POLICY NOTE 2

Environment Provisions in Regional Trade Agreements:

Lessons for China

June 30, 2009

Main messages

- A key question is whether trade agreements should address environmental issues or whether they should stay separate. International experience shows that what matters is how these agreements are written. Notwithstanding the political sensitivity of the trade-environment nexus, integrating environmental concerns into the trading system seems now an almost irreversible trend.

- With a shift of the development agenda from primarily pursuing growth to achieving a more balanced and sustainable development and taking into account China’s high reliance on trade, it may be increasingly in China’s interest to proactively engage its partners on environmental issues in its regional trade agreement (RTA) negotiations.

- In its future RTA negotiations on environment policy, China may take into account its level of development and enforcement capacity. To facilitate the policy making process, China could consider conducting a comprehensive pre-RTA assessment, and one of the key components is environmental impact assessment.

- China could probably take a pragmatic approach—being flexible towards different negotiating partners, and a phased-in approach in dispute settlement mechanism.

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1. **The trade and environment linkage is a sensitive and controversial issue for many countries.** While it is true that trade, like any other economic activity, has environmental implications, there are no unanimous views on whether trade as a policy instrument should address environmental concerns. Putting aside the debate about whether environmental issues should be addressed in trade agreements or in stand-alone environmental agreements, the purpose of this policy note is to identify the main contours of the trade and environment debate in the context of Regional Trade Agreements (RTAs).

2. **At the multilateral level, international trade law and international environmental law have traditionally been viewed as independent disciplines, and have been dealt with under different international instruments.** The agreements of the World Trade Organization (WTO) recognize certain broad principles relating to the environment. The Doha Declaration also mandates countries to examine this linkage closely. WTO’s jurisprudence on the subject of trade and environment recognizes that WTO law does not exist in clinical isolation of international law and developments, including environmental concerns. However, it emphasizes that environmental measures to restrict trade can be adopted only under certain strict conditions.

3. **As the Doha round stalls, trade-related environmental concerns are increasingly being integrated in trade deals at the bilateral and regional levels.** Three key reasons for adding environmental provisions in RTAs include: (1) enthusiasm for sustainable development; (2) worries that weak environmental enforcement can create unfair competitive advantages; and (3) efforts to advance the international environmental agenda by using sanctions that are not agreed on a multilateral basis.

4. **While most countries recite environmental cooperation among the goals of their RTAs, the scope of environmental provisions in RTAs varies significantly, even among developed countries.** While RTAs signed by the United States, the European Union and New Zealand contain some of the most comprehensive environment provisions, Japan has taken a less ambitious approach.

5. **Overall, there has been an increased awareness of the possible benefits of environmental provisions in RTAs.** The widespread worry that stricter implementation of environmental rules would undermine national competitiveness in the context of free trade has proven to be unfounded. Empirical research suggests that the costs of compliance with environmental regulations have had little or no impact on the overall competitiveness of countries. In fact, some economists advance a “trading up” hypothesis of liberalization, the idea that trade leads to upward convergence towards more stringent environmental policies. However, it remains to be seen whether the “trading up” hypothesis will apply to climate change measures, which are likely to be far more costly than past efforts to better the environment.
6. As China shifts its development agenda from primarily pursuing growth to achieving a more balanced and sustainable development, the experience of advanced economies in the treatment of environmental provisions in the context of RTA negotiations could provide valuable insights and lessons.

International experience

7. Developed economies such as the United States, Canada, the European Union and New Zealand, have been using progressively elaborate environmental provisions in their recent RTA negotiations. However, the approach of each country is different, and the depth and scope of RTAs entered into by them varies. RTAs entered into by the United States have the most elaborate and sophisticated provisions on environment so far, most of which are worded as legally binding provisions. The EU RTAs with Chile and the Mediterranean countries concluded in the early 2000s did not have elaborate provisions on environment. The European Union, however, seems to be approaching far more complex provisions since its agreement with the Cariforum countries in 2008, and in its current negotiations with ACP countries.

