Joint Working Party on Trade and Environment

REPORT ON THE OECD WORKSHOP ON RTAs AND THE ENVIRONMENT

Attached is an informal report, prepared by the Secretariat, on the workshop on RTAs and the Environment held in Santiago, Chile on 6-7 October 2008. It is for the information of the JWPTE.

Contact: Ronald Steenblik, tel: +(33-1) 45 24 95 29; email: ronald.steenblik@oecd.org
Ysé Serret, tel: +(33-1) 45 24 13 83; email: yse.serret@oecd.org
REPORT ON THE OECD WORKSHOP ON RTAS AND THE ENVIRONMENT
CHILE 6-7 OCTOBER 2008

Background

1. The OECD Workshop on Regional Trade Agreements and the Environment took place on 6-7 October 2008 in Santiago under the aegis of the JWPTE and was hosted by the Government of Chile. This workshop formed part of the Joint Working Party on Trade and Environment (JWPTE) project on Regional Trade Agreements (RTAs) and the Environment.

2. As RTAs constitute a fast-moving field, the JWPTE had agreed to promote policy dialogue on issues relevant to environment in the context of RTAs. One mechanism it decided to promote was the organisation of regional workshops and a first workshop focussing on Asia was held in Tokyo on 19-20 June 2007. Participants felt that similar workshops would be useful and the Government of Chile proposed to host one for the Americas. The Santiago workshop was attended by some 50 experts from government, international organisations, business and NGOs, mainly from the Americas -- from Canada through Central America and the Caribbean to Chile and Argentina. In addition, several representatives from New Zealand and Europe participated.

Purpose of the workshop

3. The purpose of the workshop was to disseminate recent OECD work on RTAs and the Environment. This included the 2007 publication on RTAs and the Environment, the recent Checklist for negotiators of environmental provisions in RTAs and an Update on recent developments in RTAs and FTAs containing environmental Provisions. As well, the workshop was organised with a view to exchanging experience with environmental co-operation activities taking place under RTAs.

Some highlights of the workshop discussions

4. Ms. Ana Lya Uriarte, Minister and Head of CONAMA, currently being transformed to a full Ministry of the Environment, welcomed participants to the workshop. She underscored the importance that Chile attached to sharing their experience with other countries in the region as well as benefitting from others both from the Americas and those present from the Asia-Pacific region and Europe.

5. The OECD Secretariat gave an overview of the OECD’s outreach programme to non-Members, including the five accession countries, of which Chile is one. The dynamic growth in Regional Trade Agreements (RTAs), now covering nearly one-half of world goods trade, raised the opportunity of harnessing RTAs to promote environmental co-operation. Four general trends could be identified: RTAs have taken the front and centre stage in trade policy; they are innovative in content and expand the scope of trade agreements to include issues such as investment and environment; they are not only bilateral and

---

1 Workshop documentation, including the PowerPoint presentations and list of participants, is available at: www.oecd.org/trade/santiago2008
regional, but often cross-regional; North-South RTAs are replacing former preferential arrangements in favour of secure reciprocal arrangements.

**Session 1: Experience with environment in RTAs in the Americas**

6. **Session 1.1** focused on recent trends in incorporating environmental provisions in RTAs. Approaches have developed significantly since the NAFTA side agreement of 1994. New Zealand explained its framework and principled approach; the Mercosur Working Group No 6 convenor explained its approach, which included working towards regional harmonisation of standards. Mexico presented the language on environmental provisions it has inserted in its RTAs with other Latin American countries. The demarcation line today, and differences in approach, were not so much about stand-alone or side agreements on the environment versus incorporating an environment chapter in the text of the RTA, as several countries use both approaches. Rather, the key differences centred more on the substance of the RTA provisions and how implementation, including environmental co-operation activities, is being fostered, and how monitoring, enforcement and resolution of disputes were addressed.

7. **Session 1.2** focused on the rationale for including environmental provisions in RTAs and some of the obstacles that Parties face in doing so. A couple of environment ministries in OECD countries that are relative newcomers to negotiating RTAs reported that, in internal discussions with other ministries at home, a learning process was still underway to impress the importance of including environmental provisions in the new RTAs. This had come as a surprise to them considering that working with their trade colleagues in the multilateral context had become easier since everyone had now accepted the *acquis* of trade and environment discussions in the WTO. Securing budgetary lines for environmental co-operation was always a problem, but at the same time it was acknowledged that RTAs, having a high profile politically including with Finance Ministries, often increased the chances of securing funds.

