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Page: 1/7

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**COMMUNICATION FROM AUSTRALIA, CANADA, MEXICO, NEW ZEALAND
AND SWITZERLAND**

EXPLORATORY DISCUSSIONS ON MARKET ACCESS: ENVIRONMENTAL SERVICES

Revision¹

The following communication, dated 27 September 2019, is being circulated to Members of the Council for Trade in Services in Special Session, at the request of the delegations of Australia, Canada, Mexico, New Zealand and Switzerland.

In JOB/SERV/282, circulated on 13 June 2018, Chile, Mexico, New Zealand and Panama proposed that Members exchange views on current areas of interest in relation to market access, against the background of relevant trade, policy, and market developments.

The environmental services sector is an area of economic and trade importance for Australia, Canada, Mexico and New Zealand, as well as for numerous other WTO Members. Through this communication, we wish to present our initial ideas on a sector of common interest across all regions and initiate an exchange with other delegations. Such exploratory discussions would help to better appreciate the views of Members on key issues, and provide valuable information regarding market access aspirations. The following is presented without prejudice to potential negotiations.

1 IMPORTANCE OF THE ENVIRONMENTAL SERVICES SECTOR

1.1. Enshrined in the Marrakesh Agreement, sustainable development and the protection and preservation of the environment are fundamental considerations of the WTO. The Organization has directly contributed to these goals through the implementation of rules and agreements as well as regular work in various WTO bodies. By adopting the Sustainable Development Goals in 2015, leaders have reinforced a commitment to protect the environment, including through sustainable consumption and production, by sustainably managing natural resources and taking urgent action on global environmental issues, including climate change.

1.2. The nexus of trade and environment presents a unique opportunity for WTO Members to show leadership and action on mitigating the effects of climate change. While climate change is a challenge encountered by all Members, it has been found to have a disproportionate effect on developing countries, which tend to bear the brunt of extreme weather events such as floods and droughts.² While domestic policies aimed at fighting climate change are important, only coordination on a global level can effectively address both the causes and consequences. In promoting trade liberalization and cooperation in a sector that is central in the work being done, Members can demonstrate yet another link between economic and sustainable development across all Member economies. Further liberalization of environmental services would also have a positive impact on sustainable

¹ This revision modifies the previous document JOB/SERV/293 by adding Switzerland to the list of co-sponsors.

² IMF, World Economic Outlook, October 2017 Seeking Sustainable Growth: Short-Term Recovery, Long-Term Challenges, Chapter 3.

development by supporting the efforts by all Members, including developing countries and LDCs, to integrate them into and derive benefits from the multilateral trading system more broadly.³ Further liberalization of environmental services provides opportunities for businesses in developed and developing countries to integrate into global value chains due to the localized nature of environmental services. Furthermore, the uptake of technologies linked to environmental services can further create sustainable jobs, especially in services related to the installation and maintenance of environmental products, systems and infrastructure.⁴

1.3. The removal of barriers to international trade in environmental goods and services (EGS) offers an appealing avenue for helping contain the costs of meeting particular environmental goals or targets. By increasing the accessibility of more advanced technologies for preventing or mitigating environmental harm, trade can contribute to lowering the costs of implementing environmental policies while keeping intact their degree of ambition. Trade in environmental services could make the prevention and control of pollution cheaper by allowing firms to source the services they need from foreign suppliers⁵, while creating greater economic benefits.

1.4. The economic mapping of trade in environmental services is much more challenging when compared to environmental goods, due to a lack of data and the number of cross-cutting sectors that can be related to environmental services. It is therefore hard to quantify the economic value of this sector. That being said, environmental services are intimately linked to environmental goods as they ensure the proper functioning and maintenance of those goods, and are often supplied in conjunction with them. In such cases, environmental services often represent the predominant element in the package (on average 65% in value terms).⁶ Thus, greater liberalisation of environmental services could positively contribute to the environmental goods market by allowing firms to source the services they need from price-competitive foreign services suppliers. International trade in Environmental and Clean Technology (ECT) products increased from CAD 8.3 billion in 2007 to CAD 12.4 billion in 2017, indicating a 49.6% growth.⁷ Considering that environmental services require suppliers to possess specific knowledge and skills that can be costly and time consuming to acquire, such notable increases in trade in ECT goods highlight the equally profitable market that likely exists in the environmental services sector.

