

GLOBAL AND REGIONAL ORDER

# DON'T RUN ALONE!

Why the WTO and UNFCCC should work together more closely in the area of agriculture

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In the area of agriculture, the World Trade Organization (WTO) has been hampered by conflicting visions and only seen sluggish progress in negotiations. Developing countries have especially been frustrated by the dearth of progress on the issues of food security, access to markets and technical assistance.



The United Nations Framework Convention on Climate Change (UNFCCC) has made agriculture a priority area in its Koronivia decision. But there have not been sufficient enforcement mechanisms to back up this important work.



Climate change poses *the* existential threat of our times. In view of this reality, both regimes need to act to ensure that their rules and objectives are mutually supportive.

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### Why the WTO and UNFCCC should work together more closely in the area of agriculture

Perspective Series: »Climate and Trade Communities: Joining Hands to attain a Prosperous and Sustainable Future« | N°1



Trade and climate change communities – including policy-makers, negotiators and other stakeholders – need to close ranks to achieve global prosperity for all in a sustainable future. This will only be possible through more intensive exchange and better communication between the two communities. To facilitate and promote this, FES Geneva and CUTS International Geneva are putting out three perspectives on issues involving both the multilateral trading system and the international climate regime, while traversing the spotlight to subject areas which are being addressed within the framework of both the United Nations Framework Convention on Climate Change (UNFCCC) and the World Trade Organization (WTO). This will nurture an understanding for these issues in a larger framework on the part of the trade and climate change communities.



Perspective N°1 in the series focuses on agriculture, which plays a key role in economic growth and sustainable development. On the one hand agriculture is a major contributor to climate change, but on the other hand it is also extremely vulnerable to climate change. At the present juncture, however, both forums, the WTO and UNFCCC, have tackled this issue disjointedly. No wonder, then, that progress has been scant in both.



Despite the new shift in focus toward agriculture, tough negotiations in COP27 have prevented any decision of substance on food systems and the topics of food waste, nutrition, or sustainable diets from the final Sharm El-Sheik Joint Work agreement.



The WTO is still struggling with the fact that it is impossible to conclude the Doha Round, which was supposed to tackle an array of agricultural issues. Clashing views have been one of the reasons why no mention was made of agriculture negotiations in the Geneva Package adopted at MC12 in 2022.



This perspective proposes some ways to better align discussions and negotiations centring on agriculture in the WTO and the UNFCCC. Commonalities and differences between the two are highlighted in the hope of facilitating an understanding of places where there is a potential for closer collaboration.

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more closely in the area of agriculture

in cooperation with



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## INTRODUCTION

By 2050, global agricultural output will have to scale up by 50 per cent to feed the world's growing population.<sup>1</sup> At the same time, agriculture contributes to 1/3 of global Green House Gases (GHG) emissions and is increasingly vulnerable to climate change.<sup>2</sup>

Given these conflicting objectives, agriculture will play a leading role in climate adaptation and mitigation while ensuring food security and sustainable development. For developing and least-developed countries (LDCs), agriculture is especially important given that it accounts for a sizable portion of their economies and social life. More than half of workers in these countries are usually employed in this sector, with a significant proportion of them being women.<sup>3</sup> The developing world is also more vulnerable to climate change and food insecurity.

Trade policy plays a key role in agriculture, helping ensure food security for importing countries and determining access for developing countries' food exports to new markets.<sup>4</sup> Yet it is only recently that the trade regime has started to seriously consider climate change as part of its agenda. In the area of agriculture, the World Trade Organization (WTO) has been handicapped by conflicting visions and sluggish progress in negotiations. Developing countries have especially been frustrated by the lack of progress with the issues of food security, access to markets and technical assistance. At the same time, the climate change regime spearheaded by the United Nations Framework Convention on Climate Change (UNFCCC) has been gaining relevance due to the Paris Agreement and also placed a specific focus on agriculture in the Koronivia decision.<sup>5</sup> Moreover, 89 per cent of the signatories to the Paris Agreement have included agriculture in their nationally determined contributions (NDCs).<sup>6</sup> But there is little in the way of enforcement mechanisms to back up this important work.