8. Among other developed countries, the approach taken by Japan and Australia is less ambitious. Environmental considerations are mentioned in all Japanese trade agreements and Japan discourages investments that waive or relax environmental standards. However, its emphasis has been on principles of cooperation to achieve certain environmental objectives. Australia has not been a proponent of environmental provisions in RTAs. Its 2004 agreement with the United States reflects environmental provisions to the extent that they reflect the approach taken by the United States in its RTA negotiations. Australia has however not replicated such provisions in any of the other RTAs entered into by it.

9. A strong political commitment, reflected in parliamentary resolutions, legislative mandates, or declared trade strategies seems to be a critical precursor for including environmental provisions in trade agreements. Environmental mandates were legislated under the US Trade Act (2002), in the context of trade negotiating objectives laid down by the US Congress. Specifically, the Congress declared that trade agreements should strengthen the capacity of trading partners to protect the environment through the promotion of sustainable development; should provide market access for US environmental technologies, goods and services; and should ensure that environmental policies abroad do not discriminate against US exports or serve as disguised barriers to trade. In 2001, the New Zealand government adopted a Cabinet mandate for harmonizing trade policy objectives with environmental goals. Under the “Framework for Integrating Environment Standards and Trade Agreements,” New Zealand emphasized that environmental provisions should not be “misused for protectionist reasons” nor should they lower environmental standards. In contrast, Japanese government does not have a mandate to advance environmental goals in RTA negotiations.
10. **A number of important considerations can be drawn from international experience in terms of environmental provisions.** They include the role of pre-RTA environmental impact assessments, the location of the provisions in a side agreement or in the main text of the agreement, and the exact nature of environmental provisions.

11. **Pre-RTA Environmental Impact Assessments are required in some countries.** The United States, Canada, the European Union and New Zealand regularly conduct impact assessments of the RTAs they are negotiating on the environment. The focus of such assessments by the United States, Canada and New Zealand is on the impact on the environment within their countries, although a few recent U.S. RTAs have reflected on potential impact in the trading partner as well. The European Union’s approach is to conduct ‘Sustainability Impact Assessments’ that focus on the economic, social and environmental assessments in both the European Union and the trading partner.

12. **Environmental Provisions can be incorporated in Side Agreements to RTAs or in Main Text of RTAs.** Neither approach is necessarily superior to the other, since the legal implications of the approaches depend first and foremost on the nature of the provisions that they reflect. Side agreements do not necessarily imply that environment is only an incidental issue. Some of the strongest provisions on environment are reflected in North American Agreement on Environmental Cooperation, which was concluded between the United States, Canada and Mexico as a ‘side agreement’ to the North American Free Trade Agreement (NAFTA).

13. **RTAs commonly include environmental provisions in the body of the agreement, but the level of commitment varies depending on several key factors.** These include whether environment is only recited in the preamble or separately detailed in a chapter on the environment; the types of institutions, including dispute settlement mechanisms, created to facilitate cooperation and monitor enforcement of environmental laws; and the types of capacity building and technical cooperation offered. Once provisions are written into the text, perhaps the most important step is to agree on effective enforcement mechanisms. So far, no RTA has adopted an enforcement mechanism for environmental issues that has the same “bite” as, for example, enforcement of tariff bindings.

