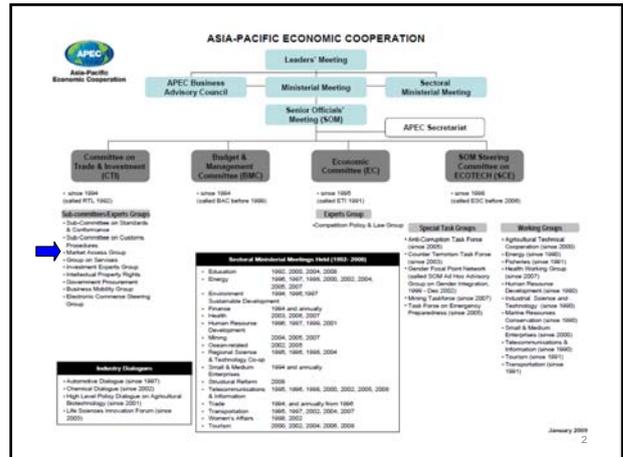
Yes, it would be useful	Yes, it is a good idea, that still needs to be really implemented	No, it is useless, because environmental concerns are too different among member economies
(3)	(7)	(0)

**Thank you for your attention!**

# Reviewing APEC's Work on Trade & the Environment

Session 1  
 APEC Seminar on Facilitating Trade & Environmental Protection  
 15-16 December 2009, Ha Noi

Akihiko Tamura, SJD  
 Councilor for APEC, Ministry of Economy, Trade & Industry (METI), Japan  
 Convenor, APEC Market Access Group (MAG)



## Market Access Group (MAG)

- Established in 1998 by the Committee of Trade and Investment (CTI)
- Given mandate to advance and integrate the CTI's objectives on tariffs and non-tariff measures (NTMs).
- MAG's priorities include Environmental Goods and Services (EGS), rules of origin under FTA/EPA and trade in IT products.

## Reviewing APEC's Work on Trade & the Environment

- ▶ Part I Snapshots of Global Trade in Environmental Goods (EGs)
- Part II Relevance of APEC to Environmental Goods & Services (EGS)
- Part III APEC's Work on EGS and Next Steps

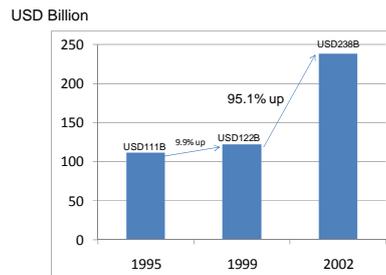
## G8 Leaders Affirm Importance of EGS

**L' Aquila Summit Leaders' Declaration, April 2009 (Para 68)**  
 The elimination or reduction of tariffs and non-tariff barriers to trade in environmental goods and services is essential to promote the dissemination of cleaner low-carbon energy technologies and associated services worldwide. Efforts should be intensified to ensure a successful outcome of the ongoing WTO negotiations on the liberalization of environmental goods and services.



## Trade in Environmental Goods

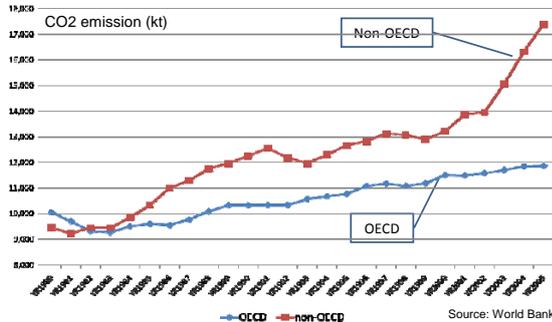
Trade in environmental goods grew from USD 111 billion in 1995 to USD 122 billion in 1999, and by 2001 it doubled to USD 238 billion.



Source: Bora and The, 2004

## Global CO2 Emissions

- ✓ World CO2 Emissions have been steadily increasing.
- ✓ Emissions by non-OECD countries almost doubled between 1980 and 2005.



## CO2 Emissions by Sector

Energy Supply, Transport, Building and Industry sectors account for over 65% of CO2 emissions.

Energy Supply: 25.9%

Industry: 19.4%

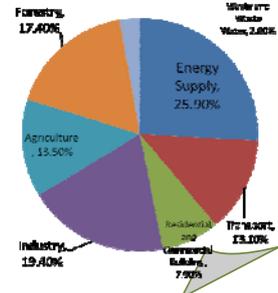
Forestry (including deforestation): 17.4%

Agriculture: 13.5%

Transportation: 13.1%

Residential and Commercial Building: 7.90%

Waste and Waste Management: 2.8%



## Key Technologies and Practices

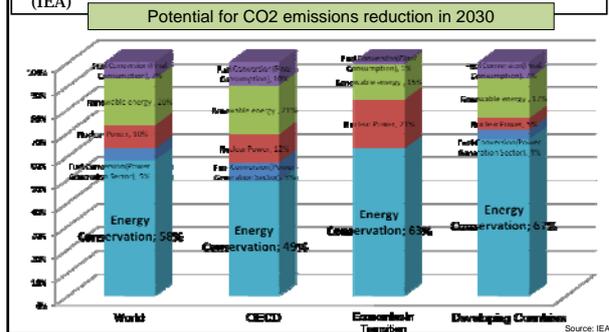
IPCC lists selected examples of key technologies, policies, constraints and opportunities by sector.

Sector	Key mitigation technologies and practices currently commercially available
Energy Supply	<ul style="list-style-type: none"> <li>✓ Improved supply and distribution efficiency</li> <li>✓ Fuel switching from coal to gas</li> <li>✓ Nuclear power</li> <li>✓ Renewable heat and power (hydropower, solar, wind etc.) etc..</li> </ul>
Transport	<ul style="list-style-type: none"> <li>✓ Fuel efficient vehicles</li> <li>✓ Hybrid vehicles</li> <li>✓ Cleaner diesel vehicles etc..</li> </ul>
Buildings	<ul style="list-style-type: none"> <li>✓ Efficient lighting and day lighting</li> <li>✓ More efficient electrical appliances, heating and cooling</li> <li>✓ Passive and active solar design for heating and cooling etc..</li> </ul>
Industry	<ul style="list-style-type: none"> <li>✓ More efficient end-use electrical equipment</li> <li>✓ Heat and power recovery</li> <li>✓ Material recycling and substitution etc..</li> </ul>

IPCC, Climate Change 2007: Synthesis Report

## Potential for CO2 emissions reduction

Energy conservation has higher CO2 reduction potential than renewable energy and nuclear power in both developing and advanced countries. (IEA)



## Trade Liberalization Boosts Trade in EGs

Trade liberalization (both tariffs and NTBs) would contribute to promoting trade in EGs.

Change in Trade Volume in High-GHG-Emitting Developing Countries from Liberalizing Clean Energy Technologies

Technology Option	Eliminate Tariff (only)(%)	Eliminate Tariff & Non-tariff Barriers (%)
Clean coal technology	3.6	4.6
Wind power generation	12.6	22.6
Solar power generation	6.4	13.5
Efficient lighting technology	15.4	63.6
All 4 Technologies	7.2	13.5

Source: International Trade and Climate Change, The World Bank, 2008

## WTO Negotiations on Environmental Goods

- ✓ The 2001 Doha Ministerial Declaration instructs members to negotiate on the reduction or, as appropriate, elimination of tariff and non-tariff barriers to trade in environmental goods and services.
- ✓ EGs-related negotiation has not progressed well, primarily due to the dynamic of the DDA negotiations as a whole and the gap in views toward EGs between developing and developed.
- ✓ The negotiation however is recently gaining gradual attention in Geneva, responding to the requests of the Chair.

## Reviewing APEC's Work on Trade & the Environment

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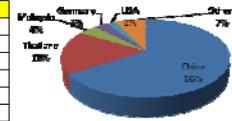
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## APEC Region's Trade in Electric Appliances

### Import of electric appliances (refrigerators, washers, microwaves, vacuums, air conditioners etc.) into Japan (2007) (Unit:100million yen)

	Value	Y-O-Y	
1	China	4,219	115.6
2	Thailand	1,154	108.1
3	Malaysia	270	120.8
4	Germany	193	105.7
5	USA	129	105.7
6	Others	459	
	Total	6,425	111.8

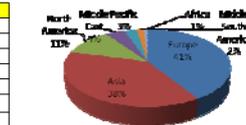
Source: Trade Statistics of Japan, Ministry of Finance



### Export of electric appliances (refrigerators, washers, microwaves, vacuums, air conditioners etc.) from Japan (2007) (Unit:100million yen)

	Value	Y-O-Y	
1	Europe	1,364	99.6
2	Asia	1,259	102
3	North America	370	89.2
4	Middle East	143	90
5	Pacific	94	75.8
6	Middle South America	58	111
7	Africa	25	107.4
	Total	3,314	98.1

Source: Trade Statistics of Japan, Ministry of Finance



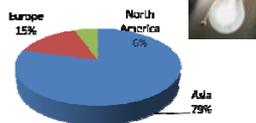
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## APEC Region's Trade in Lighting Devices

### Import of lighting devices into Japan (Unit:100million yen)

	2007	
	value	share
Asia	462	79.2%
Europe	88	15.1%
North America	32	5.5%
South America	0.01	0.0%
Africa	0.06	0.0%
Pacific	0.2	0.0%
Total	583	100.0%

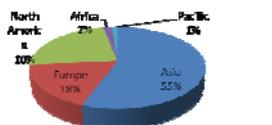
Source: Trade Statistics of Japan, Ministry of Finance



### Export of lighting devices from Japan (Unit:100million yen)

	2007	
	value	share
Asia	59	54.6%
Europe	19	17.6%
North America	25	23.1%
South America	0.4	0.4%
Africa	2	1.9%
Pacific	1.3	1.2%
Total	108	100.0%

Source: Trade Statistics of Japan, Ministry of Finance

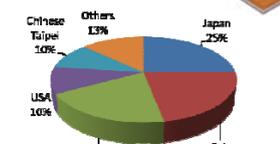


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## APEC as Producer of PV Technology

### PV Production, FY 2007

Japan 25% China 22%  
Germany 20% USA 10%  
Chinese Taipei 10%  
Others 14%



### PV Production, FY 2008

China 26% Japan 18%  
Germany 17% Chinese Taipei 12%  
Others 15%



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## Major obstacles to dissemination of EGs - Tariffs (PV)

### Major APEC members still maintain tariffs on photovoltaic technology.

	Average Tariffs on PV(%)	Average Industrial Tariffs(%)
Mexico	13	17
Indonesia	15	7
Thailand	10	16
China	10	10
Chile	6	6
Malaysia	18	9
Philippines	15	6

Source: WITS database.