This perspective explores how agriculture has been dealt with in the WTO and the UNFCCC, focusing on the history, objectives and recent development of initiatives in both forums. Both commonalities as well as differences between the two are highlighted in order to facilitate an understanding of where there is potential for collaboration. Indeed, given that

climate change is *the* existential threat of our times, both regimes need to act to ensure that their rules and objectives are mutually supportive.<sup>7</sup>

## AGRICULTURE IN THE UNFCCC

It would be beyond the scope of this paper to review the entire climate change regime, but an overview of its work on agriculture is necessary. Established at the 1992 Rio Conference, the UNFCCC has produced two main treaties: the Kyoto Protocol (1997) and the Paris Agreement (2015).<sup>8</sup> It has almost universal membership, but lacks effective enforcement mechanisms.

Initially, agriculture was not a regular area of work for the UNFCCC. This changed with the 2011 COP17 in Durban. The Subsidiary Body for Scientific and Technological Advice (SBSTA), a unit providing advice and support to UNFCCC members, was tasked with investigating agricultural issues.<sup>9</sup> The goals were very modest at first, aiming simply at an exchange of views between members and collecting information. Evidence on the impact of climate change on agriculture continued to be gathered in the ensuing years, with multiple workshops being staged by the SBSTA.

## THE KORONIVIA DECLARATION AND SHARM EL-SHEIKH JOINT WORK

In 2017, the UNFCCC parties decided to formalise this exercise by setting up the Koronivia Joint Work on Agriculture (KJWA) during COP23.<sup>10</sup> The KJWA was to continue the previous work of the SBSTA, focusing on the impact of climate change on agriculture and food security. More specifically, the KJWA addressed six topics: »soils, nutrient use, water, livestock, methods for assessing adaptation, and the socio-economic and food security dimensions of climate change«. <sup>11</sup> The work, which was largely performed by the members, took place in the form of reviews and workshops, with all parties invited to submit their views and experience. Before COP26 (2021), the KJWA had reached a consensus on half the topics. Considerable agreement on the remaining three was reached at COP26.<sup>12</sup> The parties also agreed to continue their current work, with the objective of proposing a formal decision at COP27 in November 2022.<sup>13</sup> This

<sup>1</sup> FAO, 2022. The state of agricultural commodity markets. <https://www.fao.org/3/cc0471en/cc0471en.pdf> (accessed on 24-1-2023).

<sup>2</sup> FAO, 2021. Sustainable agri-food value chains. [https://www.cuts-geneva.org/pdf/2102-Note-Sustainable\\_Food\\_Value\\_Chains.pdf](https://www.cuts-geneva.org/pdf/2102-Note-Sustainable_Food_Value_Chains.pdf) (accessed on 24-1-2023).

<sup>3</sup> Grollier, J., 2022. Securing Food Supply and Livelihoods in Pandemic Times. CUTS International. [https://www.cuts-geneva.org/pdf/KP2022-RRN-Securing\\_Food\\_Supply\\_and\\_Livelihoods\\_in\\_Pandemic\\_Times.pdf](https://www.cuts-geneva.org/pdf/KP2022-RRN-Securing_Food_Supply_and_Livelihoods_in_Pandemic_Times.pdf) (accessed on 23-1-2023).

<sup>4</sup> Grollier, 2022

<sup>5</sup> UNFCCC, 2018. FCCC/CP/2017/11/Add.1. <https://unfccc.int/sites/default/files/resource/docs/2017/cop23/eng/11a01.pdf> (accessed on 24-1-2023).

<sup>6</sup> FAO, 2016. The agricultural sectors in the intended nationally determined contributions. <https://www.fao.org/3/i5666e/i5666e.pdf> (accessed on 24-1-2023).

<sup>7</sup> FAO, 2016.

<sup>8</sup> UNFCCC, n.d. About the secretariat. <https://unfccc.int/about-us/about-the-secretariat> (accessed on 24-1-2023).

<sup>9</sup> UNFCCC, 2011. Decision 2/CP.17. <https://unfccc.int/documents/7109> (accessed on 24-1-2023).

<sup>10</sup> UNFCCC, 2017. Decision 4/CP.23. <https://unfccc.int/documents/65126> (accessed on 24-1-2023).

