



Number: 23-01

August 2023

Connecting Trade with Sustainability in Asia

Tackling climate change and sustainability has become critically important. International trade flows can help or hinder efforts to address climate challenges. Yet there has been surprisingly little trade policy that directly considers the relationship between climate and trade.

This new series from the Asian Trade Centre looks at what sort of adjustments might be required from the trade regime to grapple with climate change more effectively. Efforts could be made at the multilateral, regional, bilateral, and even unilateral levels.

This first piece in the series provides a high-level overview of the current landscape of trade policy actions across Asia that have been focused on the climate and trade nexus. Future pieces will dive more deeply into specific challenges that sustainability adjustments deliver to trade rules and procedures, such as non-discrimination, tariff rates and customs policies, or the use of standards to define environmentally friendly goods or services.

The Climate Challenge for Asian Trade Policy

Asia is vulnerable to the effects of climate change. It is home to more than half the world's population occupying a wide range of geographically diverse landscapes. Rapid urbanization co-exists with substantial agricultural sectors. Rising sea levels, extreme weather events, and droughts and severe floods have already led to billion-dollar economic losses in places like Pakistan and China.¹

Tackling climate change will, of course, have trade implications, particularly as the world shifts to using less carbon. Trade in goods and services and effective channeling of investment could help the region mitigate and adapt to changing conditions. But largely missing from the growing chorus of concerns about changing climatic conditions is a broader discussion from trade policy practitioners about how policies to tackle environmental problems will affect trade flows and practices.

This is partly a sensible reaction. Global policy priorities have been to create a consensus to support actions for limiting global warming and set up a system, based around the United Nation's Framework Convention on Climate Change (UNFCCC), for managing climate

¹ World Meteorological Organisation. "Climate change impacts increase in Asia," July 27, 2023. [https://public.wmo.int/en/media/press-release/climate-change-impacts-increase-asia#:~:text=The%20mean%20temperature%20over%20Asia,reference%20period%20for%20climate%20change\).](https://public.wmo.int/en/media/press-release/climate-change-impacts-increase-asia#:~:text=The%20mean%20temperature%20over%20Asia,reference%20period%20for%20climate%20change).)



commitments. The UNFCCC process has grown in size and strength, with the 28th Conference of the Parties (COP 28) to be held in Dubai in late November 2023.

As climate adjustments continue to accelerate, it is becoming increasingly important to think harder about the trade-related implications of measures that aimed at addressing environmental problems stemming from global warming.

This is not a new consideration. Many governments have been incorporating a range of environmental provisions into various trade commitments for some time. Governments understand the linkages between climate and the environment. Environmental problems frequently flow across borders, as early worries over acid rain, ozone depletion, flooding or downstream river changes caused by damming showed.

Global climate change challenges take these concerns to a whole new level, giving rise to a willingness to let environmental specialists take the lead in designing responses such as the Kyoto Protocol or Paris Agreement to limit greenhouse gases emissions or atmospheric temperature increases. Under these binding international treaties, governments are required to implement climate actions under their respective commitments to cut greenhouse gas emissions.

As these commitments get implemented, it is less tenable for trade policy to remain largely on the sidelines. Governments are taking actions that can have serious implications for trade and it is important to consider how climate-related policy choices offer both opportunities and challenges to current trade regimes.

While there are some multilateral efforts to address trade and environmental concerns through the World Trade Organization (WTO), there are currently no specific trade agreements aimed at dealing with environmental and sustainability issues at the global level.

The breadth and scope of trade, sustainability, and climate issues have made it difficult to simply rely on the WTO to manage trade and environmental concerns. Regional and domestic initiatives have provided alternative arrangements and means for cooperation to address emerging issues while incorporating local or regional contexts into discussions. Asian regional forums like ASEAN or APEC as well as bilateral initiatives have also helped facilitate trade and sustainability discussions and the implementation of related initiatives to address specific needs and issues.