8. **Session 1.3** focused on the environmental issues addressed in RTAs. Earlier RTAs placed a strong emphasis on ensuring compliance with environmental laws in order to establish a level playing field. More recently, a wider range of issues have become the focus of co-operation. One important motivation is to ensure that trade liberalisation does not damage, or contributes positively to, environmental protection – e.g. by promoting sustainable forestry or other forms of natural-resource management. Other areas for co-operation include: supporting implementation of MEAs, addressing trans-boundary environmental issues, addressing local environmental concerns like urban air pollution, and promoting trade in environmental goods and services, which could be pursued more easily than in the WTO.

9. The selection of issues for environmental co-operation can be influenced by a variety of factors. In the United States, the Congress has specified areas of environmental co-operation to be pursued in the context of RTAs. In some cases, inter-agency discussions in one or more of the Parties may be involved, and in others it is the prerogative of the environment ministries. Some countries involve the public in identifying issues for co-operation. In RTAs where multiple Parties are involved, identifying issues of mutual interest can be particularly challenging.

10. The vehicle for identifying issues for environmental co-operation can also vary, ranging from a joint work programme through a memorandum of understanding, to more formal co-operative agreements.

**Session 2: Efficient Implementation of Environmental Provisions and Cooperative Activities**

11. **Session 2.1** examined the different types of arrangements for implementing environmental provisions and promoting environmental co-operation. The discussion identified key elements necessary for successful implementation of environmental provisions in RTAs, including: 1) institutional
arrangements; 2) mechanisms to promote compliance with environmental provisions; 3) public participation; 4) enforcement and monitoring; and 5) conflict resolution.

12. Institutional arrangements have evolved considerably over time. Many participants emphasised the importance, and challenge, of ensuring appropriate co-ordination among agencies. Countries have established institutional arrangements with varying degrees of autonomy in different agreements. Some agreements have set up independent agencies (e.g. the Commission on Environmental Cooperation under NAFTA), while others have more ad-hoc institutional arrangements. Chile, for instance, has established an ad hoc committee of national institutions for the P4 agreement.

13. A number of challenges were also identified in the area of financing, including provisions for financing implementation of environmental provisions of RTAs in national budgets; disparities in the domestic processes in securing finance in the Parties concerned; and the lack of financing for conflict resolution.

14. Civil society has played a key role in shaping EU trade policy by engaging in the negotiation and implementation of environmental provisions of RTAs. Since 1999, when a civil society dialogue was set up, a structured mechanism to engage with trade unions, consumer groups and environmental NGOs has met regularly. The EC assessed its experience with civil society engagement in 2007.

15. The assessment of the co-operation activities of CAFTA-DR also identified a number of challenges such as lack of mechanisms for dispute settlement, domestic coordination and capacity building.

16. Session 2.2 focused on experience with implementing environmental co-operation activities at the bilateral level. The implementation of New Zealand’s co-operation agreements for instance can take the form of study tours, seminars and information exchange. While the area of focus initially was on policy and technical issues, more recently issues such as governance, environmental management tools, research collaboration and environmental goods and services have become the focus of co-operation activities.

17. The experience of implementing the environmental co-operation agreement of CAFTA-DR reveals a number of challenges, especially the asymmetrical level of implementation across Parties. In addition, as each country has different priorities and needs, it has proved to be difficult to identify common goals and to establish an action plan and road map. Some common needs were identified at the regional level, but, more often, each country had different action plans and long term objectives which they sought to achieve through co-operation activities. The limited resources in the relevant ministries and the lack of sustainable funding were other challenges identified. One way that the United States has sought to ensure the sustainability of project after funding is finished is through the engagement of civil society.

18. Some of the areas that CAFTA-DR ECA focuses on include: improving environment policy and regulations; clean production; inter-sectoral consultation/programmes; strategies for solid waste; model regulation for waste water; elaborating methodology for auditing environment compliance; voluntary agreements on clean production; developing tools to comply with MEAs; and environmental impact assessment. Several measures were taken to improve the co-operation activities: strengthening institutional arrangements at the regional and bilateral levels; harmonising tools; and enhancing inter-sectoral co-operation (agriculture, energy, fisheries, economics, trade, etc.).

