

Guidance on approaches and good practices for the design of trade-related circular economy policies and measures

Presentation to TESSD informal working group on Circular Economy – Circularity

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TESS Forum on Trade,
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& the SDGs



The policy context

- Rapid development of trade–related circular economy measures (TrCEMs) at all stages of life cycles in a range of sectors.
 - Chatham House identified over 540 circular economy policies and legislations.
- Design and implementation of TrCEMs largely takes place at the national level with important differences across jurisdictions (e.g. in definitions, product classifications, standards and regulations).
- If not managed properly, these differences may affect investments and the scaling up of CE solutions and marginalize developing countries and businesses that are unable to comply with new product requirements.
- Rather than a patchwork of uncoordinated national approaches, there is an urgent need for collective and coordinated approaches, and to ensure these reflect sustainable development considerations.
- While consensus on possible international measures is likely to remain elusive, there could be strong value in international guidance for policy design and implementation to reduce fragmentation and ensure that TrCEMs reflect SD priorities.

A mixed and geographically diverse Expert Group of leading thinkers on trade, circular economy and sustainable development from IGOs, think tank, private sector and civil society organizations



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Purpose of the Expert Group on Trade, Circular Economy and Sustainable Development

- **What:?** provide stakeholder guidance on good practices and approaches on the trade dimension of circular economy policies that support sustainable development
 - Identify a set of good practices in different sectors and at different points along the value chain
 - Provide examples and precedents of how these practices can be developed and implemented
- **Scope?** border measures, regulatory measures or economic incentives that aim to promote a more circular economy
- **Where?** Identifies good practices and approaches that could be pursued:
 - By governments through domestic policies or measures
 - Through international cooperation within a wide range of fora:
 - International/regional standard setting bodies
 - World Customs Organization (WCO)
 - Multilateral Environmental Agreements (MEAs)
 - IGOs including regional commissions
 - Bilateral/regional trade agreements
 - WTO, including member-led initiatives (DPP, TESSD)

Advancing International Cooperation and Good Practices for the Design and Implementations of TrCEMs

Considerations to guide the design of TrCEMs	How to advance them?		Relevant international fora / processes
	Domestic action	International cooperation	
1. Develop consistency and alignment in terminology, definitions and classification	X	X	• International/regional standard setting bodies • World Customs Organisation (WCO) • Multilateral Environmental Agreements (MEAs) • IGOs including regional commissions
2. Follow good regulatory practices in the design and monitoring of TrCEMs	X	X	• WTO including TBT/SPS Committees • IGOs including regional commissions • Bilateral or regional trade agreements
3. Reduce regulatory heterogeneity through options such as harmonization, equivalences, and mutual recognition		X	• International/regional standard setting bodies • Bilateral or regional trade agreements • Bilateral regulatory cooperation processes
4. Cooperate on the design and implementation of measures to restrict or eliminate trade flows of materials, products, and wastes that are illegal, or harmful to the environment or human health		X	• WTO including Member led initiatives (DPP, TESSD) • IGOs including regional commissions • Multi-stake holder initiatives (e.g. plastic waste partnership)
5. Ensure clarity and transparency of product characteristics and circular economy criteria and requirements	X		• International/regional standard setting bodies • IGOs including regional commissions
6. Enhance international cooperation on extended producer responsibility systems to reflect the reality of global product value chains and the trade aspects of end-of-life management and reverse supply chains		X	• WTO including Member-led initiatives (DPP, TESSD) • IGOs including regional commissions • Multi-stake holder initiatives (e.g. involving PROs)
7. Foster coherence of TrCEMs with domestic policies and promote responsible regulatory practices	X	X	• MEAs (e.g. Basel, Rotterdam, and Stockholm conventions) • WTO including Member-led initiatives (DPP, TESSD)
8. Facilitate and promote trade in environmentally sound goods, services, and technologies that support circular economy goals	X	X	• WTO including Member-led initiatives (DPP, TESSD) • IGOs including regional commissions • Bilateral, regional or preferential trade agreements • International/regional standard setting bodies • WCO
9. Facilitate safe and environmentally sound reverse supply chains in end-of-life products		X	• MEAs • WCO • IGOs including regional commissions • Multi-stake holder initiatives
10. Respond to specific challenges faced by developing countries	X	X	• MEAs • IGOs including regional commissions

Focus of the presentation today

- Highlighting elements of the report that may be relevant as stakeholder inputs into future discussions of the informal working group on “trade-related guidelines for a circular economy”
- A focus on what the expert group report suggests on “how TrCEMS should be designed and implemented?”
- Share some of the good practices identified in the report that could serve as inspiration for WTO members in considering a possible soft law outcome reflecting a shared understanding of what could constitute relevant guidance for the design and implementation of TrCEMs, focusing on:
 - Avoiding fragmentation
 - Non-discriminatory and least trade restrictive approaches
 - Fostering coherence and responsible practices
 - Transparency and consultations