- **Nature of Environmental Provisions in RTAs:** Environmental provisions used in U.S. and EU RTAs typically reflect a blend of legally binding and non-binding provisions. Environmental provisions in RTAs entered into by Japan have so far reflected mainly non-binding principles. Several of the binding obligations pertain to the high standards that a party is required to ensure in its domestic environmental laws. The terminology used in most U.S. and EU RTAs tries to achieve a balance between sovereign decision-making in enacting suitable provisions, and a commitment to exercise such decision-making in a manner consistent with achieving high environmental standards. Environmental provisions in RTAs entered into by several countries also focus on specific areas for cooperation between the parties to achieve environmental objectives.
• **Technical Assistance and Capacity Building:** The need for technical assistance and capacity building is recognized in most RTAs that incorporate environmental provisions, in respect of compliance with environmental requirements and standards. In addition, incorporation of environmental standards in product standards aimed at sanitary and phytosanitary requirements, and technical regulations, are also areas where technical assistance and capacity building is often required for developing countries, in order to ensure adequate market access for their exports. However technical assistance and capacity building are not worded in legally binding terms. Several important initiatives have been undertaken under both U.S. and EU RTAs towards fulfilling the obligations of technical assistance and capacity building. Elements of cooperation to achieve specific environmental objectives are also enumerated in RTAs entered into by the United States, the European Union, and Japan.

• **Dispute Settlement and Remedies:** Dispute settlement provisions in RTAs typically consist of consultations, followed by formal dispute settlement. Most U.S. RTAs prescribe remedies in the form of monetary compensation for non-compliance with environmental provisions. In the event such compensation is not paid by a party, then as a last resort, there can be tariff suspensions. EU RTAs leave open the issue of ‘compliance measures’ to the judicial mechanism hearing the dispute, which may include monetary compensation, but not suspension of concessions. However, since environmental provisions in RTAs are of fairly recent origin, there is little jurisprudence currently to assess the impact of such provisions, since no formal state-to-state disputes have been raised as yet under existing RTAs. A few RTAs also comprise provisions on ‘public submissions’ to the Environmental Committee constituted under the RTA. Such submissions result in ‘fact-finding’ reports, but do not result in any binding conclusions.

**Possible lessons for China**

14. **While China has shifted its development objectives from primarily focusing on growth to pursuing a more balanced and sustainable development, environmental concerns have not, so far, been a high priority on the Chinese RTA agenda.** China has acceded to more than 50 international conventions on environmental protection, including two landmark accords, the Kyoto Protocol and the Montreal Protocol. Most of China RTAs contains clauses on environmental cooperation. However, in China’s existing RTAs, environmental provisions are typically limited to the mentioning of the principle of “sustainable development” in the preamble, the recognition of the possibility to use environmental measures as an exception to the general trade obligations, and general language on environmental cooperation among the parties. In addition, some RTAs include liberalizations on environmental goods and services in the
respective schedules. For example, in the RTA with Chile, China agreed to partially liberalize the environmental services sector.

15. **In some of the most recent RTAs, however, China seems to lean toward a more active approach to environmental considerations.** This is consistent with the shift of China’s development objective. For example, in the RTA with Singapore, China agreed to cooperate with Singapore on the Tianjin Eco-city project and enhance cooperation on environmental protection and energy and resource conservation. Another example is the RTA with New Zealand, which includes a side agreement on environmental cooperation. This agreement uses only best-effort language and does not create any binding obligations. The RTA with Chile also mentions a possible side environmental cooperation agreement.

16. **It may be increasingly in China’s interest to address more provisions on environment in RTA negotiations.** The inclusion of more environmental provisions in RTAs and the resulting pressure from foreign governments and firms will provide China with the necessary impetus to carry out domestic environment policy reforms. As most of the environmental provisions in the existing RTAs focus on information exchange, cooperation and dialogue, it is unlikely that binding environmental obligations will be included in China’s RTAs for the foreseeable future. Yet, environmental provisions could usefully help trigger domestic reforms to enhance the institutional capacity of the environmental protection agencies, revamp the existing legislative framework, and strengthen the enforcement mechanism in China. From this perspective, China may wish to consider having a governmental mandate to explicitly address environmental issues in its PTA negotiations.