Figures 1 and 2 highlight the growing importance of climate-related commitments found in existing free trade agreements (FTAs). The UN Economic and Social Commission for Asia Pacific (UNESCAP) has been developing a data analysis tool to examine the textual details of regional trade agreements signed by their members.²

² Figures have been drawn from the beta version of the tool and provide a snapshot into the spread and coverage of climate-related mentions in FTAs. The Annex to this Policy Brief provides details on specific keywords which are included in the sample. <https://www.unescap.org/kp/2023/user-guide-unescap-regional-trade-agreement-text-analyzer-10>

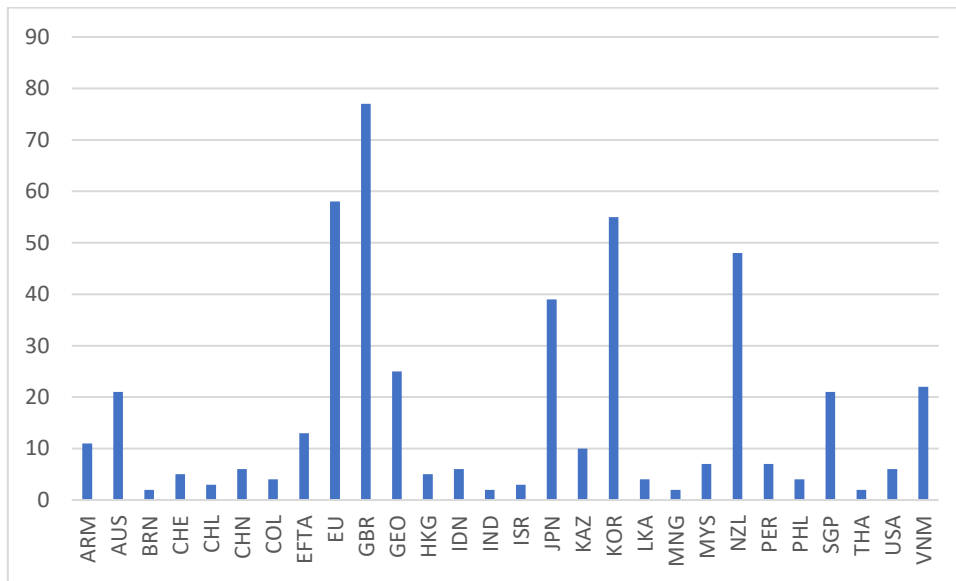


Figure 1: Number of FTA/RTA Provisions related to Environment and Sustainability by Country

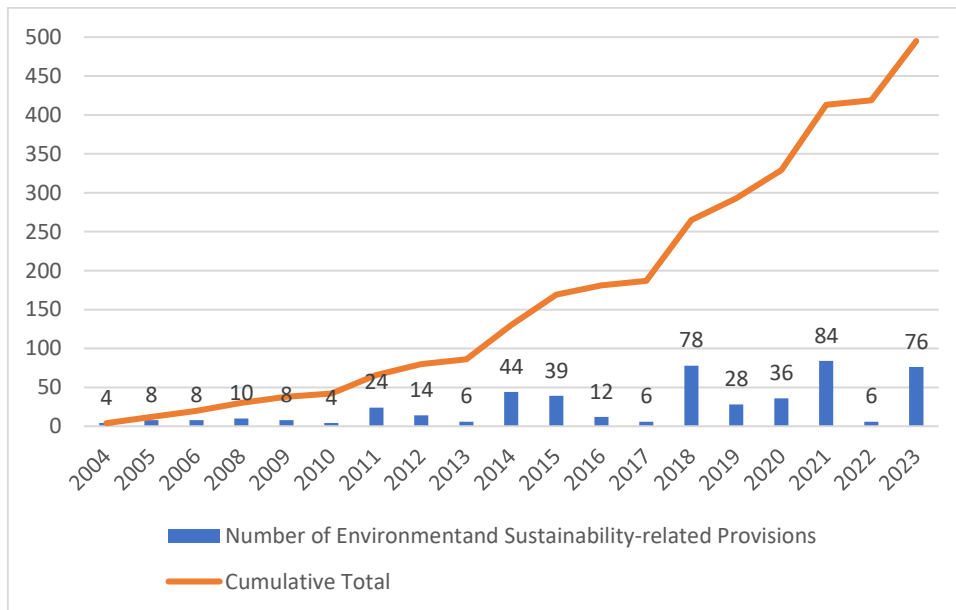


Figure 2: Number of Environment and Sustainability related Provisions in Asia-Pacific FTAs/RTAs