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## Major obstacles to dissemination of EGs - Tariffs (Wind Technology)

### Major APEC members still maintain tariffs on wind technology.

	Average Tariffs on Wind Technology (%)	Average Industrial Tariffs (%)
Mexico	15	17
Indonesia	10	7
Thailand	10	16
China	8	10
Chile	6	6
Malaysia	5	9
Philippines	1	6

Source: WITS database.

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## Major obstacles to dissemination of EGs - Tariffs (Fluorescent Lamps)

Major APEC members still maintain tariffs on fluorescent lamps.



	Average Tariffs on Fluorescent Lamps(%)	Average Industrial Tariffs(%)
Mexico	15	17
Indonesia	5	7
Thailand	20	16
China	8	10
Chile	6	6
Malaysia	30	9
Philippines	11	16

Source: WITS database.

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## Major obstacles to dissemination of EGs-NTB: lack of world-wide standards

In the case of *renewable energy*, world-wide standardization on relevant technology has progressed relatively well.

International Standards and Rules for Wind Technology

Subject	Status
Safety requirement for wind turbine generator systems	IEC 1400-1
Safety requirement for small wind turbine generator systems	IEC 1400-2
Acoustical measurement techniques	IEC 1400-11
Power performance measurement techniques	IEC 1400-12
Guide on blade testing	Ongoing
Certification standards	Ongoing
Power quality	Ongoing
Load measurements	Ongoing

Source: Extracted from Parthan (n.d)

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## Major obstacles to dissemination of EGs - NTBs: lack of world-wide standards

In case of *energy-efficient products*, however, major economies including APEC members have a diversity of energy efficiency regulations.

Existing Energy Efficiency Standards for Select Products in OECD Countries

	Mandatory	Voluntary
Refrigerators	EU, Norway, Hungary, Canada, Korea(Rep. of), Mexico, New Zealand, United States	Switzerland, Japan, United States
Washing machines	EU, Norway, Hungary, United States	United States
Air conditioning	Canada, Korea(Rep. of), Mexico, United States	Japan, United States
Lamps	EU, Norway	United States

Source: International Trade and Climate Change, The World Bank, 2008.

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## Other Trade Barriers to Environmental Goods - NTBs

- ✓ NTBs - much greater challenge than tariffs since they are not easy to identify or pin down and may evolve and diversify rapidly. Need more research.
- ✓ Examples: Quantitative restrictions, TBT, SPS, Subsidies, Certification, Local Content, Tax Exemption, etc. (Alavi 2007).
- ✓ On renewable energy products (e.g., wind power turbines), local content is a typical NTB (Alavi 2007). This may be because the government is often responsible for procurement. This is not the case with regard to energy efficient appliances.
- ✓ On energy-efficient products, among major NTBs may be a lack of harmonization on energy performance regulations.

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## Reviewing APEC's Work on Trade & the Environment

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## 2008 EGS Work Programme Framework

- APEC Ministers adopted the *EGS Work Programme Framework* in November 2008, aiming to:
  - Support the development of the EGS sector in APEC; and
  - Link up the projects related to EGS in separate APEC working groups under a coherent and holistic framework.

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## EGS 2009, APEC Leaders' Statement (1)

Leaders' Statement, 14-15 Nov 2009

1. A key thrust in APEC's sustainable growth agenda is the APEC Environmental Goods and Services (EGS) Work Programme, under which we will develop and implement a set of concrete actions to support dissemination of EGS, reduce existing barriers and refrain from introducing new barriers to trade and investment in EGS, and enhance capabilities of economies to develop their EGS sectors.

## EGS 2009, APEC Leaders' Statement (2)

Leaders' Statement, 14-15 Nov 2009

2. We will advance work on sharing best practices in energy efficiency with a view to deploying cleaner and more efficient technologies, and welcome the implementation of the voluntary APEC Peer Review on Energy Efficiency.
3. We recognise the role of renewable energy in reducing emissions and encourage its development in the APEC region.

## EGS 2009, APEC Ministers' Statement (1)

AMM Joint Statement, 11-12 Nov 2009

1. As APEC's key response to addressing this challenge, our sustainable growth agenda will include improved access for EGS, development of EGS sectors of APEC economies, enhancing energy efficiency and sustainable forest management and rehabilitation.
2. We endorse APEC's EGS work programme which has helped to raise awareness of what needs to be done to facilitate trade, investment and development in EGS, and instruct officials to report progress on this work at AMM 2010.

## EGS 2009, APEC Ministers Statement (2)

AMM Joint Statement, 11-12 Nov 2009

3. We reaffirm that an open global trade and investment is central to our clean development objectives and market opening in the WTO would advance our climate and energy security goals.
4. We recognise that joint research, development, deployment and transfer of low and zero emission technologies will be crucial in our shared efforts to address climate change.

## EGS 2009, EGS Work Programme (1)

In the EGS Work Programme, endorsed by Ministers in November 2009, APEC members agreed to take the following actions:

1. Continue to contribute to the EGS Information Exchange (EGSIE);
2. Identify a "package" of follow-up actions: An identification of
  - i. goods and services which, via increased utilization, could help climate change mitigation and sustainable economic growth;
  - ii. concrete steps to facilitate the diffusion of climate friendly and other EGS technologies; and
  - iii. capacity-building activities

## EGS 2009, EGS Work Programme (2)

3. Promote greater dissemination and utilization of EGS by such measures as works to address NTBs and enhance market drivers to environmental goods through close cooperation among relevant fora (e.g., greater harmonization and convergence of energy efficiency standards)
4. Improve understanding and market access for environmental services and services relevant to climate change mitigation

Examples of APEC/EGS Projects		
EGS Initiatives	Status	Fora
<b>1. Trade Related Environmental Measures (TREMs)</b> Conduct a survey on the status of applying trade related environmental standards, challenges, and possible tools and assistance. Based on the survey, hold APEC Seminar on Facilitating Trade and Environmental Protection in Hanoi in December 15-16, 2009.	Survey finalized. Seminar held in Hanoi on Dec 15-16	CTI
<b>2. Environmental Goods and Services Information Exchange (EGSIE)</b> A web site that will promote greater transparency, information-sharing, collaboration, and dissemination of EGS in APEC and globally. <a href="http://egs.apec.org/">http://egs.apec.org/</a>	Launched in Nov 2009	CTI, MAG and other for a
<b>3. Energy Standards Information System (ESIS)</b> A web site that provides up-to-date information about appliance and equipment energy standards and regulations. <a href="http://www.apec-esis.org/">http://www.apec-esis.org/</a>	On-going	EWG/EGEE&C*, SCSC, MAG and other fora
<b>4. Reducing Trade Barriers for EGS in APEC Region</b> Mapping exercise of energy efficiency standards, labeling, and testing and measurement procedures in each APEC economy and their alignment with international standards.	Endorsed by EWG in Nov 2009	EWG/EGEE&C, SCSC, MAG and other fora
<b>5. Survey of Major Impediments and Market Drivers to the Development of Trade in Environmental Goods</b> Identifying key impediments and drivers for trade in environmental goods to help create more transparent, open and well-functioning markets for clean energy and other environmental goods.	Endorsed in principle by MAG in May, and by EWG in Nov and, 2009	MAG, EWG /ETITF* and other fora

\*EGEE&C: Expert Group on Energy Efficiency & Conservation \*\*ETITF: Energy Trade & Investment Task Force

Example 2.  
EGSIE (EGS Information Exchange)



A web site that will promote greater transparency, information-sharing, collaboration, and dissemination of EGS in APEC and globally. <http://egs.apec.org/>

Example 3.  
ESIS (Energy Standards Information System)



A web site that provides up-to-date information about appliance and equipment energy standards and regulations. <http://www.apec-esis.org/>

Example 4.  
Reducing Trade Barriers for EGS in APEC Region

1. **Mapping exercise of energy efficiency standards, labeling, and testing and measurement procedures in each APEC economy and their alignment with international standards.**
2. **By mapping, the project aims to identify the areas where convergence and divergence exist, and to explore the possibility of harmonization of standards.**
3. **Based on this mapping, SCSC & EWG/EGEE&C will discuss in 2010 possible actions APEC could take on standards and labeling to facilitate trade in energy-efficient products.**

Example 5.  
Survey of Major Impediments and Market Drivers to the Development of Trade in EGs

1. Identify **key impediments and drivers for trade in environmental goods to help create more transparent, open and well-functioning markets** for clean energy and other environmental goods.
2. Drivers for trade might include **financial tools and incentives that help increase use of renewable energy resources**, such as utility-based feed-in tariffs.
3. Jointly conducted by EWG & MAG

Next Steps on EGS?