17. **Nevertheless, negotiating appropriate environment provisions in an RTA necessarily needs to take account of the local institutional and developmental context.** The agenda on environment by a developing country like China needs not to be ‘reactive’ in all cases. China should carefully consider its interests, which include both offensive and defensive interests. Examples of offensive interests include limitations on “green barriers” such as trade-protectionist measures disguised as environmental protection measures. Defensive interests, on the other hand, include the affirmation of China’s right to set and maintain any WTO-consistent environmental protection measures that corresponds to the level of economic development. China might also be interested in making explicit climate change commitments that could mitigate potential carbon tariffs imposed by its trading partners.

18. An appropriate environment policy cannot be made without a comprehensive pre-RTA assessment. The pre-RTA assessment often include the following elements: 1) environmental assessment of RTA; 2) economic Costs assessment of Environmental Provisions, which is required to understand the actual economic costs of implementing the contemplated environmental provisions; 3) regulatory inventory through which identifying legislative changes at the domestic level required by proposed provisions; and 4) capacity assessment of local institutions which can be adapted so as to ensure
compliance with the proposed environmental provisions. Based on the assessment results, policy makers can align the environment provisions in RTAs with China’s overall development strategy.

19. **In terms of the negotiating strategy, China might wish to take a pragmatic approach—being flexible towards different negotiating partners.** When negotiating with countries with similar levels of economic development and environmental protection, China might wish to include clauses on joint study, joint action, or even harmonize environmental standards, laws and regulations in particular areas of mutual interest. The harmonized standards and rules are particularly important as they not only address problems in the region, but also may form the basis of global rules that could be used as an alternative to those reflecting mainly developed country interests. If carefully coordinated, the rules and standards developed at the regional setting can also be used to buttress China’s position on the relevant issues in other international organizations, such as the WTO.

20. **When negotiating with the other countries at different stages of economic development, China might wish to include more provisions on technical assistance, cooperation or technology transfer.** In the case where pre-RTA environmental assessment is requested, technical assistance and capacity building from the party that has more experience in the matter could be a part of the RTA process. Technical assistance and capacity building may also be required if the RTA requires adherence to specific environmental regulatory norms. Take an example of SPS-TBT Standards. Adequate information and dissemination systems should be built into RTAs in respect of SPS & TBT requirements in the export market, e.g., measures such as eco-labeling, packaging and recycling requirements for achieving environmental objectives, and SPS requirements in relation to plants, plant products, and food products. Adequate provisions for technical and financial assistance for compliance with such measures should also be built into the RTA. Specific obligations on enacting and maintaining environmental regulations could even be made conditional on actual development assistance and capacity building.

21. **Benchmarking and monitoring provisions relating to cooperation, technical and financial assistance and capacity building is often a means to maximize the benefits of such cooperation.** Provisions requiring cooperation to reach certain environmental goals should be built into the RTA as essential conditions. Clear benchmarks for monitoring implementation of such provisions are necessary. Specific areas in which cooperation, technical assistance and capacity building is required should be prioritized and work programs around these need to be monitored.

22. **As including environment provision in RTAs is still new, China may consider a phased-in approach in dispute settlement mechanism.** In the initial few years, dispute settlement mechanisms emphasizing consultation and cooperation may be a better option than binding dispute settlement and sanctions resulting from non-compliance with environmental requirements. When China gains more experience with
environmental provisions under the RTAs and builds a strong enforcement capacity, dispute settlement with stronger remedies, such as monetary compensation or trade sanctions, could be considered.
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Annex 1

Environment in RTAs by U.S., EC, Japan and Australia

This annex will provide a brief overview of the nature and type of environmental provisions in different RTAs.

United States

NAFTA, entered into between the U.S., Canada and Mexico in 1994, was the first RTA to reflect environmental provisions. A side agreement to NAFTA - the North American Agreement on Environmental Cooperation (NAAEC) provided for several innovative features, such as a separate Commission for Environmental Cooperation, public consultation and enforcement mechanisms for environmental provisions. US RTAs since 1994 have consistently reflected several environmental provisions, either in an independent chapter devoted to ‘Environment’, or in a side agreement on environment.