As with many comparisons of trade agreement provisions, careful assessment is necessary. Two agreements that contain the same keywords, such as “climate-friendly goods,” may include quite different commitments ranging from a statement of support in a preamble to



legally binding pledges. However, the data shown in the figures suggests that Asian members of UNESCAP are keen to add climate and environment topics to free trade agreements.

It is not always necessary to work with partners to support environmental and sustainability initiatives and policies. Governments are always free to pursue unilateral trade policies in support of their environmental and trade priorities as long as they do not constitute protectionist or unjustifiable discriminatory measures according to WTO General Agreement on Tariffs and Trade (GATT) commitments. For instance, countries may adopt lower import tariffs or waive duties entirely for goods arriving from any WTO trading partner. If tariff barriers, for example, are one reason why firms or consumers are not using imported climate-friendly products, unilateral elimination of tariffs can facilitate improved uptake of new technologies and solutions.

The remainder of this *Policy Brief* reviews several relevant trade and climate actions and initiatives in the region. It does not examine specific domestic policies or discuss policy responses towards commitments made towards climate change as established under international treaties such as the Kyoto Protocol and the Paris Agreement. Instead, the focus is on outlining the current landscape of government initiatives anchored in trade policies to address climate and environmental concerns.

A Multilateral Approach

The first paragraph of the Marrakesh agreement, which founded the WTO, reads:

*Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, 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...*³

Although this opening statement highlights the importance of environmental protection, the negotiated rules are largely about reducing trade barriers and eliminating discriminatory treatment against members. The primary environment-specific element of the WTO agenda can be found in a separate negotiation for market access in environmental goods and services that was launched in 2014.⁴

The WTO rules do permit members to adopt trade-related measures aimed at protecting the environment, provided governments fulfill a number of conditions to avoid the misuse of such measures for protectionist ends. In particular, these are provided in paragraphs (b) and (g) of

³ https://www.wto.org/english/docs_e/legal_e/04-wto_e.htm

⁴ World Trade Organization. "Trade and environment." https://www.wto.org/english/tratop_e/envir_e/envir_e.htm



the GATT Article XX on general exceptions where measures to protect human, animal or plant life or health or relating to the conservation of exhaustible natural resources are allowed, provided that “such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade.”⁵

There is a rich literature that draws lessons from several cases heard at the WTO’s dispute settlement system related to environmental protection and WTO rules. These cases, such as the “shrimp-turtle” case, have drawn attention to the connections between environmental regulations and trade practices. The shrimp-turtle case examined a US measure in 1996 designed to protect endangered sea turtles.⁶ In the case, the Appellate Body overruled the panel’s findings that the law has violated the GATT. The decision recognized that the law was covered by an exception to WTO rules for measures relating to the conservation of exhaustible natural resources but required the US to ensure fair implementation of the law.⁷

Most multilateral discussions of the trade and environment nexus relate to Article XX exceptions and the use of the dispute settlement system to adjudicate the rules. However, the collapse of the Appellate Body system at the WTO has meant that dispute settlement as a mechanism for tackling trade and climate considerations at the WTO is more problematic than ever.

While Article XX remains a foundational element of the trading regime, members have also been willing to consider alternative Asian regional, bilateral, and unilateral actions to tackle trade and climate concerns.