Key Findings from MAG Workshop on EGS, 28 July 2009

1. **Asian developing economies are already a part of the production chain of EGs** such as air-conditioners, refrigerators and TV sets.
2. The market does not always deliver cost-effective energy savings, so **robust government policy is needed to ensure greater energy efficiency.**
3. **Energy standards and labeling are a business driver**, although harmonization or alignment of energy standards is a challenge.
4. To address the issue of trade in EGS, **collaboration among relevant groups is necessary.**

### Suggestions for Next Steps on EGS (1)

- ◆ While APEC should continue to support work on trade liberalization under the WTO, there are many other things that APEC can do to facilitate trade and to eliminate non-tariff barriers (NTBs).
- ◆ Examples:
  - ✓ Explore harmonization of energy-efficiency standards of appliances
  - ✓ Incentives for renewable energy use
  - ✓ Capacity-building to narrow the gaps on maturity levels of EGS policies and industries among members

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### Suggestions for Next Steps on EGS (2)

- ◆ To enable APEC to move on to new areas for enhancing trade in EGS, APEC should take advantage of:
  - ✓ the variety of expertise of APEC fora, such as in trade, standards and energy;
  - ✓ its close relationship with business, including ABAC, to catch up with the rapidly changing technology on EGS and to meet their needs; and
  - ✓ momentum built up every year when leaders and relevant ministers meet at APEC.

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*Cám ơn.*  
*Thank you.*

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**APEC SEMINAR ON FACILITATING  
TRADE & ENVIRONMENTAL PROTECTION**



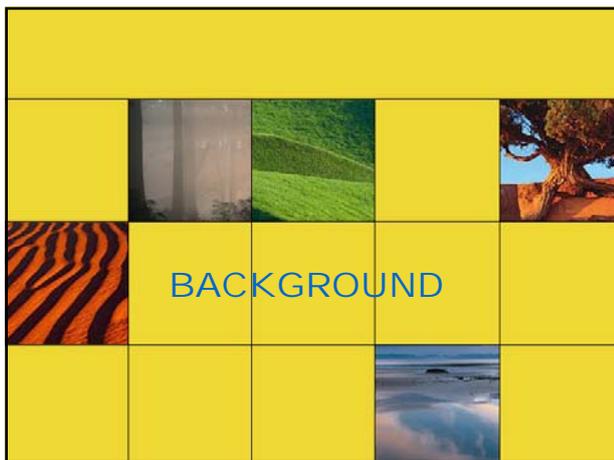
Implication of the trade and environment WTO negotiating agenda for developing economies (environmental considerations in WTO Agreements)

Wen-chen Shih  
Associate Professor of Law  
Dept of International Business  
National Cheng-chi University  
Chinese Taipei

**Presentation outline**

- Background to the trade & environmental (T & E) negotiation in the WTO Doha Round
  - Environmental considerations in WTO Agreements
- Major issues/controversies and progress in the T&E negotiation
- Possible negotiation outcomes and their implications to developing economies

**BACKGROUND**



**Doha Round Negotiation**

- Launched at the Fourth WTO Ministerial Conference in Doha, Qatar, Nov. 2001
  - Contains 21 subjects, including negotiations and implementation-related issues
    - Three subjects were dropped at the HK Ministerial in August 2004
  - Guiding principles:
    - Concept of single undertaking
    - Special & differential treatment for developing and least developed Members
    - Sustainable development

**T&E negotiation mandates**

- Paragraphs 31-33 (and others) of the Doha Ministerial Declaration mandated WTO Members to launch negotiation on “trade and environment”
  - First negotiation round in the history of the GATT1947 and the WTO to put into the official negotiation agenda issues relating to T&E
  - Why? To address (improve?) environmental-related concerns within the WTO legal regime

**Emergence of T&E issues in the GATT**

- Development of international environmental regimes in late 1980s and early 1990s
  - 1987 World Commission on Environment and Development → Our Common Future
  - 1992 UN Conference on Environment and Development (the Rio Conference)
- Development under the GATT
  - 1991 Tuna-dolphin case

## Environmental considerations under the WTO legal framework

- **Preamble** of the Marrakesh Agreement Establishing the World Trade Organisation
- **GATT Article XX(b) & (g) and disputes cases**
- Agreement on the Application of Sanitary and Phytosanitary Measures
- Agreement on Technical Barriers to Trade
- Others: subsidy, agriculture, services, intellectual property rights....
- **Committee on Trade and Environment**



## Marrakesh Agreement Establishing the World Trade Organisation

- ..while allowing for the optimal use of the world's resources in accordance with the objective of **sustainable development**, seeking both to **protect and preserve the environment** and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development



## GATT Article XX(b) & (g)

(b) **necessary** to protect human, animal or plant life or health

(g) **relating** to the conservation of **exhaustible** natural resources

Preamble: **arbitrary or unjustifiable discrimination** between countries where the same conditions prevail, **disguised restriction on international trade**

## Cases concerning Art. XX (b), (g)

- GATT
  - 1982 US tuna product (brought by Canada, adopted)
  - 1988 Canada Herring and salmon case (brought by US, adopted)
  - 1990 Thailand cigarette case (brought by US, adopted)
  - 1991 Tuna/dolphin case I (brought by Mexico, unadopted)
  - 1994 Tuna/dolphin case II (brought by EC, unadopted)
  - 1994 US taxes on automobile case (brought by EC, unadopted)
- WTO
  - 1996 US gasoline case (brought by Venezuela and Brazil)
  - 1998 US Shrimp/turtle case (brought by India, Malaysia, Pakistan and Thailand)
  - 2001 EU Asbestos case (brought by Canada)
  - 2007 Brazil tyres case (brought by EC)



## Work programmes for CTE

- Trade rules, environmental agreements, and disputes (eg. relationship with MEAs)
- Environmental protection and the trading system (eg. Subsidies)
- How taxes and other environmental requirements fit in (eg. Eco-labelling, env'tl charges)
- Transparency of environmental trade actions

## Work programmes for CTE

- Environment and trade liberalisation (eg. "win-win" situation)
- Domestically prohibited goods (eg. Exports of hazardous waste)
- Intellectual property rights (eg. Relationship with CBD)
- Services
- The WTO and other organisations



## Major T&E controversies

- Products v.s. production and process methods
- Multilateral environmental agreements containing trade measures v.s. WTO
- Risk assessment v.s. precautionary principle
- Protection of intellectual property rights v.s. public health and dissemination of technology
- Eco-labeling
- Transparency in the dispute settlement process

## T&E NEGOTIATION IN DOHA ROUND

## Negotiation mandate on T&E

- **Ministerial Declaration paragraph 31**
  - Negotiation took place under CTESS
- **Ministerial Declaration paragraphs 32 & 33**
  - Negotiation took place under CTE in regular session, TRIPS Council, TBT Committee
- **Others: Ministerial Declaration paragraphs 19, 28, 51**
  - Negotiation took place under CTE in regular session, Rule Negotiation Group...

### Para. 31

- With a view to enhancing the **mutual supportiveness of trade and environment**, we agree to negotiations, without prejudging their outcome, on:
  - (i) the relationship between existing WTO rules and **specific trade obligations set out in multilateral environmental agreements (MEAs)**. The negotiations shall be limited in scope to the applicability of such existing WTO rules as **among parties to the MEA in question**. The negotiations shall **not prejudice** the WTO rights of any Member that is not a party to the MEA in question;
  - (ii) procedures for **regular information exchange** between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status;
  - (iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to **environmental goods and services**.
- We note that fisheries subsidies form part of the negotiations provided for in paragraph 28.

### Para. 32

- We instruct the Committee on Trade and Environment, in pursuing work on all items on its agenda within its current terms of reference, to give particular attention to:
  - (i) the **effect of environmental measures on market access**, especially in relation to developing countries, in particular the least-developed among them, and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development;
  - (ii) the relevant provisions of the **Agreement on Trade-Related Aspects of Intellectual Property Rights**; and
  - (iii) **labelling requirements** for environmental purposes.
- Work on these issues should include the identification of any need to clarify relevant WTO rules. The Committee shall report to the Fifth Session of the Ministerial Conference, and make recommendations, where appropriate, with respect to future action, including the desirability of negotiations. The outcome of this work as well as the negotiations carried out under paragraph 31(i) and (ii) shall be compatible with the open and non-discriminatory nature of the multilateral trading system, shall not add to or diminish the rights and obligations of members under existing WTO agreements, in particular the Agreement on the Application of Sanitary and Phytosanitary Measures, nor alter the balance of these rights and obligations, and will take into account the needs of developing and least-developed countries.

### Para. 33

- We recognize the importance of **technical assistance and capacity building** in the field of trade and environment to developing countries, in particular the least-developed among them. We also encourage that expertise and experience be shared with members wishing to perform **environmental reviews at the national level**. A report shall be prepared on these activities for the Fifth Session.

Para. 19

- We instruct the Council for TRIPS, in pursuing its work programme including under the review of Article 27.3(b), the review of the implementation of the TRIPS Agreement under Article 71.1 and the work foreseen pursuant to paragraph 12 of this declaration, to examine, inter alia, **the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore,** and other relevant new developments raised by members pursuant to Article 71.1. In undertaking this work, the TRIPS Council shall be guided by the objectives and principles set out in Articles 7 and 8 of the TRIPS Agreement and shall take fully into account the development dimension



Para. 28

- In the light of experience and of the increasing application of these instruments by members, we agree to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 and on Subsidies and Countervailing Measures, while preserving the basic concepts, principles and effectiveness of these Agreements and their instruments and objectives, and taking into account the needs of developing and least-developed participants. In the initial phase of the negotiations, participants will indicate the provisions, including disciplines on trade distorting practices, that they seek to clarify and improve in the subsequent phase. In the context of these negotiations, participants shall also aim to **clarify and improve WTO disciplines on fisheries subsidies,** taking into account the importance of this sector to developing countries. We note that fisheries subsidies are also referred to in paragraph 31.