1.5. Environmental services is a growing sector in world services trade. With a compound annual growth rate of 4 percent from 2008 to 2015, global trade in clean technology, for which environmental services play an important role, has doubled during this period to more than \$1.15 trillion in exports.⁸ While the emergence of new technologies, such as electronic transactions, have opened a range of new possibilities to provide environmental services on a cross-border basis, for example by remotely controlling equipment via computers, trade in environmental services is primarily linked to the commercial presence of services providers as many environmental services are infrastructure-dependent and require a continuous and long-term local presence. Hence, it is important for foreign firms to be able to establish affiliates abroad or to invest in local companies⁹, which can provide benefit to the host country's markets as local firms could benefit from partnerships with more established firms so as to acquire industry knowledge and experience.¹⁰

2 RELEVANCE OF GATS COMMITMENTS RELATED TO ENVIRONMENTAL SERVICES

2.1. In pertinent international forums, including the United Nations Framework Convention on Climate Change (UNFCCC), WTO Members have made commitments to protect the environment and to take urgent action on climate change. With a view to enhancing the mutual supportiveness of trade and the environment, Members agreed to focus on trade liberalization in paragraph 31 (iii) of

³ <https://sustainabledevelopment.un.org/topics/trade>.

⁴ United Nations Environment Programme (2018), *Trade in Environmentally Sound Technologies: Implications for Developing Countries*, p. xviii.

⁵ OECD

[http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=COM/TAD/ENV/JWPTE\(2015\)61/FINAL&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=COM/TAD/ENV/JWPTE(2015)61/FINAL&docLanguage=En).

⁶ WTO (2010), "Background Note on Environmental Services", Note by the Secretariat, S/C/W/320.

⁷ <https://www150.statcan.gc.ca/n1/en/pub/16-001-m/16-001-m2019001-eng.pdf?st=JQc4WjwZ>.

⁸ <http://analytica-advisors.com/sites/default/files/2017%20Canadian%20Clean%20Technology%20Industry%20Report%20Synopsis%20FINAL.pdf>.

⁹ WTO, S/C/W/320.

¹⁰ USITC (2004).

the WTO Doha Declaration. With a view to achieving this, and recognizing that the further liberalization of environmental services would provide enhanced market access opportunities, including for small and medium-sized enterprises, and improved health and environmental sustainability in WTO markets, any new initiative on environmental services would recognize the meaningful contribution that the WTO can make towards these broader climate change mitigation objectives.

2.2. Liberalized disciplines related to environmental services could serve to strengthen regional trade in these areas, which in turn could boost productivity for SMEs and increase capacity in the sector. Innovation and investment in niche areas of the sector have the potential to increase demand for specialized skills and expertise, thus creating further opportunities for skills transfers, job creation, and incentives for new ideas and initiatives. All Members could stand to benefit from these enhanced opportunities and new GATS commitments in environmental services can play an important role for all WTO Members' economies.

2.3. Environmental services are one of the least-committed sectors under the GATS as only 59 Members¹¹ (as of 2019) have undertaken specific commitments in at least one of the seven CPC sub-sectors (as outlined in Annex). This may be partially explained by the fact that concerns related to environmental protection and pollution mitigation had a lesser profile in the early 1990s than they do today. Most WTO Members defined environmental services according to the W/120, with four CPC subsectors: A. Sewage services - CPC 9401; B. Refuse disposal services - CPC 9402; C. Sanitation services - CPC 9403; and D. Other, which is assumed to include remaining elements of the CPC's environmental services category, i.e. cleaning of exhaust gases (CPC 9404), noise abatement services (CPC 9405), nature and landscape protection services (CPC 9406) and Other environmental protection services n.e.c. (CPC 9409).¹² In total, only 328 sub-sectors have been scheduled among all WTO Members, and several Members have limited their commitments to consulting and/or advisory services in relation to environmental services, either across the entire range of committed sectors or with respect to some sub-sectors only.