<sup>11</sup> FAO, 2022. Koronivia Joint Work on Agriculture. <https://www.fao.org/climate-change/our-work/what-we-do/koronivia/en/> (accessed on 26-1-2023).

<sup>12</sup> FAO, 2021. Agreed conclusions on the six topics of the Koronivia Joint Work on Agriculture roadmap. <https://www.fao.org/3/cb7923en/cb7923en.pdf> (accessed on 26-1-2023).

<sup>13</sup> UNFCCC, 2021. FCCC/SB/2021/L.1 [https://unfccc.int/sites/default/files/resource/sb2021\\_L01\\_E.pdf](https://unfccc.int/sites/default/files/resource/sb2021_L01_E.pdf) (accessed on 24-1-2023).

was duly achieved and the formal decision was adopted at COP27. This formal decision led to the creation of the Sharm El-Sheikh Joint Work on Implementation of Climate Action on Agriculture and Food Security<sup>14</sup>. The Sharm El-Sheikh Joint Work is to keep agriculture on the COP agenda for another four years.

Despite the new focus on agriculture, however, tough negotiations in COP27 led to failure to produce any substantial decision regarding food systems and the contentious topics of food waste, nutrition, or sustainable diets from the final Sharm El-Sheikh Joint Work agreement. Therefore, despite taking many steps forward, UNFCCC work on agriculture has still failed to tackle some important issues.

## AGRICULTURE IN NDCs

On another track, the flagship UNFCCC treaty, the Paris Agreement concluded in 2015, which entered into force in 2016, mandated all parties to decide on NDCs according to their capacities with the objective of bringing global warming to a halt.<sup>15</sup> Crucially, agriculture is not explicitly mentioned in the agreement.<sup>16</sup> However, the importance of food production systems and food security has been highlighted in the agreement's preamble. In fact, as of 2016, agriculture was the second most frequently found sector in NDCs after energy. 83 per cent of developing countries intended to mitigate climate change through agriculture.<sup>17</sup>

Unfortunately, it appears that the two tracks of work on agriculture under the UNFCCC, i.e. KJWA (and now Sharm) and NDCs, are not directly linked.

## AGRICULTURE IN THE WTO

Agriculture has arguably been one of the key areas of disagreement at the WTO, often at the centre of fierce negotiations. From the start, GATT provisions highlighted how different trade in agriculture is compared to trade in other goods. Multiple exemptions targeting agriculture have allowed trade barriers and subsidies to continue unabated.<sup>18</sup> This regime has been particularly detrimental to those developing countries which have possessed a natural comparative advantage in agricultural goods, but have been unable to access foreign markets. As a result, one of the main objectives in the 1986 Uruguay Round of Negotiations was a complete overhaul of agriculture at the WTO. The negotiations were difficult,

dragging along for more than seven years.<sup>19</sup> Nevertheless, an agreement was obtained which ultimately culminated in the signing of the standalone Agreement on Agriculture (AoA) in April 1994. It constituted a humble attempt to balance liberalisation with domestic political goals.<sup>20</sup>

## THE AGREEMENT ON AGRICULTURE

The AoA was structured along three main pillars: market access, domestic support and export competition. Spelled out in concrete terms, the AoA sought to facilitate trade in agricultural goods by reducing trade distortions while allowing substantial flexibility, mainly for developed countries that had been heavy subsidisers of agriculture. It offered these members substantial leeway in their domestic policies by classifying domestic support schemes in different categories, each with a different limit. This was supported by soft and hard enforcement schemes, as members were able to use the WTO dispute-settlement mechanism to enforce their claims in some cases. The AoA also laid down transparency rules, regular reviews of the status of implementation of the agreement and the space for members to discuss these. One important aspect of the AoA was that it was seen as a stepping-stone for further agreements. Hence the establishment of the Committee on Agriculture (COA), which was to both monitor implementation and support further negotiations that were to be launched within five years. Furthermore, the AoA explicitly recognised the co-existence of trade liberalisation objectives alongside non-trade-related goals, such as the environment and food security.

