

Joint Working Party on Trade and Environment
Where next for the trade and environment agenda?

BIAC comments

10 December 2013

The OECD Joint Working Party on Trade and Environment has for many years produced extensive analysis on a wide range of issues related to trade and environment. Moving towards greener growth will require access to open and well-functioning markets. There is an urgent need to open trade to a wide range of sectors in the supply and value chains. One of our overarching messages is therefore that trade liberalization is not only necessary for “environmental good and services”, but also for the diffusion and deployment of greener and more efficient technologies and processes from all sectors, particularly to developing countries.

BIAC appreciates the opportunity to provide comments that reflect the views of the business community regarding the future program of work. OECD’s fact-based analysis remains crucial, and we are pleased to provide the Working Party the following non-exhaustive list of issues for its consideration. We would be pleased to discuss these and other proposals further with the OECD going forward.

- **Lower trade barriers for all goods to foster global value chains:** Concrete progress needs to be made in lowering trade barriers for *all* goods, bearing in mind the definitional problems related to environmental goods and services. A narrow approach and the use of lists could lead to arbitrariness and discrimination. There are no “good” or “bad” products. There are numerous input products that are essential to produce the so-called environmental goods that have not been included in the discussions on liberalization. BIAC believes that the OECD could contribute sound and fact-based analysis to highlight the need to engage in discussions on the reduction or elimination of barriers for all industrial products instead of making a selection of environmental goods. We support multilateral negotiations to substantially reduce or eliminate industrial tariffs for all products.
- **Trade and climate change:** While significant work has been carried out in this area, it is essential to continue evaluating the risks of unilateral trade measures to combat global warming and maintain competitiveness. By the same token, additional work in this area could explore the following topics:

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- Shed further light on the positive role that open markets for trade and investment can play in supporting climate change policies.
 - Carry out additional analysis on the importance of the protection of intellectual property rights.
 - Examine short and long term economic effects of ETS system and the lack of climate change regulations in other countries.
 - Evaluate the role of clean coal technologies and their implications on climate change.
- **Analyse environment-related product regulations that may pose unnecessary barriers to trade or be considered a form of extra-territoriality:** Several countries are implementing environmental measures based on questionable science or that discriminate against imported products.
 - The first part of a possible research program could catalogue these sorts of measures and assess their net impact on trade, economic and environmental outcomes. A scoring system or index could be developed for both the regulations and the implementing jurisdictions.
 - The second part of the program could look at recent trends in international trade case law and assess how effective current rules are at ensuring that product regulations are based on sound science, bring improved environmental outcomes and are the least trade restrictive possible.

Additionally, the OECD should continue promoting measures enabling exporters in developing countries to abide by importers' environmental requirements more easily. Such measures include adopting international standards, providing scientific studies and risk assessments as basis of requirements and providing early notice as well as technical assistance to trade partners.

- **Address rising use of environmental approval and permitting processes:** Many companies, particularly in the raw materials, resource and infrastructure sectors, report a rising use of environmental approval and permitting processes to stop or slow down projects abroad. While certain cases arise from legitimate grounds, these processes should not arise for political motives. Investment protection agreements are important in these cases. Companies may bring their matter to international dispute settlement, either through state-to-state or investor-state mechanisms.
 - The OECD could make a useful contribution by cataloguing recent disputes where environmental measures have been challenged by investors. Information sought could include economic loss to the businesses, tax revenues, host communities, as well as the net impacts of the measure in question on environmental outcomes.

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- In addition to that, based on this information, it should seek to assess on a cost-benefit basis whether international trade and investment agreements as currently formulated are effectively constraining poor policy practices.

 - **Study the linkages between recyclables and trade policies**, including the following:
 - Assess the economics of public or private companies handling household recyclables. Compare environmental, social and economic costs and benefits between public (Municipal / State Owned companies) and private companies, especially SMEs, handling recyclable household goods, such as metal packaging, paper and electrical and electronic household equipment. Is "Flow control" environmentally, socially and economically effective? What is the effect of "Flow Control" on SMEs, but also on companies in general?
 - Examine short and long term economic effects of trade restrictions on recyclable materials (i.e. scrap metal, scrap paper) for domestic metal-works and paper-mills. Analyse the short and long term economic impact on domestic metal-works and paper-mills when national restrictions on the export of scrap metal and scrap paper are in force. The OECD has already collated information on trade restrictions commonly applied on scrap metals, and we encourage further work in this area.
 - Observe the economic impacts on mandatory collection system costs of national trade restrictions on scrap and waste for recycling.
 - Conduct research on the economic impact, with particular attention to the costs of collection, when national restrictions on the trade of waste and scrap metal, plastic, paper are in effect.
 - Analyse the importance of the used and second hand goods market in comparison with new manufacturing: (1) Determine the size, market share, environmental, economic and social value of the used/secondary (remanufactured, used and second hand) goods market for products such as medical equipment, automobiles, heavy industrial machinery, and aeronautics. (2) Determine the size, market share, environmental, economic and social value of the new manufactured medical equipment, automobiles, heavy industrial machinery, and aeronautics. (3) Evaluate the economic similarities and differences on how such new and used second-hand products are defined and treated in the global marketplace, such as custom codes, taxes, definitions and access to goods.
 - Investigate the effects of international and national waste classification and transboundary movement rules regarding resource efficiency policies mandating the recycling of certain critical metals and or rare earth elements.
 - Provide an overview of national rules on the classification of hazardous waste versus non-hazardous wastes and import and export requirements for circuit boards.

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- **Evaluation of the effects of the mandatory country of origin labels in trade and environment:** The European Commission published its new Regulation on the Provision of Food Information to Consumers (EC no. 1169/2011) where there is a clause that leads to the introduction of mandatory country of origin labels (mCOOL) for one or more product groups.

We believe that the OECD could play an important role providing objective data and analysis on the implications that labelling regulations have on trade and environment.

- Does mCOOL lead to waste (for example food wastage)?
- Will this regulation increase the cost of products and reduce or prevent trade?
- Does it lead to environmental and economic inefficiency?