19. Lessons drawn from the experience of private-sector participation (Chile Chamber of Construction) in the implementation of RTAs were examined. They showed that private-sector participation can serve as an effective instrument, not only to improve domestic environmental conditions, but also to encourage producers to improve their production processes and methods. This can facilitate the diffusion of environmental know-how and technology.
20. **Session 2.3** focused on strategies for efficient implementation of environmental co-operation activities. The session emphasised how strategies for environmental co-operation were evolving, particularly as countries entered into an increasing number of RTAs. This raises issues such as the need to avoid fragmentation of effort, and the possibility of exploiting potential synergies by co-operating with other countries that were implementing an RTA with a given partner country. More generally, the challenge is to use scarce resources as efficiently as possible.

21. The different models for co-operation that Canada had entered into in the context of NAFTA and with Chile were presented. The former was resource-intensive and had recently been the subject of a review that recommended ways in which the full potential for co-operation could be realised; the latter had been considered successful despite much more limited resources. Cost Rica emphasised the challenge of developing co-operation when institutions are weak. Experience from Peru emphasised the importance of clear prioritisation and of mobilising a critical mass of finance. A presentation from ECLAC stressed the importance of indicators in monitoring implementation of co-operation.

22. At the conclusion of the discussion, Brett Longley of New Zealand, who had chaired the session, put forward a tentative table identifying the key components of a strategy, elements required for their successful implementation, and actions that needed to be taken. The table was not complete, but was presented as a basis for further discussion and elaboration (see Annex).

**Session 3.1: Performance review of environmental provisions in RTAs**

23. Reviews of environmental activities under an RTA were recognised as important in view of their growing numbers and stretched budgets for environmental co-operation in order to be cost-efficient and environmentally-effective. In undertaking such reviews, there was a need to be clear on the scope of the review for which it was useful to distinguish the three ways that “environment” was being addressed in RTAs:

- **a)** *ex ante* environmental impact assessments (EIAs) of liberalising trade under the RTA and how best to use the results of such EIAs;
- **b)** the legal texts of direct relevance to the environment (e.g. a commitment not to lower environmental standards to attract investment);
- **c)** environmental co-operation activities set up between RTA trading partners.

24. The workshop heard about the key findings of the recent Ten-year Review and Advisory Committee (TRAC) report (see www.cec.org), evaluating environmental operations of the North American Commission on Environmental Co-operation. Among the 14 recommendations were those calling for closer co-operation with the (NAFTA) free trade commission, a more focused work programme and more effective implementation of the citizen submission process. The representative of CONAMA-Chile reported on the evaluation of environmental co-operation in the context of the Chile-Canada FTA. This recommended, inter alia, more commitment in formulating projects and strengthening synergies with MEAs (e.g. climate change; forests and migratory species). A Chilean NGO emphasised the need for objective environmental impact assessments, including better performance indicators and reporting systems. Greater focus was needed on the environmental performance of the export sector, which in Chile’s case were often environmentally sensitive, such as the mining and agriculture sectors. There was also a need for stronger co-ordination between ministries with sectoral responsibilities (e.g. water, energy, etc.), which was not something that environmental co-operation in RTAs had addressed to date.
Concluding remarks

25. In their final remarks, a representative of the host country and of the JWPTE shared some personal observations about the two day discussions with workshop participants. These underscored the richness of the various models of environmental co-operation now being developed and implemented - a host of approaches, flexible and adaptable, were evolving in accordance with Parties’ needs and resources. After the phase of negotiations, different skills and expertise are required for implementation. In this respect it would be useful for the JWPTE to extend its checklist for negotiators, or develop a new one, on implementation of environmental co-operation activities in RTAs. Impetus for good implementation involved securing funding and co-operation from sectoral ministries, through the national budgetary process. In view of a general lack of co-operation at the sub-regional level, continued exchanges such as those that had taken place at the Santiago workshop would be useful. Considering the different approaches now being used, it was important to develop better exchange of information among countries about environmental co-operation underway in the same country or sub-region. Experience could also be usefully exchanged about how Parties were dealing with information on environmental and social impacts of RTAs.
## Annex