2.4. Cross-border supply, or mode 1, would benefit the most from enhanced liberalization, as, on average, only 38% of the Members' commitments are fully bound, 32% are partially bound, and 30% are unbound. In the latter category, many are unbound because, in the view of the Members concerned, cross-border supply was not technically feasible.¹³ That could be explained by the fact that cross-border supply of environmental services was commercially insignificant when the GATS entered into force. Twenty-five years later, new technologies have now opened a range of new possibilities to provide environmental services on a cross-border basis (e.g. remote control of equipment for site remediation). With the advent of information and communications technologies and services, environmental services can be increasingly provided on a mode 1 basis (e.g. advisory and consultancy services, electronic monitoring of sewage levels/quality, etc.). More broadly, consulting services provided over the Internet are a low-cost and increasingly more accessible means of building capacity and sharing expertise and knowledge with developing countries and LDCs. This is especially true for environmental services, due to the highly technical nature of the sector, and the specialized skills required at the firm level.

2.5. Consumption abroad (mode 2) includes activities such as dismantling of ships, cars, computers, etc. in order to obtain and separate recoverable or recyclable materials. There is a high proportion of full commitments for this mode, on average 71%. Establishment of a commercial presence (mode 3) is the most important mode of supply in this sector as it is highly infrastructure-dependent and requires a continuous and long-term local presence. The proportion of full commitments under this mode of supply is on average 57%, with subsector 6.C (sanitation and similar services) seeing 71% of Members taking full commitments. Improving mode 3 commitments across the subsectors could serve as an incentive for Members to invest in their own infrastructure as a way to not only attract foreign investment, but also create more economic opportunities domestically. With most environmental services requiring a commercial presence abroad, emerging economies would benefit from enhanced mode 3 commitments and experience welfare gains through job creation, higher salaries, and knowledge transfer via local partnership and employment opportunities¹⁴. Finally,

¹¹ Further, in the context of WTO services negotiations, a number of Members offered to undertake commitments for the first time in the sector or to improve their existing commitments. See Annex.

¹² WTO, S/C/W/320.

¹³ WTO, S/C/W/320.

¹⁴ UNCTAD, *Trade in Environmentally Sound Technologies: Implications for Developing Countries*, p. 75.

expanded commitments in mode 4 would be relevant to this sector. When it is not practical or feasible to establish a commercial presence, it is common for a company to send engineers abroad to direct the performance of local workers. Furthermore, horizontal mode 4 commitment can encourage activities such as installation or servicing as part of a warranty, or moving key personnel to different branches within an enterprise could serve to further grow the sector and help Members build capacity and share expertise across all levels of development. Currently, 13% of Members have taken full commitments on mode 4, while most have commitments referring back to horizontal undertakings.

3 AREA OF INTEREST IN RELATION TO IMPROVEMENTS TO SCHEDULES

3.1. Since this paper acknowledges the importance of commitments in all modes of supply, we have interest in hearing Members' views on ways to encourage the elimination of all barriers related to the environmental services sector for all modes of supply. A comprehensive approach in which interested Members could explore which minimal commitments could be taken for all environmental services sub-sectors and ways to further ensure higher quality commitments and certainty for services suppliers. In practice, these discussions would add further clarity on what liberalization could mean in practice across all modes of supply.

3.2. While many services can have an environmental end-use, our interest in terms of improved GATS commitments focuses on the more traditional environmental services, as defined in CPC, as most Members have listed their environmental services commitments according to W/120 structure (CPC 9401 to 9406, and 9409). Our main interest focuses on improving the overall level of commitments in the sector, as well as removing listed limitations in order to reflect Member's domestic regimes.

3.3. We also acknowledge that other Members may have interests in different areas for improvement. Therefore, we are open to hearing views on other services sectors that would be relevant because of their close relationship to environmental services.

3.4. For greater certainty, our interest in improvements to GATS commitments in the sector do not relate to the collection, purification, and distribution of water for human use (as classified in CPC Prov. 18). We do not see that undertaking commitments implies that Members somehow have to dispose of their equity interests in, or the assets of, a public entity that is a supplier of environmental services. We also believe that it is important that any discussion also recognize Members' right to regulate, and to introduce new regulations, on the supply of environmental services within their territories in order to meet public policy objectives.