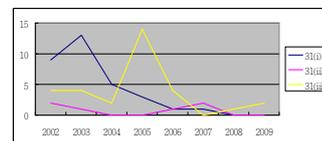
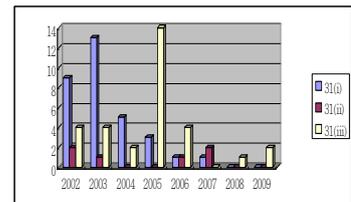
Para. 51

- The Committee on Trade and Development and the Committee on Trade and Environment shall, within their respective mandates, each act as a forum to identify and debate developmental and environmental aspects of the negotiations, in order to help achieve the objective of having **sustainable development** appropriately reflected



Members' submissions to CTESS Under 31(i), (ii), (iii) from 2002-2009

	31(i)	31(ii)	31(iii)
2002	9	2	4
2003	13	1	4
2004	5	0	2
2005	3	0	14
2006	1	1	4
2007	1	2	0
2008	0	0	1
2009	0	0	2



Paragraph 31(i)

- Purpose**
  - To clarify overlapping and potential conflicting rules between MEAs and WTO
  - As a comprise in the negotiation packages
- Major issues in the negotiation**
  - Definitions: STOs, MEAs, "set out" in MEAs...
  - National implementation experiences
  - relationship between these two sets of rules

Paragraph 31(i)

Experience-based approach

Outcome approach

- The WTO-MEA relationship is working well in practice**
  - status quo
    - Majority view in the CTESS
- Mutual respect**
  - status quo
- WTO Members should give MEAs some deference**
  - EC: **global governance principle**
  - Switzerland: presumption of legality under the WTO

## Global Governance Principles?

- Importance and necessity of MEAs
- Multilateral environmental policy in MEAs
- Cooperation and information flow
- MEAs and WTO equal bodies of law
- WTO rules not to be interpreted in clinical isolation of MEAs

The negotiations shall not prejudice the WTO rights of any Member that is not a party to the MEA in question

## Paragraph 31 (i)

- Possible negotiation outcome
  - Amendment to certain GATT provisions?
    - Most unlikely, requires 2/3 majority
  - Interpretative Decision/note on certain GATT provisions?
    - Quite unlikely, requires 3/4 majority
  - Ministerial Declaration?
    - Possible, but content?
    - Legal status of Ministerial Declaration in dispute settlement process

## Paragraph 31(ii)

- Purpose
  - closer cooperation between MEA Secretariats and WTO Committees
  - criteria for the granting of observer status to MEA Secretariats
- Major issues in the negotiation
  - Information and document exchange
  - Observer status

## Paragraph 31(ii)

- Current progress: few submissions
  - Procedures for information exchange
  - Criteria for granting observer status
    - Current MEAs Secretariat that has observer status in the CTE: CBD, CITES, ICCAT, UNFCCC
    - MEAs Secretariat whose overseer status application is pending: Basel Convention, Montreal Protocol, Rotterdam Convention
    - Annex 3 of the Rules of Procedure for the Sessions of the Ministerial Conference and Meetings of the General Council → special criteria is needed for CTE?

## Paragraph 31(iii)

- Purpose: a win-win-win situation
- Major issues in the negotiation
  - Definition of environmental goods, (re)classification of environmental services
  - Approaches to eliminate tariffs
    - List approach
    - Project approach (India)
    - Integrated approach (Argentina)
      - Most recent proposal (23 Nov. 09) of linking this approach to CDM project

## IMPLICATIONS TO DEVELOPING ECONOMIES

	31(i)		31(ii)
Australia	3		
Brunei Darussalam			
Canada	1	1	2
Chile			
China	1		1
Hong Kong, China	2		
Indonesia			
Japan	2		3
Rep of Korea	1		1
Malaysia	1		
Mexico			
New Zealand	1	1	4
Papua New Guinea			
Peru			
The Philippines			
Russia			
Singapore			1
Chinese Taipei	3		1
Thailand			
The US	2	2	6
Viet Nam			

## Para. 31(i) & 31(ii)

- Relationship between MEAs' trade rules and WTO

- Status quo

- Developing economies that might be subject to STOs
- Developing economies that adopt STOs

- Deference to MEAs

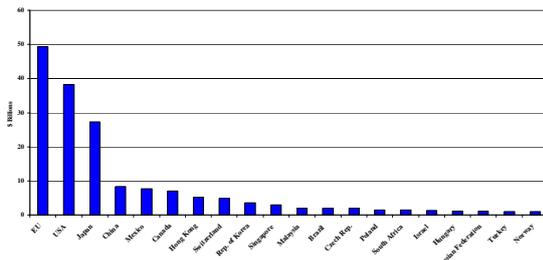
- Developing economies that might be subject to STOs
- Developing economies that adopt STOs

→ It all depend on whether disputes involving STOs set out in MEAs will be brought to the WTO dispute settlement system

- Procedural cooperation with MEAs secretariat

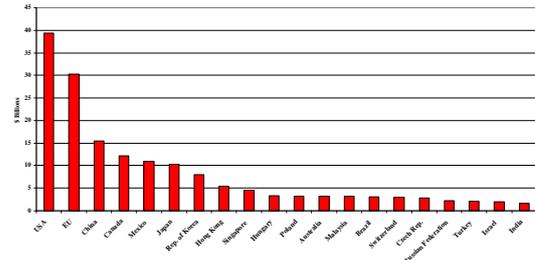
- Neutral impact

## Top 20 exporters of env. goods (OECD list), 2002



Mr. Robert Teh and Mr. Bijit Bora, WTO Secretariat  
"Tariffs and Trade in Environmental Goods"  
WORKSHOP ON ENVIRONMENTAL GOODS — 11 OCTOBER 2004

## Top 20 importers of env. goods (OECD list), 2002



Mr. Robert Teh and Mr. Bijit Bora, WTO Secretariat  
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WORKSHOP ON ENVIRONMENTAL GOODS — 11 OCTOBER 2004

## Para 31(iii)

- Market access for whom?
  - Main importers and exporters of env'tl goods and services
  - Levels and trend of domestic and international environmental regulations and how these regulations drive or change market demand
- Trade liberalisation that brings positive environmental impact, provided that
  - Technology innovation and investment can be channelled into importing developing economies
  - Capacity building

Comments welcomed

## New developments of trade-related environmental measures and implications on international trade

Wen-chen Shih,  
Associate Professor of Law  
Dept of International Business  
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## Presentation outline

- Trade-related environmental measures (TREMs) and their controversies under the WTO
- Traditional TREMs
- New development of TREMs
- Implications on international trade

## Trade-related environmental measures (TREMs) and their controversies under the WTO

## What are TREMs

- Trade-related measures adopted for the purposes of environmental protection
  - The concept of “trade”-related under the WTO framework: from GATT to WTO
- Two categories of TREMs
  - Unilateral TREMs: trade restrictive measures adopted according to domestic laws of individual country
  - Multilateral TREMs: trade restrictive measures set out or adopted under the mandates or authority of multilateral environmental agreements (MEAs)
    - Definitional ambiguity: decisions by the various organs under the MEAs (such as Conference of the Parties, Compliance Mechanism...)?

## Controversies of TREMs in the WTO

- Two types of legal controversies of TREMs in the WTO in case disputes arise
  - Conflict of norms: whether TREMs will be held incompatible with the WTO rules or vice versa
    - Multilateral TREMs: no disputes so far
    - Unilateral TREMs: all GATT Art XX disputes involve such type of TREMs
  - Conflict of jurisdictions: whether dispute arising from the application of TREMs can be subject to review by more than one international or regional tribunals
    - E.g. Chile—Swordfish case

## Environmental-related trade disputes

- Possible violations of GATT/WTO legal rules
  - MFN
  - National Treatment
  - Prohibition of quantitative restrictions
  - Others: SPS Agreement, TBT Agreement
- Possible defense for Members adopting TREMs
  - GATT Article XX (b) or (g)
  - SPS Agreement
  - TBT Agreement

## How to solve such controversies?

- **Conflict of norms**
  - Unilateral TREMs: Interpretation and application of Article XX (b), (g) or other environmental-related WTO covered agreements
  - Multilateral TREMs: DDA T&E negotiation (para. 31(i) of the Doha Ministerial Declaration)
- **Conflict of jurisdiction**
  - ??

## Traditional TREMs

## Traditional TREMs

- **Traditional trade policy instruments**
  - Border measures:
    - Customs duties and charges: rarely used as TREMs
    - Import and export prohibition or restrictions
    - Import and export control regulations (e.g. import license, prior informed consent procedures)
  - Domestic measures:
    - Product standards

## Multilateral TREMs

- **Import and export prohibition or restriction on/ control regulations of hazardous goods or goods that are deemed to be harmful to the environment**
  - Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal
  - Montreal Protocol on Substances that Deplete the Ozone Layer
  - Cartagena Protocol on Biosafety
  - Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous Chemicals and Pesticides in international trade
  - Stockholm Convention on Persistent Organic Pollutants
- **Import and export prohibition or restriction on/ control regulations of natural resources and/or their products**
  - Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

## Multilateral TREMs: Import/export ban

- **Basel Convention Article 4 General Obligations**
  - 5. A Party shall not permit hazardous wastes or other wastes to be exported to a non-Party or to be imported from a non-Party.
- **Basel Convention Article 11 Bilateral, Multilateral and Regional Agreements**
  - 1. Notwithstanding the provisions of Article 4 paragraph 5, Parties may enter into bilateral, multilateral, or regional agreements or arrangements regarding transboundary movement of hazardous wastes or other wastes with Parties or non-Parties provided that such agreements or arrangements do not derogate from the environmentally sound management of hazardous wastes and other wastes as required by this Convention. These agreements or arrangements shall stipulate provisions which are not less environmentally sound than those provided for by this Convention in particular taking into account the interests of developing countries.