**Strategy for successful implementation of environment cooperation activities**

<table>
<thead>
<tr>
<th>Key components of a strategy</th>
<th>Elements required for successful implementation</th>
<th>Actions to be taken</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objectives</td>
<td>• Clear description of the purpose of environment cooperation - what results will be achieved.</td>
<td>•</td>
</tr>
</tbody>
</table>
| Priority setting             | • Understand different domestic processes for priority setting.  
                              | • Consensus on environmental priorities between the Parties.  
                              | • Link to the results of Environmental Impact Assessment. | •                        |
| Coordination                 | • Appropriate arrangements for coordination among multiple Parties. | •                        |
| Public participation/consultation | • Broad support for cooperation objectives and activities by civil society. | •                        |
| Enforcement & Monitoring     | • Consensus on purpose(s) of monitoring and use of information.  
                              | • Consensus on scope of enforcement i.e. provisions to which enforcement procedures will apply.  
<pre><code>                          | • Consensus on stringency of enforcement and application of enforcement procedures. | •                        |
</code></pre>
<p>| Conflict management          | • Consensus on procedures for managing conflict. | •                        |
| Institutional arrangements   | • Flexible, robust, streamlined institutional arrangements to facilitate key functions including communication, information sharing, strategic oversight, monitoring and reporting, and resource allocation. | •                        |</p>
<table>
<thead>
<tr>
<th>Policy responses to trade &amp; environment challenges</th>
<th>• Identify any specific trade and environment issues of mutual interest or concern and provide for responses to these.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capacity building</td>
<td>• Criteria for selecting cooperation activities that support objectives for capacity building.</td>
</tr>
<tr>
<td>Resources</td>
<td>• Government-level commitment to provide ongoing funding sufficient to meet strategic objectives.</td>
</tr>
<tr>
<td></td>
<td>• Efficient use of resources.</td>
</tr>
<tr>
<td></td>
<td>• Opportunities to lever additional resources from alternative sources (including non-government).</td>
</tr>
<tr>
<td></td>
<td>• Facilitate collaboration across government, among Parties, and where appropriate with third Parties.</td>
</tr>
<tr>
<td></td>
<td>• Identify available resources within the government.</td>
</tr>
<tr>
<td></td>
<td>• Mobilise resources from relevant organisations (e.g. regional organisations, private sector).</td>
</tr>
<tr>
<td></td>
<td>• Ensure cooperation activities meet selection criteria and contribute to objectives of relevant Parties.</td>
</tr>
</tbody>
</table>
OECD Workshop on Regional Trade Agreements and the Environment
Santiago, Chile
6-7 October 2008

DRAFT AGENDA

6 October 2008

09:00 – 09:30 REGISTRATION

09:30 - 10:00 OPENING REMARKS

- Ms. Ana Lya Uriarte, Minister, CONAMA, Chile
- Mr. Brendan Gillespie, Head of Division, Environment Directorate, OECD

10:00 – 10:30 INTRODUCTION

- Growth in Regional Trade Agreements, with a focus on the Americas
  Dale Andrew, Trade and Agriculture Directorate, OECD
- Checklist for Negotiators of Environmental Provisions in RTAs
  Joy A. Kim, Environment Directorate, OECD

SESSION I: EXPERIENCE WITH ENVIRONMENT IN RTAS IN THE AMERICAs

This session will provide an overview of countries’ past and current experiences with negotiating and implementing environmental provisions in RTAs, and the rationale for including such provisions in RTAs.

10:30 – 12:30 Session 1.1: Regional trade agreements and the environment in the Americas: recent trends

In this session, selected countries from the region will be invited to discuss the approaches they have followed in addressing environmental issues in RTAs, highlighting recent trends.

Chair: Edda Rossi, Ministry of Foreign Affairs, Chile

- Elise Broadbent, Ministry of Environment, New Zealand
- Julio Cesar Baena, Convenor of Mercosur Working Group No 6, Brazil
- Michele Low, Caribbean Regional Negotiating Machinery
- Jorge Anaya, Secretaría de Economía, Mexico

12:30 – 14:00 Lunch break

14:00 – 15:30 Session 1.2: Why include environmental provisions in regional trade agreements

This part of the session will focus on the rationale for including environmental provisions in RTAs and some of the obstacles that Parties face in doing so.