Given that the AoA was only the first step, and that many unresolved issues remained, members initiated negotiations on agriculture as mandated under Article 20 of the AoA. Later these were made part of the Doha Round when it was launched in late 2001. Unfortunately, these negotiations have not been completed despite the elapse of more than two decades. At the same time, there have been a couple of major developments during this long period. First, the 2013 Bali Package recognised the right of developing countries to institute public stockholding programs.<sup>21</sup> This decision was adhered to in further ministerial conferences, although it is merely a temporary waiver and has not been made permanent.<sup>22</sup> The 2015 Nairobi Package went further, with an agreement being forged on an historical ban on all export subsidies for agricultural goods.<sup>23</sup> Although bound by the decision, developing countries obtained some specific concessions granting them more time and latitude. More recently, at the MC12 held in June 2022, members agreed

<sup>14</sup> UNFCCC, 2022. Draft decision -/CP.27. <https://unfccc.int/documents/622325> (accessed on 24-1-2023).

<sup>15</sup> UN Climate Change, n.d. The Paris Agreement. <https://www.un.org/en/climatechange/paris-agreement> (accessed on 24-1-2023).

<sup>16</sup> UNFCCC, 2015. Paris Agreement. [https://unfccc.int/sites/default/files/english\\_paris\\_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf) (accessed on 24-1-2023).

<sup>17</sup> FAO, 2016.

<sup>18</sup> WTO, 2016. The WTO Agreement Series: Agriculture (Third Edition). [https://www.wto.org/english/res\\_e/booksp\\_e/agric\\_agreement\\_series\\_3\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/agric_agreement_series_3_e.pdf) (accessed on 26-1-2023).

<sup>19</sup> WTO, 2022. The Uruguay Round. [https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/fact5\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact5_e.htm) (accessed on 26-1-2023).

<sup>20</sup> WTO, 2016.

<sup>21</sup> WTO, 2013. WT/MIN(13)/38.

<sup>22</sup> WTO, n.d. Agriculture negotiations. [https://www.wto.org/english/thewto\\_e/minist\\_e/mc12\\_e/briefing\\_notes\\_e/bfagric\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc12_e/briefing_notes_e/bfagric_e.htm) (accessed on 26-1-2023).

<sup>23</sup> WTO, 2015. WT/MIN(15)/45. [https://www.wto.org/english/thewto\\_e/minist\\_e/mc10\\_e/1980\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc10_e/1980_e.htm) (accessed on 26-1-2023).

on an emergency response to food insecurity and to exempt food purchases under the auspices of the World Food Programme (WFP) from export restrictions.<sup>24</sup> A major setback that remains, however, is the impossibility of concluding the Doha Round of Negotiations, which was supposed to tackle an array of agricultural concerns. Clashing views on agriculture were one of the reasons for not making any mention of agriculture negotiations in the Geneva Package adopted at the MC12 held this year.<sup>25</sup>

Negotiations and discussions are continuing at the WTO and CoA. At present, they are mainly focusing on the following topics: domestic support, export subsidies, net food-importing developing countries, market access for agricultural goods, public stockholding, food security, and the impact of Covid-19.<sup>26</sup>

## WTO AND UNFCCC: COMMONALITIES, DIFFERENCES AND THE PATH FORWARD

### OBJECTIVES AND PRINCIPLES

Although both forums focus on agriculture, they differ in their approaches and objectives. One obvious difference is that whereas the UNFCCC views agriculture through a »climate-change lens«, the WTO focus is on trade instead. Hence, even though they both develop and investigate policies on agriculture, their approaches to these policies are very different. The WTO is concerned with trade practices such as tariffs or subsidies, while the UNFCCC (and especially the KJWA) has been more interested in reforming agricultural practices themselves, such as land use or livestock management. Therefore, while both have performed very technical work and have engaged in discussions and policymaking on the matter, the WTO has been more disconnected from the direct practice of agriculture. Conversely, the UNFCCC has focused on agricultural practice, but less on a global vision of it.

Nonetheless, it is important to acknowledge that both have made some effort to broaden the set of issues they consider. General WTO rules already consider environmental protection as a legitimate justification for trade measures (e.g. GATT article XX).<sup>27</sup> Moreover, the preamble to the AoA mentions non-trade concerns, including the environment.<sup>28</sup> In fact, about 15 per cent of all non-tariff barriers notified by governments under the TBT Agreement between 2008 and 2019 were environment-related.<sup>29</sup> The WTO has also launched a forum for discussions on the environment: the Committee on Trade and Environment (CTE).