The range of environmental provisions and practices in the context of RTAs entered into by the U.S. can be summarized as follows:

1. **Environmental Review of RTAs**: Environmental Reviews are mandated under U.S. laws, as a necessary pre-condition prior to conclusion of any RTA. Such reviews predominantly focus on environmental impact of any proposed RTA on the economy and the environment in the U.S. However, some Environmental Reviews, such as those of U.S.-Colombia and U.S.-Morocco, have also highlighted environmental impacts in the trading partners.

2. **Provisions in the Preamble**: The Preamble emphasizes principles of environmental protection and sustainable development.

3. ‘**Environment**’ is dealt with either in a chapter under the RTA, or under a side agreement,² or both. The Chapter or side agreement, as the case may be, typically include the following provisions:

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² Apart from the NAAEC, other side agreements on the environment entered into by the U.S. include Environmental Cooperation Agreements with Chile and Korea. A Joint Statement on Environment Cooperation accompanies the RTA between U.S. and Australia, and U.S. and Singapore RTA has a Memorandum of Intent on the Environment.
Box 1: Provisions on Environment in U.S. RTAs

A. General Principles
   - Obligation of both parties to cooperate in the field of environment.
   - Obligation to ensure that trade and environmental policies are mutually supportive of each other.

B. Right to Establish Levels of Environmental Protection
   - Right of each party to establish its levels of environmental protection and environment development policies.

C. Provisions with respect to Domestic Environmental Laws
   - Obligation on each party to strive to ensure that its laws and policies provide for and encourage high levels of environment protection.
   - Right of each party to retain discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other environmental matters determined to have higher priorities.  
   - Commitment by each party to strive to ensure that, in the process of encouraging trade and investment, it does not waive or derogate from its environmental laws in a manner that weakens or reduces the protections afforded in those laws.
   - Obligation to ensure availability of judicial, quasi-judicial, or administrative proceedings for the enforcement of its environmental laws are fair, equitable, transparent, and provide for appropriate administrative and procedural protections in accordance with its law.
   - The RTAs with Chile and Korea clarify that the Chapter on Environment shall not be construed to empower a Party’s authorities to undertake environmental law enforcement activities in the territory of the other Party. The RTA with Peru allows for such enforcement only in the context of the Annex on Forest Governance.


Provisions on Environment Cooperation under U.S.-Chile RTA highlights the following areas in which the U.S. is committed to cooperate with Chile:

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3 This discretion however is not unfettered. It is circumscribed by words to the effect that a party is in compliance with this provision provided the exercise of discretion is “reasonable” or the exercise of discretion results from “a bona fide decision regarding allocation of resources.”
Develop a Pollutant Release and Transfer Register (PRTR) in Chile which is a publicly available database of chemicals that have been released to air, water and land or transferred off-site for further waste management.

- Reducing Mining Pollution in Chile.
- Improving Environment Enforcement and Compliance through training and exchange of information.
- Training to help reduce pollution from agricultural practices in Chile.
- Cooperation to reduce methyl-bromide emissions.
- Improving wildlife protection and management in Chile.

E. TBT & SPS- Product Standards

- Most U.S. RTAs contain provisions relating to formation of a specific committee to oversee implementation of SPS and TBT standards, and assist in trade facilitation.
- CAFTA-DR and the RTAs with Panama and Peru also comprise provisions on the responsibility of the committee to make recommendations for trade capacity building and designing programmes for technical assistance, in relation adherence to SPS and TBT standards. There are however no references to financial assistance in such provisions.
- U.S.-Korea RTA has a separate provision dealing with automotive standards and regulations which may be adopted, inter alia, for environmental reasons.