Chair: Julius Langendorff, DG Environment, European Commission

- Edmundo Claro, RIDES, Chile
- Karine Siegwart, Federal Office for the Environment, Switzerland

15:30 – 16:00 Coffee break
16:00 – 17:30  **Session 1.3: Addressing specific environmental issues**

RTAs address a wide range of specific environmental concerns including: support for implementing multilateral environmental agreements, like climate change and biodiversity; transboundary environmental issues such as managing shared water resources; addressing local environmental concerns like urban air pollution; and trade-related issues such as liberalising environmental goods and services. This session will examine the range of environmental provisions that are included in RTAs, the rationale for their selection, and the lessons learned from co-operation in different areas.

**Chair:** Carlos Murillo, Centro Internacional de Política Económica (CINPE), Costa Rica

- Ruben Munoz Roble, MINAET, Costa Rica
- Robert Wing, Department of State, USA
- Isabel Calle, Sociedad Peruana de Derecho Ambiental (SPDA), Peru

18:00 – 20:00  **Reception**

---

**SESSION 2: EFFICIENT IMPLEMENTATION OF ENVIRONMENTAL PROVISIONS AND CO-OPERATION ACTIVITIES**

This session will examine how environmental co-operation and capacity-development activities are being implemented bilaterally and in the context of a growing number of Parties to RTAs.

09:00 – 10:30  **Session 2.1: Implementation of Environmental Provisions in RTAs**

This session will examine the different types of arrangements that countries put in place to support the implementation of environmental provisions in RTAs. These can include institutional arrangements for managing environmental activities, financing, stakeholder involvement, and consultation mechanisms.

**Chair:** Joseluis Samaniego, ECLAC

- Humberto Molina, Environment Directorate, Chile
- Julius Langendorff, DG Environment, European Commission
- Oscar Ceville, Department of Sustainable Development, OAS
- José Rodolfo Villamariona Aguilar, Ministerio de Economía, El Salvador

10:30 – 11:00  **Coffee break**

11:00 – 12:30  **Session 2.2: Experience with implementing environmental co-operation activities**

Most recent RTAs that include environmental provisions address environmental co-operation. Participants will discuss their experiences with implementing environmental co-operation activities at the bilateral level.

**Chair:** Michele Low, Caribbean Regional Negotiating Machinery, Jamaica

- Craig Salmon, Ministry of Environment, New Zealand
- Ricardo Aguilar, Chief of Party, CCAD
- Javier Hurtado, Chilean Construction Chamber
- Rosa Otero, Directora de Comercio y Ambiente, Dominican Republic

12:30 - 14:00  **Lunch break**
Session 2.3: Strategy for efficient implementation of environmental co-operation activities

When provisions for environmental co-operation were first included in RTAs, they were implemented through bilateral co-operation arrangements. As RTAs have proliferated, some Parties to RTAs are now examining how to develop more strategic approaches to implementing environmental co-operation with a range of Parties so as to use their scarce resources most effectively. This session will examine how bilateral environmental co-operation is currently organised, and ways in which it could involve three or more parties. The linkage between environmental cooperation and capacity development in RTAs and environmental development co-operation more generally will also be examined.

Chair: Brett Longley, Ministry of Environment, New Zealand

- Carlos Murillo, CINPE, Costa Rica
- Isabel Calle, Sociedad Peruana de Derecho Ambiental (SPDA), Peru
- Guillermo Acuña, Sustainable Development and Human Settlements Division, ECLAC

Coffee break

SESSION 3: EVALUATION OF ENVIRONMENTAL PROVISIONS IN RTAs

Session 3.1: Performance review of environmental provisions in RTAs

As the lifetime of an RTA increases and more resources are committed to it, the need to evaluate its impacts will grow. Reviewing the performance of environmental provisions in RTAs can also provide an information base for any issues that may be considered for renegotiation. This session will examine different review processes in terms of scope, frequency, funding and institutional arrangement, as well as the results of any evaluations that have been concluded.

Chair: Dale Andrew, OECD

- Nadine Nickner, Environment Canada
- Alvaro Sapag, CONAMA, Chile
- Sara Larraín, Programa Chile Sustentable, Chile

Concluding session

Concluding remarks and end of workshop