Along similar lines, the UNFCCC has recognised the importance of trade. In Article 3(5) of the UNFCCC Charter, it is laid down as a key principle of the organisation that »measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade«. <sup>30</sup> This article also reaffirms how the signatories »should cooperate to promote a supportive and open international economic system«. <sup>31</sup>

Despite this, trade is not explicitly mentioned either in the Paris Agreement or in the decision establishing the KJWA or the Sharm El-Sheikh Work. In general, trade remains a limited and implicit concern. It has not been institutionalised in a subsidiary body or discussion forum and is for instance not part of the official workshops' stream, nor has it been a key part of KJWA work on food security. In a similar manner, although the WTO's work on agriculture has increasingly displayed an interest in sustainability, this remains limited and often a secondary item in addition to more pressing items up for negotiation. It would be fair to conclude that, despite this awareness of each other's fields, there remains a considerable gulf between the two. Taking into account the limited financial and time-related resources of both organisations, they would have much to gain by working together more closely, e.g. by regularly sharing information and analyses as well as keeping each other informed about progress on agriculture in their respective negotiations.

Another similarity between the UNFCCC and the WTO is to be seen in their attempts to carefully balance conflicting goals in the field of tension between domestic economic growth and global threats. In the case of the UNFCCC, an important element of its mission has been to tackle climate change while allowing developing countries space to continue their development and not unduly burden them. For its part, the WTO has attempted to liberalise the agricultural market while protecting domestic agricultural needs.

Not surprisingly, in both forums, developing and developed states have had clashing objectives.<sup>32</sup> Developing members have pushed for food security and domestic resilience while asking for technical and financial assistance, although this has not always been reciprocated. A handful of bigger developing countries have also increased subsidisation of agriculture. On the other hand, some major developed countries have continued to drag their feet when it comes to making substantial reductions in their high agricultural tariffs and considerable domestic subsidies. It would be fair to conclude that agriculture has remained a sensitive issue at the WTO as well as the UNFCCC, with many initiatives being blocked.

This having been said, the UNFCCC has the advantage of having a clear, quantifiable objective: limiting global warm-

<sup>24</sup> WTO, n.d. Agriculture negotiations.

<sup>25</sup> FAO, 2022. The state of agricultural commodity markets.

<sup>26</sup> WTO, n.d. The Agriculture Committee. [https://www.wto.org/english/tratop\\_e/agric\\_e/ag\\_work\\_e.htm](https://www.wto.org/english/tratop_e/agric_e/ag_work_e.htm) (accessed on 24-1-2023).

<sup>27</sup> FAO, 2022.

<sup>28</sup> WTO, 2016.

<sup>29</sup> FAO, 2022.

<sup>30</sup> UNFCCC, 1992. United Nations Framework Convention On Climate Change.

<sup>31</sup> Ibid.

<sup>32</sup> Eliason, A., 2019. Using the WTO to facilitate the Paris Agreement: A tripartite approach. *Vanderbilt Journal of Transnational Law*, 52(3).

ing to between 1.5 or 2.0 degrees Celsius.<sup>33</sup> This allows it to more easily forge a consensus on common solutions. As illustrated by the notion of NDCs in the Paris Agreement, negotiations centred on how to achieve this objective, not what to achieve. At the WTO, negotiations on agriculture are still struggling to define exactly which objectives should serve as a priority for members, an inherently difficult process. There is a risk that without a clear objective (such as the Paris agreement 1.5°/2.0°), this venue could become just another bargaining chip in agricultural negotiations.