F. Public Participation:

- Most U.S. RTAs also have fairly detailed provisions on ‘public participation’. These can range from obligatory provisions to those requiring ‘best efforts’. For example, U.S.-CAFTA-DR mandates each Party to provide for the receipt and consideration of public communications on matters related to the Chapter on Environment. Each Party is also required to convene a national consultative or advisory committee, comprising members of its public, to provide views on matters related to the implementation. On the other hand, U.S.-Morocco, and U.S.-Singapore refer to a lesser onerous obligation for putting in place ‘procedures’ for dialogue with the public, and make ‘best efforts’ to respond to requests by members of public with regard to implementation of environmental provisions.

G. Institutional arrangements:

- All U.S. RTAs have a separate committee, such as a Joint Committee or an Environmental Affairs Council, responsible for overseeing implementation of the provisions of the agreement, and provide recommendations for implementation.

H. Dispute Resolution:

- State-to-State Consultations:
  - All U.S. RTAs, except for U.S.-Jordan RTA, provide for a separate dispute resolution mechanism with regard to enforcement of provisions regarding domestic environmental laws in each Party to the RTA. If consultations between the parties fail, the RTAs provide for engagement of experts to advice on the matter. If this cannot lead to resolution of the dispute, formal dispute settlement proceedings under the RTA can be commenced. Remedies for non-compliance with domestic environmental obligations can include monetary compensation which is required to be deposited in a fund for environmental initiatives. If the losing Party does not provide such compensation, then as a matter of last resort, the other Party can suspend tariff concessions. Such provisions have not been resorted to under any of the U.S. RTAs. There is as yet no experience with the possible outcome of these provisions.
  - Public Submission Process: NAFTA, CAFTA-DR, US-Panama and US-Peru have detailed provisions allowing for submissions by members of the public to the Environmental Commission or Secretariat, with a complaint on non-compliance with environmental obligations. The Commission/Secretariat is required to prepare a factual record and provide this
to the Environment Affairs Council (EAC) constituted under the RTA. The EAC can make recommendations. These are however not binding on the state Parties to the RTA.

European Union

EU’s approach towards environmental provisions in RTAs is part of its broader agenda towards ‘sustainable development’. It mandates as a necessary pre-condition, ‘Trade Sustainability Impact Assessments’ of the parties involved in the RTA, which highlight, among other aspects, environmental impacts of the proposed RTA on the environment of both the EU and the trading partner. The RTAs attempt to address the issues raised in the SIA primarily through provisions dealing with principles of environmental cooperation. EU RTAs also typically emphasize on technical and financial assistance to developing country partners in relation to the environmental provisions of the RTAs.4

EU’s approach in most of its RTAs has been one that incorporates elements of broad cooperation. Its recent Economic Partnership Agreement (EPA) with Cariforum countries contains the most elaborate chapter on environment so far that it has incorporated in any RTA. The scope and depth of the provisions of this chapter, while similar to the provisions in U.S. RTAs, are not as elaborate as the provisions used in U.S. RTAs. Early RTAs entered into by the EC, such as EC-Chile and EC-Mexico, have limited provisions on environment. The EU-Cariforum Economic Partnership Agreement (EPA) has more detailed provisions. Some key features of the EU-Cariforum EPA are summarized below.

Box 2: Environment Related Rights and Obligations under EU RTAs

Some Key Provisions of the EU-Cariforum EPA include the following:

A. General Principles
   Emphasis on the Objectives of Sustainable Development and protection of the Environment.

B. Provisions with respect to Domestic Environmental Laws
   ➢ Right of the Parties to regulate in order to achieve their own level of domestic environmental and public health protection and their own sustainable development priorities, and to adopt or modify accordingly their environmental laws and policies.
   ➢ Obligation on Parties to seek to ensure that its own environmental and public health laws and policies provide for and encourage high levels of environmental and public health protection and shall strive to continue to improve those laws and policies.
   ➢ Recognition of the “the special needs and requirements of CARIFORUM States shall be taken into account in the design and implementation of measures aimed at protecting environment and public health that affect trade between the Parties”.