Asia-Pacific Economic Cooperation (APEC) Initiatives

The Asia Pacific Economic Cooperation (APEC), a regional forum with 21 members, provided a pioneering example of linking trade directly to the environment. In 2012, APEC leaders announced the first List of Environmental Goods and pledged to reduce tariffs on included products to less than five percent by 2015.⁸ The idea was to provide greater access to environmental technologies, like certain turbines or wastewater purification products, through lowered tariffs. The original APEC list was used as a model for work within Environmental Goods Agreement negotiations at WTO⁹ and also supported unilateral efforts for APEC members to consider reducing or eliminating tariffs on these goods.

⁵ See Article XX on General Exceptions of GATT at:

https://www.wto.org/english/res_e/booksp_e/gatt_ai_e/art20_e.pdf

⁶ The Marine Mammal Protection Act require specific conservation measures applied to shrimps imported into the US including for shrimp trawls to be equipped with “turtle-excluder devices”.

⁷ Robert Howse. “The Appellate Body Rulings in the Shrimp/Turtle Case: A New Legal Baseline for the Trade and Environment Debate,” 2022.

<https://www.worldtradelaw.net/document.php?id=articles/howshrimp.pdf&mode=download#:~:text=In%20Shrimp%2FTurtle%2C%20the%20AB,conservation%20of%20exhaustible%20natural%20resources.>

⁸ https://www.apec.org/meeting-papers/leaders-declarations/2012/2012_aelm

⁹ Started in 2014 and not yet concluded. See https://www.wto.org/english/tratop_e/envir_e/ega_e.htm



Regional forums like the APEC have provided an important platform for member economies to engage in discussions and cooperations to facilitate trade, investment, and economic growth. APEC's recent contributions to sustainability in trade can be seen in actions like the APEC Putrajaya Vision 2040,¹⁰ endorsed by APEC leaders in 2020, which identified “strong, balanced, secure, sustainable and inclusive economic growth” as one of the three drivers to economic growth and the adoption of the Bangkok goals on bio-circular-green (BCG) economy in 2022.¹¹

APEC members have continued to build on their early actions on climate. The Aotearoa Plan of Action, endorsed by Leaders in 2021, guides implementation of actions and policies to meet relevant environmentally sustainable objectives and support a BCG framework to encourage reduction of waste, support resource efficiency, and promote sustainable growth.¹²

APEC has helped member economies to engage collectively to address environmental challenges in trade and to support implementation of economic policies consistent with their international obligations. Several important initiatives by APEC includes building capacities of micro, small and medium sized enterprises (MSMEs) in sustainability practices, and supporting technical cooperation and exchange of experiences and best practices in the APEC economies.

ASEAN initiatives

The Association of Southeast Asian Nations (ASEAN), consisting of 10 members in Southeast Asia, has recognised the need to pursue sustainable growth and reduce energy intensive production and wasteful consumption through a collective framework for a circular economic model. ASEAN adopted the Framework for a Circular Economy in October 2021 which sets out five strategic priorities: (i) standard harmonisation and mutual recognition of circular products and services, (ii) trade openness and trade facilitation in goods and services, (iii) enhanced role of innovation, digitalisation and emerging technologies, (iv) sustainable finance and innovative investments, and (v) efficient use of energy and other resources to achieve the goals of resilient, resource efficient and sustainable growth.¹³ The framework also supports ASEAN member states to achieve their sustainable goals under the United Nations 2030 Agenda for Sustainable Development and commitments in the Paris Agreement for climate change.

Moreover, the ASEAN Leaders' Declaration on Blue Economy that was adopted at the 38th ASEAN Summit in 2021 also led to the development of ASEAN Blue Economy Framework to

¹⁰ APEC. “APEC Putrajaya Vision 2040.” https://www.apec.org/meeting-papers/leaders-declarations/2020/2020_aelm/annex-a

¹¹ APEC. “Bangkok Goals on Bio-Circular-Green (BCG) Economy.” [https://www.apec.org/meeting-papers/leaders-declarations/2022/2022-leaders-declaration/bangkok-goals-on-bio-circular-green-\(bcg\)-economy](https://www.apec.org/meeting-papers/leaders-declarations/2022/2022-leaders-declaration/bangkok-goals-on-bio-circular-green-(bcg)-economy)

¹² <https://www.apec.org/meeting-papers/leaders-declarations/2021/2021-leaders-declaration/annex-aotearoa-plan-of-action>

¹³ See the Framework for Circular Economy for the ASEAN Economic Community at: https://asean.org/wp-content/uploads/2021/10/Framework-for-Circular-Economy-for-the-AEC_Final.pdf



be delivered under Indonesia's 2023 ASEAN Chairmanship in support of greater marine environment protection.