## STRUCTURE AND ENFORCEMENT

A key limitation on both the UNFCCC's and WTO's work on agriculture is their fragmentation. Not only do they both possess »general« bodies (which focus on all areas) and specialised subsidiary agencies, but they also have a fragmented understanding of the concept of agriculture. In the WTO, despite its name the AoA does not encompass fishery, forestry or sanitary and phytosanitary (SPS) measures.<sup>34</sup> These areas, relevant for agricultural trade as well as climate change concerns, are all being addressed through other agreements and bodies. A similar issue crops up at the UNFCCC, where »ocean« and »land use« are being discussed in other forums, while trade is a general concern of everyone, but a specific concern of no one. For example, the KJWA has conducted workshops and issued a report on sustainable use of land and water.<sup>35</sup> This same topic would partly fall under the AoA in connection with agricultural subsidies or tariffs. But, confusingly enough, this would also be relevant to the Fisheries Agreement regarding issues involving overfishing, and the Committee on Trade and Environment (CTE) for a general discussion on deforestation and the trade-environment nexus. As a result, a holistic approach can rarely be taken, as intersecting and overlapping issues are addressed by different sub-bodies with differing objectives and negotiating dynamics. This is especially an issue relating to future NDCs in the field of forestry, land use or fisheries which may touch on trade-distorting measures.

In a positive development, at COP27 negotiations have attempted to promote a holistic approach that can focus on all relevant issues, including trade, while involving many stakeholders. Paragraph 19 of the Sharm El-Sheikh Joint Work on implementation invites other groups, such as civil society organizations and farmers, »to strengthen cooperation, collaboration and partnerships« in the field of agriculture. This paragraph was included to strengthen cooperation between these additional actors with the UNFCCC, but also to hopefully increase collaboration between the UNFCCC and other relevant international organisations, like the UN Committee on World Food Security or the WTO.

In terms of voting and decision-making, both bodies are relatively similar, as they are above all driven by the initiative of their members. In other words, objectives are specified by the parties involved, with the secretariats only assuming a secondary role. In both the UNFCCC and the WTO, the secretariats are mostly involved in staging workshops, organising negotiations and discussions, and helping promote an exchange of best practice and reports.

Both the Paris Agreement and the AoA exhibit some transparency and implementation aspects in the context of countries' commitments. Hence, both the WTO and the UNFCCC regularly monitor members' performances and set up platforms where parties are to state their commitments, their invoking of exceptions and allegations of infringements by other participants.

The UNFCCC has a Subsidiary Body for Implementation (SBI), which has the task of reviewing progress and capacity-building activities.<sup>36</sup> At COP27, it was established that this body together with the SBSTA would be responsible for producing an annual report on progress made in the implementation of the Sharm El-Sheikh Joint Work. The SBI and the SBSTA are also to produce a final report on all the achievements of the Joint Work in the four years between COP27 and COP31.

Similarly, AoA's implementation is being monitored by the COA on the basis of clear rules on transparency and notification by members.<sup>37</sup> This important work ensures that members are informed about each other's commitments and implementation. In turn, this reduces the propensity to cheat and enhances the sharing of best practice.

Nonetheless, the WTO differs to the extent that it possesses an enforcement arm in the guise of its dispute-resolution system, which can legally be used by members to force others to follow through with their commitments. Although AoA disputes are rarely escalated to the dispute-settlement system, it is nonetheless an essential mechanism in making sure that the AoA is applied. Furthermore, the existence of this enforcement mechanism encourages members to use cheaper and quicker alternatives and resolve their disputes amicably.

In those cases where it has been invoked, the dispute-settlement system has settled many agricultural and environmental disputes. The key dispute involving trade and the environment is the Shrimp Case against the United States.<sup>38</sup> Four developing countries disputed a US ban on the import of shrimp. The US justified its policy on the grounds of environmental protection of sea turtles, a vulnerable species. The Appellate Body in its ruling highlighted the right of members

<sup>33</sup> UNFCCC, 2015.

<sup>34</sup> WTO, 2016.

<sup>35</sup> UNFCCC, 2021. Sustainable land and water management, including integrated watershed management strategies, to ensure food security. [https://unfccc.int/sites/default/files/resource/sb2021\\_03E.pdf](https://unfccc.int/sites/default/files/resource/sb2021_03E.pdf) (accessed on 27-1-2023).

<sup>36</sup> UNFCCC, n.d. Monitoring and reviewing capacity-building frameworks. <https://unfccc.int/topics/capacity-building/workstreams/monitoring-and-reviewing-capacity-building-frameworks> (accessed on 27-1-2023).

<sup>37</sup> WTO, n.d. The Agriculture Committee.