Avoiding fragmentation

- Aligning terminology, definitions, and product classification with those in relevant international standards where they exist or with definitions and terms used in MEAs & other international cooperative arrangements
 - E.g. ISO 59000 family of standards & definitions developed under technical Committee 323 on Circular Economy
 - 2016 Basel Convention glossary of terms
 - UN Framework Classification for Resources on sustainable management of energy & mineral resources
 - Negotiations for an internationally binding legal instrument on plastic pollution
- Grounding measures on relevant international standards where available
 - Upstream standards for product design & production (e.g. recycled or hazardous content, content, recyclability, re-usability, reparability)
 - Downstream quality standards (e.g. secondary raw materials, refurbished, remanufactured & second-hand goods)
 - Traceability and transparency standards (e.g. UNECE traceability standards for sustainable garments and footwear)
- Consider harmonization, equivalences, and mutual recognition of conformity assessment procedures and the compatibility of regulatory approaches with trading partners and particularly developing countries
 - E.g. equivalences of similar regulations, standards, or conformity assessment procedures, provided they reasonably fulfil the objectives of their regulations or that the procedures offer an assurance of conformity with applicable technical regulations or standards
 - E.g. Framework for Circular Economy for the ASEAN Economic Community

Non-discriminatory and least trade restrictive approaches

- Specifying product and service requirements in terms of circularity performance wherever appropriate rather than design or descriptive characteristics (see TBT Art. 2.8)
- Grounding measures in the best scientific evidence and information available to a country
- Ensuring that TrCEMS:
 - Are origin neutral i.e. that they applies equally to domestically produced goods, imported, & exported goods
 - Do not *de facto* or in effect constitute an arbitrary discrimination between countries where the same conditions prevail
 - Are not more trade restrictive than necessary to fulfil legitimate objectives, and
 - Avoid excessive regulatory burdens and costs on businesses, including small and medium-sized enterprises
- Undertaking *ex-ante* and *ex-post* regulatory assessments of economic, social, health and environmental impacts of proposed regulatory measures based on key performance indicator targets, including consideration of impacts for trading partners.
- Give special consideration to and address the particular challenges faced by developing countries including through technical assistance and capacity building
 - E.g. The Asia-Pacific Plastic Waste Project, implemented by the WCO.
- Cooperate to support the development, diffusion, affordability, and uptake of environmentally sound and safe circular economy-related goods, services, and technologies
 - E.g. UN Trade and Development's Sustainable Manufacturing and Environmental Pollution (SMEP) programme

Fostering coherence and responsible practices

- Circular economy requirements applicable to traded goods should be underpinned by the same requirements as those applicable to goods consumed domestically:
 - Exported secondary raw materials, remanufactured or second-hand goods, should to the extent possible comply with quality standards comparable to those required domestically
 - Domestically prohibited goods should not be subject to export
 - E.g. Canada or Colombia policies on single use plastics
- Hazardous wastes and other wastes should, as far as is compatible with environmentally sound and efficient management, be disposed of in the State where they were generated
 - E.g. principle of proximity and self-sufficiency for hazardous waste in Basel Convention
- Governments should not export or import waste if there is a reason to believe that it will not be managed in an environmentally sound manner
 - E.g. Basel Convention

Transparency and consultations

- Fostering transparency and consultation before, during, and after the regulatory development process, including wherever possible consultation with external stakeholders, and third-country governments potentially impacted by the measure
- Providing notice of proposed rules and opportunities for comments when amendments can still be introduced, and comments are taken into account
- Ensuring transparency and clarity of circular economy criteria and requirements
 - Referring to product lists established under MEAs where they exist (e.g. persistent organic pollutants listed under the Stockholm Convention or industrial chemicals listed under the Rotterdam Convention)
 - Inclusion of guiding criteria and/or guidelines for implementation
- Ensuring regular and consistent reporting and notification to the WTO

Conclusion

- Most of these elements of good practices and approaches are not new
 - Many reflect commitments in existing agreements (e.g. TBT, Basel Convention or RTAs)
 - Others refer to well established elements of good regulatory practices
- Could serve as inspiration/stakeholder input for a set of non-binding, voluntary guidance reflecting a shared understanding of good practices
 - e.g. following the model of the TBT work on good regulatory practices
- The development of such guidance constitute a concrete outcome from the working group, providing clarity and predictability for the private sector, contributing to reducing fragmentation, and addressing possible tensions in a pre-emptive manner