Progress in sustainability is also anchored in ASEAN's FTA upgrade considerations where the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) upgrade protocol signed on 21 August 2023, included a new Chapter 13 on trade and sustainable development which encourage economic cooperation between AANZFTA parties covering topics related to (i) climate and environment, (ii) the green and blue economy, (iii) circular economy in manufacturing, (iv) energy, (v) labour and (vi) issues under the Sustainable Development Goals.¹⁴ Upgrade negotiations for the ASEAN Trade in Goods Agreement (ATIGA) and the ASEAN-China Free Trade Area 3.0 version that are currently in progress also place focus on sustainability and green economy as new areas for cooperation.

Environment chapters in FTAs

Bilateral, plurilateral, or regional trade agreements can also be used to anchor a range of specific commitments between members. FTAs have few references to climate change, but environment and sustainability have become an integral part of many FTAs, as Figures 1 and 2 have shown.

As an example, the US-Singapore FTA, which entered into force in 2004, had a short chapter on environment.¹⁵ It obligated both parties to enforce their domestic environmental laws and encouraged cooperation and public participation for future regulatory actions. More recent agreements, like the revised US-Korea FTA (KORUS), continues the trend of providing additional commitments as well as a specific dispute mechanism to manage disagreements over application and enforcement of environmental provisions in the FTA.¹⁶

Similarly, the European Union has included what it calls trade and sustainable development (TSD) chapters that address the environment, labour, and human rights.¹⁷ The TSD chapters, embedded in a range of current and ongoing negotiations with partners across Asia, aim to reaffirm FTA signatories' commitments under multilateral labour and environmental frameworks and instruments which they are parties, strengthen trade relations and cooperation in the removal of obstacles to trade or investment for environmentally friendly goods and services and recognize that facilitation of trade or investment should not lead to weakening or reduction of protections provided by signatories' domestic labour and environmental laws.

¹⁴ See the text of Second Protocol to amend the agreement establishing AANZFTA:

<https://www.mfat.govt.nz/assets/Trade-agreements/AANZFTA/Second-protocol/Text-of-Second-Protocol-to-Amend-AANZFTA.pdf>

¹⁵ <https://www.enterprisesg.gov.sg/grow-your-business/go-global/international-agreements/free-trade-agreements/find-an-fta/ussfta>

¹⁶ https://ustr.gov/sites/default/files/uploads/agreements/fta/korus/asset_upload_file852_12719.pdf

¹⁷ European Parliamentary Research Service. "Sustainability provisions in EU free trade agreements," November 19, 2021.

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698799/EPRS_BRI\(2021\)698799_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698799/EPRS_BRI(2021)698799_EN.pdf)



The most recent EU deal, signed with New Zealand in July 2023, also included a chapter on sustainable food systems, an article on trade and gender equality and a specific provision on trade and fossil fuel subsidies reform.¹⁸ The agreement has been touted as including the most ambitious sustainability commitments ever present in an FTA.

Besides bilateral agreements, plurilateral agreements like the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) that confer high standards have an environmental chapter that promotes high levels of environmental protection and effective enforcement of environmental laws. Note that the other major plurilateral in Asia, the Regional Comprehensive Economic Partnership (RCEP), does not have a specific chapter on environment.

The inclusion of environment and sustainability chapters in FTAs may not result in effective implementation of their provisions, particularly when commitments involve promises to collaborate or cooperate. As many of these commitments are new, it remains unclear exactly how they might be put into practice. In addition, environment chapters are usually excluded from the general dispute settlement mechanism found in the FTA. Some FTAs do include separate dispute systems or commit parties to engage in consultations to address implementation and enforcement issues in these chapters.