<sup>38</sup> WTO, n.d. Environmental disputes in GATT/WTO. [https://www.wto.org/english/tratop\\_e/envir\\_e/edis00\\_e.htm](https://www.wto.org/english/tratop_e/envir_e/edis00_e.htm) (accessed on 27-1-2023).



to use trade measures in order to protect the environment, health or people. In spite of this, the US was found guilty of discrimination because it had offered assistance to some WTO members (but not all) in order for them to meet these imports requirements. One possible take-away from this landmark case is that the WTO can be leveraged to push for environmental measures to be taken in the AoA, provided that these fulfil all the required criteria.

The number of cases like this addressing issues at the nexus between trade, agriculture and the environment is expected to rise, as members affected by trade measures question the legitimacy of environmental actions in the form of trade barriers or subsidies. As a consequence, the WTO's dispute-settlement system will definitely have an impact on the climate regime, as states craft ambitious new policies to meet their NDCs. This will especially be the case in the area of agriculture, where domestic policies that can have discriminatory effects are devised and subject to monitoring under the AoA. The big unknown for the time being is how climate considerations or obligations under the Paris Agreement will weigh out against key WTO principles. Moreover, it also remains to be seen how effective the UNFCCC will be in actually advancing agricultural policies when it cannot make them legally binding or enforce them. This is another clear indication that the WTO and UNFCCC could benefit by making their policies compatible and mutually supportive.

## INTERNATIONAL COLLABORATION

Both the WTO and UNFCCC often collaborate with other international organisations and external stakeholders. The KJWA underscored this in its call to continue collaborating with external bodies.<sup>39</sup> This was additionally strengthened by the Sharm El-Sheikh Joint Work.

In the area of agriculture, it is not surprising that both the WTO and UNFCCC work closely together with the Food and Agriculture Organisation (FAO). The FAO has in fact been one of the main partners of the KJWA, heavily involved in setting up workshops, capacity-building initiatives and generally providing technical expertise.<sup>40</sup> It also established the Food and Agriculture Pavilion at COP27. In the WTO, the FAO has similarly helped arrange events and has provided expertise in the fields of agri-food business, food security and SPS standards.<sup>41</sup> Furthermore, the FAO and the WTO have collaborated on the issue of emergency food security through the WFP. This collaboration has resulted in a recent agreement revolving around WFP purchases.<sup>42</sup>

There has already been some institutionalised collaboration between the UNFCCC and the WTO. First, the issue of their complementarity has been raised in a multitude of events and reports. Second, and more importantly, they sometimes participate in each other's forums. The UNFCCC secretariat takes part in WTO CTE meetings, for instance, while the WTO secretariat attends COP meetings. This participation is generally at the technical level, and sometimes an internal reporting system is provided for the staff participating in these meetings. But this collaboration needs to be further strengthened. For example, participation by UNFCCC staff in charge of agriculture could reach out and include the WTO Committee on Agriculture, and the WTO Agriculture Division could involve staff of the UNFCCC Sharm El-Sheikh Joint Work, while at the same time requiring Secretariat staff to prepare and submit factual reports to the entire membership of their respective organisations.

## DEVELOPING COUNTRIES AND SUPPORT

Both the UNFCCC and the WTO have developed different ways of handling developing and least-developed countries. This is performed at the WTO through Special and Differential Treatment (SDT), while the UNFCCC employs the concept of Common but Differentiated Responsibilities and Respective Capacities.<sup>43</sup>

Capacity-building assistance has been highlighted in both forums as an essential prerequisite for developing countries' participation in the respective regimes. The WTO coordinates multiple initiatives for developing countries, the most important being Aid-for-Trade (Aft). In 2020 the share of Aft earmarked for agriculture was estimated at above \$ 8 billion, the third largest sector to receive assistance.<sup>44</sup> Furthermore, around half of projects were climate-related.

In the UNFCCC, the KJWA has underscored the specific needs of developing countries and has helped shed light on funding and aid gaps in the area of climate financing. In the context of agriculture and food security, the Sharm El-Sheikh Joint Work on implementation has highlighted different contexts and »national circumstances« which in the course of implementation need to be taken into account. The Paris Committee on Capacity Building has also discussed assistance on multiple agricultural projects.<sup>45</sup>

<sup>39</sup> UNFCCC, 2022. Informal note by the co-facilitators. [https://unfccc.int/sites/default/files/resource/Koronivia\\_i9\\_ta4%20elements.pdf](https://unfccc.int/sites/default/files/resource/Koronivia_i9_ta4%20elements.pdf) (accessed on 24-1-2023).