## Multilateral TREMs: Import/export ban

- **Stockholm Convention Article 3 Measures to reduce or eliminate releases from intentional production and use**
  - 1. Each Party shall:
    - (a) Prohibit and/or take the legal and administrative measures necessary to eliminate:
      - (i) Its production and use of the chemicals listed in Annex A subject to the provisions of that Annex; and
      - (ii) Its import and export of the chemicals listed in Annex A in accordance with the provisions of paragraph 2; and
    - (b) Restrict its production and use of the chemicals listed in Annex B in accordance with the provisions of that Annex.

## Multilateral TREMs: Import/export control regulations

- CITES Article III Regulation of Trade in Specimens of Species Included in Appendix I
- 1. All trade in specimens of species included in Appendix I shall be in accordance with the provisions of this Article.
- 2. The export of any specimen of a species included in Appendix I shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met: (a)—(d) omitted
- 3. The import of any specimen of a species included in Appendix I shall require the prior grant and presentation of an import permit and either an export permit or a re-export certificate. An import permit shall only be granted when the following conditions have been met: (a)—(c) omitted

## Multilateral TREMs: Prior informed consent procedures

- Biosafety Protocol Article 7 Application of the Advanced Informed Agreement Procedure
- 1. Subject to Articles 5 and 6, the advance informed agreement procedure in Articles 8 to 10 and 12 shall apply prior to the first intentional transboundary movement of living modified organisms for intentional introduction into the environment of the Party of import.

## Multilateral TREMs: domestic measures

- Biosafety Protocol Article 18. Handling, Transport, Packaging and Identification
- 1. In order to avoid adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, each Party shall take necessary measures to require that living modified organisms that are subject to intentional transboundary movement within the scope of this Protocol are handled, packaged and transported under conditions of safety, taking into consideration relevant international rules and standards.
- 2. Each Party shall take measures to require that documentation accompanying:
  - (a) Living modified organisms that are intended for direct use as food or feed, or for processing, clearly identifies that they "may contain" living modified organisms and are not intended for intentional introduction into the environment, as well as a contact point for further information. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall take a decision on the detailed requirements for this purpose, including specification of their identity and any unique identification, no later than two years after the date of entry into force of this Protocol;

## Unilateral TREMs: US

- US Pelly Amendment
  - The 1994 trade sanction imposed on Chinese Taipei
- US Marine Mammal Protection Act
  - The GATT tuna/dolphin dispute
- US Endangered Species Act
  - The WTO shrimp/turtle dispute
- US Clean Air Act
  - The WTO US Gasoline case

Domestic measures:  
Product standards

Border measures:  
Import prohibition

## Unilateral TREMs: EU

- French Labour Code and the Consumer Code, and Decree No. 96-1133 banning asbestos
  - The WTO EC-asbestos dispute
- EC Directive 2001/18 governing the deliberate release into the environment of genetically modified organisms, EC Regulation 258/97 regulating novel foods and novel food ingredients
  - The WTO EC-GMOs disputes
- EC WEEE, RoHS, ELVD
- EC Regulation 1831/2003 on trade in novel products

Domestic measures:  
Product standards

Border measures:  
Import ban, customs procedures

## New development of TREMs

## Background

- Emerging preference over economic instruments in both the domestic and international regulatory systems to address environmental problems
  - Taxes and charges → Internalise Environmental cost
  - Emissions/permits trading → Internalise Environmental cost
  - Subsidies
  - Voluntary action
- As a result:
  - International competitiveness concerns arising from such regulatory approach →
  - Aggressive and defensive industrial policies →
  - Different type of “product” under international trade
    - privatisation and valuation of natural resources? →

## New types of TREMs

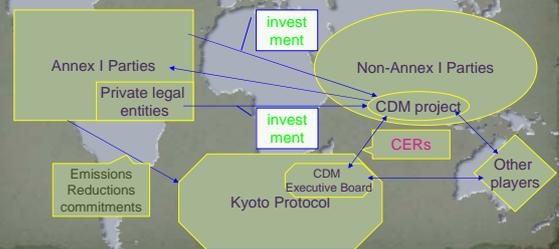
- Traditional border measures (e.g. border tax adjustment for import and export)
- Investment measures, financial mechanisms
  - Trade liberalisation for market efficiency and economy of scale?
  - Mechanism assuring equality of using natural resources?

## Multilateral TREMs

- Investment measures: optional
  - Clean Development Mechanism (CDM) and Joint Implementation under the Kyoto Protocol, various “carbon funds” under multilateral or regional development banks
- Financial mechanisms: optional
  - Multilateral Fund of the Montreal Protocol, Global Environment Facility acting as financial mechanism under UNFCCC, CBD, CCD, Stockholm Convention
- Trade liberalisation: optional
  - Emissions trading under the Kyoto Protocol
- Equality from using natural resources: ?
  - Access and benefit sharing under the CBD

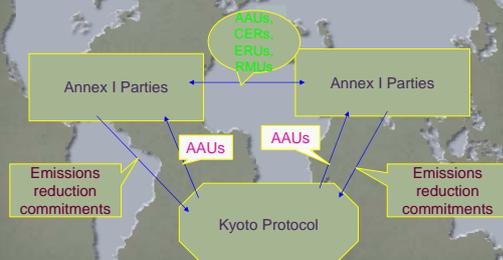
## Multilateral TREMs: investment measures

- Kyoto Protocol Article 12 and relevant COP/MOP decisions (CDM)



## Multilateral TREMs: trade “liberalisation”?

- Kyoto Protocol Article 17 and relevant COP/MOP decisions (emissions trading)



## Unilateral TREMs: EU

- EU Emissions Trading Scheme
  - Operations of the EU ETS
  - Border measures?
    - Aviation
    - Others?
- EU member states energy/carbon tax
  - French proposal on border tax adjustment on import for energy tax

## Unilateral: US

- US Clean Energy and Security Act (pending for Congressional approval)
  - Emissions trading and border measures
- Regional emissions trading systems under the US

## Unilateral: China

- China: Measures for Operation and Management of Clean-Development Mechanism Projects in China
  - **Article 24** Whereas emission reduction resource is owned by the Government of China and the emission reductions generated by specific CDM project belong to the project owner, revenue from the transfer of CERs shall be owned jointly by the Government of China and the project owner, with the allocation ratio defined as below:
    - the Government of China takes 65% CER transfer benefit from HFC and PFC projects;
    - the Government of China takes 30% CER transfer benefit from N<sub>2</sub>O project;
    - the Government of China takes 2% CER transfer benefit from CDM projects in priority areas defined in Article 4 and forestation projects.
  - The revenue collected from CER transfer benefits of CDM projects will be used in supporting activities on climate change. The detailed regulations on collecting and using of the revenue will be formulated by Ministry of Finance jointly with NDRC and other relevant departments.

## Implications on international trade

## From traditional to new development

- Traditional TREMs mainly adopted "traditional" trade policy instruments such as trade prohibition or restrictions, import/export control measures, product standards
  - Easier to identify impact on international trade. However, legality of such TREMs under the WTO framework remain controversial
- New type of TREMs use both traditional border measures and new policy instruments whose impact on international trade, as well as relationship with international trade rules, are indirect and difficult to determine

## New type of TREMs and their legal relationship with the WTO

- Rarely "true" multilateral TREMs of such type, mostly adopted unilaterally
  - GATT Article XX chapeau
  - WTO Doha Round Negotiation on T&E (31.i)
- Whether legal rules under the WTO cover some of such type of TREMs remain unclear
  - Emissions "trading"
  - Investment measures
- Whether legal rules under the WTO can adequately address such type of TREMs remain unclear
  - Border tax adjustment on import and export

## Types of emissions trading

- Cap and trade v.s. Baseline and credit
- Compliance (regulatory) market v.s. voluntary market
- International, regional, national, sub-regional markets
- Sovereign, primary, secondary markets

## Cap & trade v.s. baseline & credit

- Cap and trade (allowance trading)
  - Setting up a cap
  - Allocation of 'allowances'
  - Operations of the markets
- Baseline and credit (project-based trading)
  - Determining the baseline ('additionality' requirements)
  - Verification of emissions reduction
  - Certification of 'credits'
- Linking cap & trade and baseline & credit

## Emissions trading & WTO

- Threshold question: the legal nature of the 'traded units'
  - Are they 'goods'? → GATT might be applicable
  - Are they 'services'? → GATS might be applicable
  - Are they neither goods nor services? If they are neither goods nor services, what are their legal nature?
- From previous experiences
  - Allowances under the cap & trade system, although possessing monetary value on the 'carbon market', are not to be given legal title/property rights so that regulators can obtain their regulatory flexibilities
- Great uncertainty exit



## Border tax adjustment provisions

- Border tax adjustment rules for import: GATT 1994 Article III:1 & 2, *Ad Article III:2*, Article II:2(a)
- Border tax adjustment rules for export: GATT 1994 *Ad Article XVI*, Article VI:4, Agreement on Subsidy and Countervail Measures: footnote 1, footnote 58-61, paragraphs (g) & (h) of Annex I, Annex II
- Subject and scope:
  - "like" products
  - production and process methods



## Conclusion

- The adoption and application of new type of TREMs, be they unilateral or multilateral, require caution and even-handedness, taking into account possible legal dispute under the WTO
  - In particular for those type of TRMEs that are designed to address competitiveness concerns



Comments welcomed.