Green economy deals and agreements in the Asia Pacific

Countries in the Asia Pacific are also pursuing other types of economic policies beyond FTAs to address sustainability issues in trade. The Singapore-Australia Green Economy Agreement, signed in October 2022, represents a new approach to address a combination of trade, economic, investment, and climate change objectives. The agreement covers trade and investment, standards and conformance, green and transition finance, and clean energy, decarbonisation and technology.¹⁹

A similar type of plurilateral trade initiative was launched by New Zealand with Costa Rica, Fiji, Iceland, Norway, and Switzerland in 2019. The Agreement on Climate Change, Trade and Sustainability (ACCTS), still under negotiation, is meant to include disciplines on tariff removals for environmental goods, binding commitments for environmental services, elimination of harmful fossil fuel subsidies, and the development of voluntary eco-labelling programmes. Thus far, thirteen rounds of negotiations have been completed and the agreement is envisaged to be a pathfinder initiative towards multilateral action to address environmental issues.²⁰

¹⁸ See the legal text of the EU-New Zealand FTA at: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/new-zealand/eu-new-zealand-agreement/text-agreement_en

¹⁹ See the legal text of the Singapore-Australia Green Economy Agreement at: <https://www.dfat.gov.au/geo/singapore/singapore-australia-green-economy-agreement/singapore-australia-green-economy-agreement-text>

²⁰ New Zealand Foreign Affairs and Trade. "Agreement on Climate Change, Trade and Sustainability (ACCTS) negotiations". <https://www.mfat.govt.nz/en/trade/free-trade-agreements/trade-and-climate/agreement-on-climate-change-trade-and-sustainability-accts-negotiations/>



Other forms of climate and economic cooperation include the UK-Singapore Green Economy Framework (UKSGEF) which is an MOU outlining key areas of green economy cooperation that Singapore and the UK will pursue to create green growth opportunities under three pillars: (i) green transport; (ii) low carbon energy and technologies; and (iii) carbon markets and sustainable finance.²¹

ASEAN and ASEAN member states have worked with a range of Dialogue Partners to support climate outcomes. For example, the UK has launched a UK-ASEAN Catalytic Green Finance Facility to support public-private financing for green infrastructure projects.

The Indo-Pacific Economic Framework (IPEF), initiated by the US in May 2022 with 13 partner countries (Australia, Brunei, Fiji, India, Indonesia, Japan, South Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, and Vietnam), includes discussions on clean economy as one of the four pillars. IPEF negotiations are currently in progress with the expectation that the clean economy commitments will be announced in November.

Conclusion: Navigating the Climate-Trade Nexus in Asia

As efforts to reduce carbon accelerate, it is increasingly critical to consider how trade and trade policies will interact with climate change commitments. Governments have been acting at the multilateral, regional and bilateral levels. Globally, the WTO has taken modest steps forward, with much of the focus on articulating the use of existing Article XX exceptions rather than crafting new trade-specific responses to changing global priorities driven by climate considerations.

This has left the door open to more robust responses from regional organizations like APEC and ASEAN. Asian governments have also been increasingly willing to engage bilaterally through a range of initiatives, including adding environment chapters to FTAs and the creation of entirely new arrangements to tackle specific challenges like green financing or sustainable transport.

As the climate crisis accelerates, Asia stands at a nexus of challenges and opportunities. Climate change will pose profound threats to the region's livelihoods and economies, but the region has a history of using trade and economic policies as powerful tools for mitigating and adapting to challenges.

To get the balance right and support a sustainable path in the future, however, will require adjustments in trade policies and practices. The efforts of regional and bilateral initiatives in Asia demonstrate the growing commitment to address this complex interplay.