QUESTIONS FOR DISCUSSION

- How do Members view the contribution of trade in environmental services and related policies to environmental and sustainable development goals?
 - What is the importance of environmental services in the context of domestic policy objectives and the contribution of the policy environment for trade and investment in that regard?
 - What are the areas of interest linked to environmental services that could benefit from improving GATS commitments? Have these interests evolved since earlier discussions in the context of services negotiations?
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ANNEX – GATS COMMITMENTS AND OFFERS IN ENVIRONMENTAL SERVICES, BY MEMBER

Key:

- A. Sewage services
- B. Refuse disposal services
- C. Sanitation and similar services
- D. Other

“X”: means that a specific commitment exists in the corresponding subsector but that no improvements were offered;

“I”: means that an improvement to an existing commitment was offered in services negotiations;

“N”: means that a new commitment has been offered in services negotiations.

Bold: means Members that have proposed new or improved commitments in the sector in their offers in the services negotiations.

Member	Commitment/Offer by sub-sector			
	A.	B.	C.	D.
Albania	X	X	X	X
Afghanistan	X	X	X	X
Armenia	X	X	X	X
Australia	X	X	X	N
Bahrain, Kingdom of	N	N	N	N
Barbados				N
Bulgaria	X	X	X	X
Cabo Verde	X	X	X	X
Cambodia	X	X	X	X
Canada	X	X	X	X
Central African Republic				X
China	X	X	X	X
Colombia				X
Croatia	X	X	X	X
Ecuador	X	X	X	X
El Salvador				X
European Union	I	I	I	I
Fiji		N	N	N
Georgia	X	X	X	X
Guatemala				N
Guinea	X		X	
Hong Kong, China	N	N	N	N
Iceland	I	I	X	I
India		N	N	
Israel	X	X	X	X
Japan	X	I	X	I
Jordan			X	X
Kazakhstan	X	X	X	X
Korea, Republic of	I	I		I
Kuwait, the State of	X	X	X	
Kyrgyz Republic	X	X	X	X
Lao People's Democratic Republic	X	X	X	X

	Commitment/Offer by sub-sector			
Lesotho	X	X	X	X
Liberia	X	X	X	X
Liechtenstein	X	X	X	X
Mexico	N		N	
Moldova, Republic of	X	X	X	X
Montenegro	X	X	X	X
Morocco	X	X	X	X
Nepal	X	X	X	
New Zealand	N	N	N	N
Nigeria	N	N	N	
North Macedonia	X	X	X	X
Norway	I	I	I	I
Oman	X	X	X	X
Pakistan		N	N	
Panama	N	N		I
Peru				N
Philippines	N			
Qatar	X	X	X	X
Romania				X
Russian Federation	X	X	X	X
Rwanda			X	
Samoa	X	X	X	X
Saudi Arabia, Kingdom of	X	X	X	X
Seychelles	X	X		X
Sierra Leone	X	X	X	X
Singapore			N	N
South Africa	X	X	X	I
Switzerland	X	I	I	I
Chinese Taipei	X	X	X	I
Tajikistan	X	X	X	X
Thailand	I	I	I	I
The Gambia	X		X	
Tonga	X	X	X	X
Tunisia	N	N	N	N
Turkey	X	X	X	
Ukraine	X	X	X	X
United Arab Emirates	X	X	X	X
United States	X	X	X	X
Vanuatu	X	X	X	
Viet Nam	X	X		X
Yemen	X	X	X	X

	Commitment/Offer by sub-sector			
GATS commitments - unchanged	47	43	47	41
Offers of improvements to existing commitments	5	7	4	10
Offers of new commitments	8	9	10	10

Note: For the whole environmental services sector, the total number of Members that have made offers (in one or various subsectors) stands at 25 (EU 25 as 1). 48 Members have GATS commitments but made no offers. 66 Members have no specific commitments nor have made offers.

Source: Updated from JOB/SERV/214.