## Trade, climate change and sustainable development

*The Swedish Climate Standards Project*

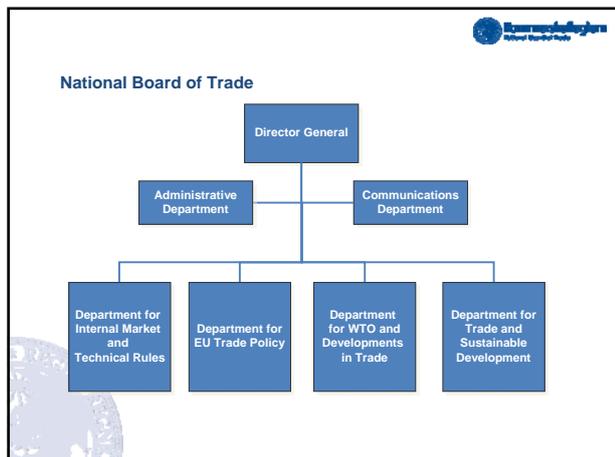
Ha Noi, 15th December 2009  
Anna Sabelström  
anna.sabelstrom@kommers.se





### National Board of Trade – Governmental Agency on International Trade and Trade Policy

- Objectives: An effective Internal Market, an open trade policy in the EU and strong multilateral international trading system
- Provides the Swedish government with analyses and input on trade policy matters
- Contact centre for questions regarding free movement within EU/EES
- Increases public knowledge about foreign trade and trade policy
- Trade expertise for trade related capacity building and development co-operation





### Today's presentation

1. Why we need trade measures to combat climate change
2. Overview European Union's climate-energy package
3. The role of standards
4. The Swedish Climate Standards Project
5. Carbon footprint initiatives and the ISO standard on carbon footprint 14067



### Climate Change calls for action

- IPCC report: we need 50-80 % reduction in emissions by 2050 to avoid 2 degree temperature rise
- Stern report:  
cost of inaction: 20% of global GDP  
cost of global action: investment 0,5% of global GDP/year  
reduce global growth by 0,19%/year
- IEA: reference cases see 40% increase in energy related CO2 emissions by 2030 (compared to 2005), alternatively 27% increase if all measures were in place
- But: Climate change not only a question of environment!  
Will we see action in Copenhagen concluding the "Ballroadmap"?



### Major Economies Forum on Energy and Climate, L'Aquila, Italy, July 2009

- Reach agreement in Copenhagen
- Prepare low-carbon growth plans
- Take the lead by promptly undertaking robust aggregate and individual reductions in the midterm
- Recognize 2 degrees goal
- Immediate need to assist the poorest and most vulnerable to adapt; further support need to be mobilized
- Increase public sector investments in research, development, and demonstration, with a view to doubling such investments by 2015
- Lead countries will report by November 15, 2009, on action plans and roadmaps and make recommendations for further progress



#### European Unions climate-energy legislative package

- EU Renewable Energy Directive 2009/28/EC
- Revised EU Emission Trading Scheme 2003/87/EC (ETS)
- "Effort-sharing" decision 2009/... sets binding emission targets for EU member states not subject to the ETS
- Quality standards for fuels and biofuels
- Emission performance specifications for new passenger cars
- Regulatory framework for carbon capture and storage



#### EU:s trade policy instruments linked to environment/climate change

- Free trade agreements - negotiations include Sustainability Impact Assessments (SIA)
- Additional trade preferences to countries committed to implementing environmental and social standards (GSP)
- Liberalizing environmental goods and services in the WTO
- Strong climate agreement in Copenhagen. Climate related issues should foremost be addressed through the UNFCCC process and trade regime at most be supporting.



#### Trade policy tools for climate change objectives

- Liberalizing environmental goods and services
- IPR role for innovation and dissemination
- Investment in clean technologies and low carbon production
- Removal of fossil fuel subsidies
- Applying international standards
- 
- Free allocation – subsidy ?
- Border carbon adjustment



#### Why global climate standards?

- Toolbox for tackling climate change – quantifying, monitoring, reporting and verifying
- Dissemination of knowledge and promoting access to climate technology
- Supporting innovation
- Assisting companies in environmental management
- 
- Climate standards as a "common language" increases market opportunities
- Eliminating diversity of climate labelling initiatives and enhancing credibility for consumers
- Avoiding new barriers to trade, in particular for developing countries



#### Standards as a trade policy tool for climate change objectives?

- Bali meeting 2007: Discussions on how trade policy can contribute to the fight against climate change
- Need for balance between standards to mitigate greenhouse gases and avoiding new barriers to trade, in particular for developing countries
- Involvement of developing countries in standard setting is crucial



#### The Swedish Climate Standards Project

- Launched in January 2008 by the Swedish Ministry for Foreign Affairs
- Executed by
  - The Swedish National Board of Trade: project coordinator and focal point for capacity building and policy development
  - The Swedish Standards Institute (SIS): co-ordinates capacity-building
  - The Swedish Development Agency (Sida) and Ministry for Foreign Affairs finance project activities



### Objectives

- Encourage global standards to become a tool for climate mitigation
- Strengthen developing countries' participation and voice in standardisation process
- Increased trade with climate technology/ climate friendly goods and services
- Promote sustainable development



### How to achieve the objectives

- Raising awareness on trade-related climate obligations and its impact on international trade
- Enhancing knowledge among developing countries how to increase export possibilities and market shares by the way of implementing climate-related standards
- Building capacity and supporting developing countries to be active in the development of international climate-related standards (pre-seminars)
- Building capacity in implementing standards, building up quality infrastructure, train-the-trainers etc.



### Activities

1. Standardisation pre-seminars for the MENA region aiming at active participation in the ISO work on carbon footprint.
2. Conference "Climate Change, Standardisation and Trade in a development perspective"  
Participants from 50 developing countries gathering in Stockholm 23-25 Nov 2009
3. Planned: Five-year-programme on a global basis accompanying the ISO work, including needs assessment, establishing quality infrastructure, awareness raising, train-the trainers and best practice conferences.



### Substantive scope of the project

- ISO 14067-1 Carbon footprint of products – quantification
- ISO 14067-2 Carbon footprint of products – communication
- EU Renewable Energy Directive 2009/28/EC
- Standards on fluid and solid biofuels, including sustainability requirements
- Related measures and processes



### The food miles debate

- 2006-07: start of the debate 'airplane labeling' in some UK supermarkets
- The 'Kenya Beans' bashing in the UK
  - Why food only?
  - Why the transport aspect only?
  - Africa's response 'GROWN UNDER THE SUN'
  - Fair miles instead of food miles



### Carbon Footprint initiatives

- ISO: CFP for products, CFP for organizations
- WRI/WBCSD: common draft document on CFP
- UK: PAS 2050
- NZ: Measurement methodology for CF of agricultural products
- JAP: Updated guidelines for assessment and labelling of CFP
- US: Product Carbon Disclosure Program in Clean Energy and Security Act
- F: Implementation of carbon tax from 2011
- G: PCF Pilot Project goes into next phase
- S: Climate labeling KRAV and Svensk Sigill
- SF: Climate Bonus Project concluded

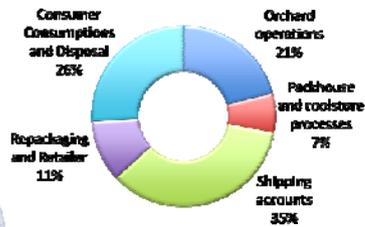




### Carbon footprint of products

Calculation and information about the total amount of GHGs emitted during the whole life cycle of a good or service

e.g. New Zealand Kiwifruit Carbon Footprint Study shows that 1 kg fruit has a carbon footprint of 1.74 kg CO<sub>2</sub> Eq.



### ISO 14067- carbon footprint of products (1)

- Enables to ascertain and manage GHG emissions along the supply chain
- Safeguards the survival of companies in the changing regulatory and economic business landscape
- Furthers the understanding of the risks and opportunities in the supply chain
- Allows to focus effort in response to new regulatory, shareholder and consumer pressures
- Fair comparison by specific calculation tools, B2B and B2C



### ISO 14067 – carbon footprint of products (2)

- Apr 2008: 1st meeting of ISO/TC 207 WG 2 (Vienna)
  - Jun 2008: 2nd meeting of ISO/TC 207 WG 2 (Bogota)
  - Jan 2009: 3rd meeting of ISO/TC 207 WG 2 (Kota Kinabalu)
  - 22 -25 Jun 09: 4th meeting of ISO/TC 207 WG 2 (Cairo)
  - 19 – 21 Oct 09: 5th meeting of ISO/TC 207 WG 2 (Vienna) PRE-SEMINAR
  - Japan
  - Mexico
  - ...
- Ready in 2012



Thank you!