Trade has the potential to accelerate or to ameliorate climate-related issues ahead. Addressing the gaps between trade and climate policies is a key challenge for the future. In

²¹ See the Memorandum of understanding on the Green Economy Framework between the Government of the United Kingdom and the Government of the Republic of Singapore at: <https://www.gov.uk/government/publications/green-economy-framework-memorandum-of-understanding/memorandum-of-understanding-on-the-green-economy-framework-between-the-government-of-the-united-kingdom-and-the-government-of-the-republic-of-singapor>



this context, this series from the Asian Trade Centre ventures to explore the adjustments that may be needed within trade regimes to more effectively tackle climate change at multiple levels.

This first installment of the series has offered a high-level overview of the current landscape of trade policy actions in the region. It sets the stage for deeper dives into specific challenges that sustainability adjustments pose to trade rules and procedures, including non-discrimination, customs policies, and the creation of standards for environmental goods and services.

The Asian Trade Centre (ATC) is the premier regional thought leader, advocate and educator for trade in Asia. ATC works directly with governments and companies and serves as the resource for trade-related activities in Asia.

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Annex A: Environment and Sustainability Provisions Keywords used in the UNESCAP Trade Agreement text analysis tool²²

Environment & protection

climat# change

goods & sustainable development

(goods|services|technologies) & (sustainable development|environment)

multilateral & environmental agreements

eco.label#; green.label#

environment# regulation#

low.carbon & technolog#

energy efficiency

climate.friendly goods and services

(green.economy|environment) & trade facilitation

international standards & the (green|sustainable) economy

²² The UNESCAP Trade Agreement text analysis tool can be accessed at: <https://tiid.shinyapps.io/text-analysis-tool/>



Annex B: Example of RTA/FTA Environment and Sustainability Provisions mapped using the UNESCAP Trade Agreement text analysis tool

FTA/RTA	Chapter Number	Chapter Name	Article Number	Article Name	Text	Key word	Date into Force
Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)	CHAPTER 20	Environment	ARTICLE 20.18	Environmental Goods And Services	<p>1. The Parties recognise the importance of trade and investment in environmental goods and services as a means of improving environmental and economic performance and addressing global environmental challenges.</p> <p>2. The Parties further recognise the importance of this Agreement to promoting trade and investment in environmental goods and services in the free trade area.</p> <p>3. Accordingly, the Committee shall consider issues identified by a Party or Parties related to trade in environmental goods and services, including issues identified as potential non-tariff barriers to that trade. The Parties shall endeavour to address any potential barriers to trade in environmental goods and services that may be identified by a Party, including by working through the Committee and in conjunction with other relevant committees established under this Agreement, as appropriate.</p>	goods and services as a means of improving environment; goods and services to address current and future global trade-related environment	30/12/2018



					4. The Parties may develop bilateral and plurilateral cooperative projects on environmental goods and services to address current and future global trade-related environmental challenges.		
EU - Viet Nam	CHAPTER 13	Trade and sustainable development	Article 13.10	Trade and Investment Favouring Sustainable Development	2. To that end, the Parties: (a) recognise the beneficial role that decent work may have for economic efficiency, innovation and productivity, and they shall encourage greater policy coherence between trade policies, on the one hand, and labour policies on the other; (b) shall endeavour to facilitate and promote trade and investment in environmental goods and services, in a manner consistent with this Agreement; (c) shall endeavour to facilitate trade and investment in goods and services of particular relevance for climate change mitigation, such as sustainable renewable energy and energy efficient goods and services, including through the development of policy frameworks conducive to the deployment of best available technologies; (d) recognise that voluntary initiatives can contribute to the achievement and maintenance of high levels of environmental and labour protection and complement domestic regulatory measures; therefore each Party shall, in accordance with its domestic laws or policies, encourage the	climate change; eco-labels	1/8/2020



					development of, and participation in, such initiatives, including voluntary sustainable assurance schemes such as fair and ethical trade schemes and eco-labels; and (e) in accordance with their domestic laws or policies agree to promote corporate social responsibility, provided that measures related thereto are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties or a disguised restriction on trade...		
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