4 See for example, EU-Chile, EU-Cariforum and EU-Mexico.
Obligation not to encourage trade or foreign direct investment to enhance or maintain a competitive advantage by: (a) lowering the level of protection provided by domestic environmental and public health legislation; and (b) derogating from, or failing to apply such legislation.

C. **Obligations for Technical Assistance and Capacity Building**

The EU-Cariforum EPA as well as EU’s Agreements with Chile and Mexico, have provisions on efforts towards cooperation and ensuring technical assistance for implementation of the provisions of the agreement, including the provisions relating to environmental obligations. The EU-Chile agreement also emphasizes on cooperation in relation to projects to reinforce Chile’s environmental structures and policies.

The EU-Cariforum’s provisions are the most detailed in this regard. Some examples include:
- Capacity building for environmental management in tourism areas at the regional and local level;
- Technical assistance to producers in meeting relevant product and other standards applicable in markets of the EC Party
- Technical assistance and capacity building, in particular to the public sector, in the implementation and enforcement of multilateral environmental agreements.
- Facilitation of trade between the Parties in natural resources, including timber and wood products, from legal and sustainable sources
- Assistance to producers to develop and/or improve production of goods and services, which the Parties consider to be beneficial to the environment; and
- Promotion and facilitation of public awareness and education programmes in respect of environmental goods and services in order to foster trade in such products between the Parties.

D. **TBT & SPS- Product Standards**

- EU’s RTAs with Chile, Mexico and the recently with the Cariforum countries, include provisions for technical assistance for producers in meeting relevant product and other standards.
- The EU-Cariforum Agreement has detailed provisions with specific relevance for environmental standards. (a) Technical assistance to producers in meeting relevant product and other standards applicable in markets of the EC Party; (b) Promotion and facilitation of private and public voluntary and market-based schemes including relevant labelling and accreditation schemes

E. **Dispute Resolution**

- EU RTAs emphasize on Consultation and Cooperation in Environmental Matters
- The Cariforum EPA provides for Consultations.
- If consultations fail, the matter can be referred to a Committee of Experts formed under the EPA
- Findings of Committee will be provided to Consultative Committee responsible for Implementing EPA.
- There are no provisions for fines or suspension of tariff concessions in the event of non-compliance

**Japan**

RTAs entered into by Japan have recently started reflecting environmental provisions. All RTAs entered into by Japan emphasize commitment not to lower environmental standards to attract investment. Provisions on environmental cooperation are included in Japan’s RTAs with Mexico, Malaysia, Thailand, Philippines. The Japan-Philippines RTA specifically refers to cooperation on compliance with ‘Environmental Standards’ for exports.
Japan’s agreements with Switzerland and Mexico have two distinct environmental provisions, worded as soft law obligations to achieve certain specific environmental objectives. This approach is noteworthy because it seems to provide room for specific action points based on a country’s requirements.

- Under the Japan-Switzerland agreement: Parties agree to encourage trade and dissemination of environmental products and environment-related services in order to facilitate access to technologies and products that support environmental protection and development goals.

- Under the Japan-Mexico agreement: Parties agree to cooperate in the field of environment with a view to ensure environmental preservation and improvement to promote sound and sustainable development, shall cooperate in the field of environment.

Australia

Australia has consistently emphasized on principles of sustainable development and environmental protection in international negotiations. However, it has not taken initiatives to link trade and environmental provisions in any substantive way. Australia’s agreement with Chile has a provision in the Preamble which states that implementation of the agreement will be done consistent with environmental protection and sustainable development. Environmental objectives are also referred to only in the chapter on Technical Barriers to Trade and Sanitary and Phytosanitary Measures, in the agreements that Australia has entered into with ASEAN and Singapore. The text however does not add anything further to the WTO obligations. Australia’s agreement with Thailand refers to the parties’ commitment to international environmental and conservation agreements.

Australia’s RTA with the U.S. however incorporates environmental provisions similar to the ones summarized in Box 1 above. These provisions do not find reflection in other Australian RTAs.