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# Taking Environmental Considerations into Trade Policies

## China's Experiences of Green Trade

**Dr HU Tao**

Chief of Trade and Env Expert Group  
of Ministry of Environmental Protection (MEP), China

Ha Noi, December 15-16, 2009

## Outline

- Why
- What
- How
  - Product level
  - Firm level
  - Sectoral level
  - Macro economy level

2

## Why taking environmental considerations into trade policies

- Development 1.0: **Red Revolution Era**
  - Started in 1949 by Mao's leadership and ended in 1979 by Deng's leadership
  - Re-unified country
  - Revolution and movement
  - Closed central planned economy
- Development 2.0: **Blue Opening-up Era**
  - Started in 1979 by Deng's leadership and being continued by Jiang and Hu's leadership
  - Opening-up, FDI and international trade
  - Reform and transforming to market economy
  - Labor intensive, energy, resource and pollution intensive economic model

3

## Why taking environmental considerations into trade policies

- Development 3.0: **Green Economy Era**
  - Initiated by Hu's leadership and being formulated in details and being implemented at the same time
    - New Concept of Scientific (Rationale) Development
    - Harmonious society
    - All round Xiaokang Society target
    - Resource-saving and environmental-friendly society
    - Changing of economic growth model from energy and resource based to hi-tech, service oriented
    - 20% Energy intensity and 10% sulfur reduction target in 11th five year plan
    - Economy for low carbon, low sulfur, low NOx, low PM, etc

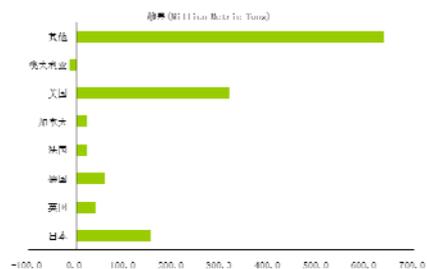
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## Why taking environmental considerations into trade policies

- Based our CGE model simulations in 2005, the following environmental consequences are due to China's net foreign trade volume:
  - 23% of carbon emissions
  - 39% of sulfur emissions
  - 18% of COD emissions
  - 12% of water consumptions
- China has trade surplus in term of monetary value, but deficit in terms of environmental indicators

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CO<sub>2</sub>



6



## How taking environment into trade policies: good practices of green trade policies

- Product level
  - For goods
    - WTO-EGS negotiation
      - Indoor-environmental Goods and Services
      - Conventional-environmental Goods and Services
      - Global-environmental Goods and Services
    - Eco-label goods and services promotion
      - China's eco-labels
        - China's environmental friendly product scheme
        - Energy-saving scheme
        - Organic food and green food scheme
        - Eco-label mutual recognition
      - In green public procurement list from 2007
      - Eco-label Service
        - Green tourism
        - Green hotels
      - To be proposed in bilateral FTA negotiation in the future
    - Low carbon product standards being integrated into current China's environmental friendly product standards and energy-saving standards

## How taking environment into trade policies: good practices of green trade policies

- Product level
  - For bads
    - Prohibited goods list regulated by MEAs and national laws
    - Heavy pollution and High environmental risk product
      - Double-H products list with 141 products
      - No VAT rebate
      - From February 26, 2008
    - 5-25% exporting tariff on high energy intensive and pollution intensive products started from January 1, 2007
      - High pollution and low value iron and steel
      - Iron coke
      - Cement
    - BTAs?
      - No legal base in UNFCCC but maybe in WTO/GATT XX
      - Good for environmental protection
      - Putting into US treasure or China's?

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## How taking environment into trade policies: good practices of green trade policies

- Firm level
  - ISO14000 certificates taking up about half of world total
  - Green name list
    - Environmental Friendly Enterprises re-start 2010
  - Black name list
    - Information sharing in some industries among MEP, MOFCOME, MOF, NDRC, costumes etc to be proposed
- Sectoral level
  - Investment guidelines
    - Encouraged sectors
    - Allowed sectors
    - Restricted sectors
    - Prohibited sectors

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## How taking environment into trade policies: good practices of green trade policies

- Macro economy level
  - Stimulus plan for combating financial crisis
    - 20% of green components, including environmental infrastructure, renewable
  - EIA on trade policy
    - Draft of EIA guideline on trade policy
    - Preliminary EIA on C-J-K FTA to be finished for ministerial meeting
    - EIA on China-Norway FTA to be considered
    - EIA on China-Switzerland FTA to be discussed

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## Thank you very much!

- Expert Group for Trade and Environment of Ministry of Environmental Protection (MEP)
  - Established in 2003 for WTO-CTE negotiation
  - EIA on trade policy in 2005
  - Green trade policy in 2007
  - Green trade policy for 20% energy/carbon intensity target and climate change policy

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## Thank you very much!

## TRADE AND ENVIRONMENTAL POLICY – THE EXPERIENCES OF VIET NAM

Associate Professor Doctor. Nguyen The Chinh  
Institute of Strategy and Policy on Natural  
Resource and Environment  
Ministry of Natural Resources and Environment



## INTRODUCTION OF VIETNAM

- **Advantages for commerce:**
- + Good geographical position for commercial activities
- + Plentiful natural resources
- + Population, great number of customers
- + Intelligent and dynamic people
- + A stable political regime

## INTRODUCTION OF VIETNAM

- **Disadvantages for commerce:**
- + Low science and technology level
- + Low infrastructure, especially for transport and environmental treatment
- + Just join WTO, lack of experience on international commerce
- + On the process of improving the socialist-oriented market economy

## THE PROCESS OF POLICY MAKING IN VIETNAM

- Political program, big policy
- Strategy
- Project
- Scheme, planning

## THE HIERARCHY OF VIETNAMESE POLICY

- Political orientation: Vietnamese Communist Party
- Law: National Assembly
- Decree: Government
- Decision of Prime Minister
- Decision, Directive, Circular of Ministers and head of ministry-level bodies, People's Committee of city or province
- Local Decision

## TRADE AND ENVIRONMENT RELATED MACROSCOPIC POLICIES

- In 1986, Vietnam's innovation, a large number of natural resources and environment related policies in there
- In 1998, political bureau of the Party Central Committee (8<sup>th</sup>) established a direction on environmental protection in the period of industrialization and modernization
- Socio-economic strategy 2001-2010 (since 9<sup>th</sup> congress): "Develop rapidly, effectively and sustainably, enhance economic development, social justice and environmental protection"

## TRADE AND ENVIRONMENT RELATED MACROSCOPIC POLICIES

- In 2004, 41/NQ-TW Resolution of political bureau of the Party Central Committee (9<sup>th</sup>) on environment protection in the in the period of enhancing industrialization and modernization. It concretized issues of preventing and reducing pollution, biodiversity conservation, natural resource sustainably using, restoring the environment.
- Restatement in 10<sup>th</sup> congress in 2006: Improving the effectiveness and sustainment of development, transferring Vietnamese economy from low development to market economy.

## TRADE AND ENVIRONMENT RELATED MACROSCOPIC POLICIES

- In 2003, the Government established “National Strategy on the Protection of Environment up to 2010 and toward 2020”
- In 2004, the Government established “Orientations for sustainable development strategy in Vietnam (Vietnam 21<sup>st</sup> Agenda”
- Macroscopic policies are premises, bases for ministries, local governments to establish more detailed and specific policies

## TRADE AND ENVIRONMENT RELATED LEGAL SYSTEM IN VIETNAM

- Ordinance on Protection and Development of aquatic resources in 1989
- Ordinance on Plant protection and quarantine in 1993
- Ordinance on Veterinary medicine in 1993
- Law of Environmental protection in 1993, revised in 2005
- Law of forest development and protection in 1991, revised in 2004
- Law of Mineral in 1996, revised in 2005
- Law of Biodiversity in 2008
- Law of Commerce in 1997, revised in 2005

## ORIENTATION OF COMMERCIAL AND ENVIRONMENTAL POLICIES IN VIETNAM

- Improve the system of commercial policy following sustainable development and in adequate with international agreements on commerce and environment of Vietnam
- Prevent and minimize environmental pollution in manufactories
- Support enterprises to improve their abilities to satisfy the requirements of International Economy Integration

## ORIENTATION OF COMMERCIAL AND ENVIRONMENTAL POLICIES IN VIETNAM

- Enhance scientific research in the combination of commercial and environmental policies
- Combine production and business plans with environmental protection plans in terms of manufactory managing policy
- Raise awareness of environment related manufactories and commercial managers as well as commerce related environmental managers

*Thank You*



## MEXICO'S EXPERIENCES ON TAKING INTO ACCOUNT ENVIRONMENTAL CONSIDERATION INTO THE POLICY MAKING PROCESS FOR SUSTAINABLE DEVELOPMENT

APEC SEMINAR ON FACILITATING TRADE AND ENVIRONMENTAL PROTECTION

15-16 December, 2009 Ha Noi, Viet Nam

CINTIA AMEZCUA  
DIRECTOR OF TRADE ASPECTS –  
INTERNATIONAL COORDINATION UNIT



## Introduction



1. National Development Plan 2007-2012 (NDP)
  - Includes “**Sustainable Development**” as one of its guiding principles.
  - Establishes as a purpose the finding of a “**Human Sustainable Development**”
    - Creation of an atmosphere where everybody is capable of increasing their capacity and where opportunities can be widened for current and future generations.
  - Has five core Themes, one of which, Theme 4, is “**Environmental Sustainability**”



## Introduction



➤ Recognizes **sustainability of ecosystems** as a basic condition for an integral strategy of human development in its national objective number 8.

*"Ensuring environmental sustainability through the responsible participation of Mexicans in the care, protection, preservation and rational use of the country's natural resources, to achieve the strengthening of the economic and social development without compromising natural heritage and quality of life of future generations"*

➤ National objective number 8 of the NDP is the base to derive from it the environmental and natural resources actions program of the current administration.



## Introduction



2. Sectorial Program on Environment and Natural Resources 2007 – 2012 (SPENR 2007-2012)

### ➤ “Environmental Sustainability”

- It is the main framework of reference of the SPENR 2007-2012
  - It is a central element of the development in Mexico and it is essential to improve and extend present and future human capabilities and opportunities, and
  - It is an integral part of the vision for our country, which envisages the creation of a culture of conservation of and respect to the environment



## HOW TO WALK TOWARDS THE HUMAN SUSTAINABLE DEVELOPMENT INTEGRATING ENVIRONMENTAL CONSIDERATIONS?



## Mainstreaming environmental policy



- Mexico's efforts are directed to strengthen inter-agencies coordination to include environmental considerations in other sector policies and establishing **crosscutting public policies for sustainable development**.
- Mainstreaming environmental policy in a set of public policies:
  - ✓ It is the main tool used by the Ministry of Environment and Natural Resources (SEMARNAT) to integrate environmental matters into the decision making process for sustainable development
  - ✓ It is an strategy for dealing with priority environmental issues which seeks to engage other agencies and stakeholders:
    - ✓ Federal Public Administration Agencies
    - ✓ Local Governments (state and municipal levels)
    - ✓ Civil Society



## Mainstreaming environmental policy



### ➤ GENERAL OBJECTIVE:

"To incorporate environmental criteria in public policies of the agencies of the Federal Public Administration (FPA), as an indispensable element in the design and implementation of its programs and actions to promote sustainable human development, through intersectorial coordination inducing synergies between economic growth, welfare and sustainability".



## Mainstreaming environmental policy



### ➤ PARTICULAR OBJECTIVES:

- ✓ To incorporate environmental criteria into the political, economical and social decision making at all levels of government
- ✓ To consolidate and widen cooperation and coordination of public policies among agencies
- ✓ To strengthen the federation assuring integral attention of environmental issues at local level (municipalities and states)
- ✓ To discuss and analyze priority environmental matters through the creation of theme/topic working groups
- ✓ Organizing, prioritizing and following up to concrete actions derived from joint goals.
- ✓ Identification of duplicity actions and avoiding possible conflicts.



## Mainstreaming environmental policy



### Background

- National Development Plan 2001-2006
  - ✓ First NDP that recognized "sustainability" as an essential principle of the "national strategy" to foster the economic and social development, in harmony with preservation of the ecological capital of the country.
- SEMARNAT's "Program to Promote Sustainable Development in the Federal Government" implemented (16 Agencies involved).
- ✓ Formal scheme of coordination between SEMARNAT and Federal Agencies through "good willness agreements"



## Mainstreaming environmental policy



- Mexico formalizes institutional integration mechanisms relating to sustainable development through specific programs and actions:

- The Special Programme on Climate Change (SPCC – Derived from the National Strategy on Climate Change).
- Education and Environmental Culture Programme
- Sustainable Urban Development Programme
- Environmentally Sustainable Tourism Programme
- Ecological Land Planning



## Mainstreaming environmental policy



- Mexico formalizes institutional integration mechanisms relating to sustainable development through the creation of Inter-sectorial institutions:

- Interministerial Commission on Climate Change (seven Cabinet Ministers)
- Interministerial Commission for Sustainable Management of Seas and Coastal Zones.
- Group of Ecological Land Planning.



## Mainstreaming Environment Policy through Common Agendas



### Common agendas:

- ✓ are part of the strategies to foster inter-agency coordination on environmental considerations;
- ✓ establish coordination actions through medium and long term agreements;
- ✓ allow to focus commitments and actions in the attention of environmental priorities;
- ✓ constitute a formal coordination mechanism that count with the full commitment of the agencies involved;
- ✓ allow the creation of thematic working groups as needed;



## Mainstreaming Environment Policy through Common Agendas



Common agendas:

- ✓ are designed with quantitative goals and indicators, jointly established, which enable to follow up actions and achievements (an "Inventory" is being developed);
- ✓ Periodical quantitative achievement reports (every two months) are subject to annual evaluations

How these agendas are developed?

1. Integration of the proposal
2. Follow up actions and registration
3. Annual evaluation



## Mainstreaming Environment Policy through Common Agendas



### ➤ Legal Framework

- ✓ National Development Plan 2007-2012 (PND) Axe 4 Environmental Sustainability
- ✓ Sectorial Programme on Environment and Natural Resources 2007-2012.
- ✓ Sectorial Programmes 2007-2012
- ✓ General Law of Ecological Balance and Environmental Protection
- ✓ Planning Law



## Institutions Involved



Number	Institution	Acronym
1	Banco Nacional de Obras y Servicios Públicos	BANOSERVIS
2	Comisión Federal de Electricidad	CFE
3	Comisión Nacional de Vivienda	CORAVI
4	Comisión Nacional para el Desarrollo de los Pueblos Indígenas	CODI
5	Consejo Nacional de Ciencia y Tecnología	CONACYT
6	Consejo Nacional de Población	CONAPO
7	Instituto Nacional de Estadística y Geografía	INEGI
8	Instituto Nacional de las Mujeres	IMMUEJERES
9	Luz y Fuerza del Centro	LFC
10	Ministerio Mexicano	SEMEX
11	Procuraduría Federal del Consumidor	PROFECO
12	Procuraduría General de la República	PGR
13	Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación	SAGARPA
14	Secretaría de Comunicaciones y Transportes	SCT
15	Secretaría de Desarrollo Social	SEDESOL
16	Secretaría de Economía	SE



## Institutions Involved



Number	Institution	Acronym
17	Secretaría de Educación Pública	SEP
18	Secretaría de Energía	SENER
19	Secretaría de Gobernación	SEGOB
20	Secretaría de Hacienda y Crédito Público	SHCP
21	Secretaría de la Defensa Nacional	SEDENA
22	Secretaría de la Reforma Agraria	SRA
23	Secretaría de Marina	SEMAR
24	Secretaría de Medio Ambiente y Recursos Naturales	SEMARNAT
25	Secretaría de Relaciones Exteriores	SRE
26	Secretaría de Salud	SALUD
27	Secretaría de Seguridad Pública	SSP
28	Secretaría de Turismo	SECTUR



## Coordinated Interagency Action



Priority is given to those government agencies which most directly influence the environment and natural resources, such as:

- ✓ Ministry of Agriculture, Rural Development, Fisheries and Food (SAGARPA)
- ✓ Energy Ministry (SENER)
- ✓ Ministry of Tourism (SECTUR)
- ✓ Ministry for Social Development (SEDESOL)
- ✓ Ministry of Communications and Transport (SCT), and
- ✓ Ministry for Public Education (SEP).



## Coordinated Interagency Action



### ➤ Ministry of Agriculture, Rural Development, Fisheries and Food (SAGARPA)

- ✓ The Special Concurrent (or Parallel) Programme for Sustainable Rural Development, coordinated by SAGARPA (2007) includes targets and actions to be implemented by SEMARNAT .
- ✓ Currently working together to:
  - include environmental criteria in the Operational Regulations of SAGARPA's support programmes.
  - modify the current package of production incentives
  - move towards more sustainable patterns of use of ecosystems, natural resources and ecological services



## Coordinated Interagency Action



### ➤ All agencies (Sustainable Public Procurement)

- ✓ All Federal Government offices must include environmental sustainability criteria in all purchases, especially those involving wood and timber products and all office supplies of furniture and paper. (Amendments to the Law of Acquisitions, 2007)
- ✓ SEMARNAT has published general guidelines to be taken into account in the purchasing policies of every government organization.



## Coordinated Interagency Action



### ➤ Climate Change

- ✓ UNFCCC (signed in 1992 and ratified it in 1993)
- ✓ Kyoto Protocol (signed in 1997 and ratified it in 2000)
- ✓ Non-Annex I nation (all commitments fulfilled)
- ✓ Three National Communications (1997, 2001, and 2006) and in 2009 the 4<sup>th</sup> to be presented (the only developing country to do so)
- ✓ Mexico has updated its National Green house Gas Inventory on three occasions in line with IPCC guidelines and methodologies in force.



## Coordinated Interagency Action



### ➤ Climate Change

- ✓ Inter-ministerial Commission on Climate Change (CICC) created in 2005, as a Federal entity responsible for the formulation and mainstreaming of public policy on climate change, including mitigation and adaptation strategies across the entire public sector.
- ✓ The CICC includes several working groups as well as Mexican Committee for GHG Emissions Reduction and Capture Project
- ✓ The Ministry of Finance (SHCP) coordinated a study to evaluate the impact of global climate change on the Mexican economy and an analysis to quantify the costs of adaptation



## Achievements



- Joint work among 28 institutions and agencies of the FPA and the environmental sector to attend priority environmental matters
- Intra-sectorial coordination (integrality of different government actors from the environmental sector)
- Projects and actions agreed to jointly
- Integration of the inventory of crosscutting environmental policy actions
- Development and implementation of the Information System of the mainstreaming environmental agenda (SIAT), 2009.



## CONCLUSIONS



- ❖ Mexico has adopted an ambitious approach for facing environmental governability throughout which is heading, more and more, towards Sustainable Development
- ❖ Sustainable Development stands as a main criteria of sectorial processes for policy making as well as a common and shared responsibility among different sectors and institutions
- ❖ Mexico recognizes the severe environmental degradation that is facing, and its government is currently taking sustained and continued efforts to improve and implement environmental policies
- ❖ Mexico is taking firm steps towards the integration of environmental policies in other sectorial agendas and this path will accelerate its way to achieve Sustainable Development
- ❖ Notwithstanding that Sustainable Development is part of the National Development Plan and that also exist a Sectorial Programme on Natural Resources and Environment, there are still challenges to meet for decoupling economic growth from environmental degradation and to achieve social development.