<sup>40</sup> FAO, 2022. Koronivia Joint Work on Agriculture.

<sup>41</sup> WTO, n.d. Agriculture events. [https://www.wto.org/english/tratop\\_e/agric\\_e/agric\\_events\\_e.htm](https://www.wto.org/english/tratop_e/agric_e/agric_events_e.htm) (accessed on 27-1-2023).

<sup>42</sup> WTO, 2022. WT/MIN(22)/28. <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/28.pdf&Open=True> (accessed on 27-1-2023).

<sup>43</sup> Ismail, Y. & Bhagat, V. Differential Treatment of Developing Countries in Trade and Climate Change Regimes: An Examination to Learn Lessons. CUTS International. [https://www.cuts-geneva.org/pdf/KP2022-RRN-Special\\_and\\_Differential\\_Treatment\\_in\\_CBDR.pdf](https://www.cuts-geneva.org/pdf/KP2022-RRN-Special_and_Differential_Treatment_in_CBDR.pdf) (accessed on 27-1-2023).

<sup>44</sup> WTO, 2022. Aid for trade global review. [https://www.wto.org/english/tratop\\_e/devel\\_e/a4t\\_e/a4tatatglance2022\\_e.htm](https://www.wto.org/english/tratop_e/devel_e/a4t_e/a4tatatglance2022_e.htm) (accessed on 24-1-2023).

<sup>45</sup> FAO, 2018. The Koronivia joint work on agriculture and the convention bodies: an overview. <https://www.fao.org/3/ca1544en/CA1544EN.pdf> (accessed on 24-1-2023).

## CONCLUSION

Agriculture is a key sector in both the climate and trade regimes. Moreover, agriculture plays an enormous role in supporting sustainable development. This is especially the case for developing countries, which are more affected by climate change, food security challenges and face more constraints on resources to mitigate climate change.

In the WTO as well as the UNFCCC, agriculture has been a key topic. The two bodies have tackled the issue in different ways, but have similarly acknowledged that agriculture deserves its own track. They have both attempted to stay relevant in a changing world by considering issues outside of their primary areas of expertise. But they have seen only sluggish progress due to the inherent political sensitivity surrounding agriculture, most notably differences between developing and developed countries.

The benefit offered by this approach, in contrast to completing shifting agriculture to a single forum, is that both complement each other through their respective mandates and structures. The WTO as an institution, for example, has expertise in balancing growth and trade concerns with external goals, while the UNFCCC possesses technical expertise in the fields of climate change and agricultural issues. Working together is the only way to leverage these advantages to the maximum.

In the following are some concrete ways to achieve just this:

### ***Better trade and climate coordination at the national level***

A good starting point would be to break through silos among trade and climate policymakers and negotiators at the national level. Their regular interaction with other actors would promote a much better understanding of interlinkages, thereby contributing to a more synergetic position for agriculture in both the WTO and UNFCCC.

### ***Expanding and deepening the relationship between the WTO and UNFCCC Secretariats***

Much more can and should be done to further strengthen the relationship between the WTO and UNFCCC Secretariats. This could include:

- Observer status for, and participation by, relevant UNFCCC staff in the WTO CoA, and regular participation by WTO Agriculture Division staff in Sharm El-Sheikh Joint Work. The participating staff should also provide factual summary reports to the entire membership of their respective organisations.
- An exchange ensuring regular information and analysis of agriculture issues
- Factual communication of issues that are difficult to resolve and the ways in which each organisation is handling these.
- Occasional briefings by relevant WTO staff to agriculture negotiators in the UNFCCC, and vice versa.

### ***Substantive synergisation of agriculture negotiations in the UNFCCC and the WTO***

Going forward, a more substantive alignment can take place between the UNFCCC and the WTO in agriculture negotiations. This could include:

- UNFCCC Sharm El-Sheikh Joint Work can address trade as part of its comprehensive focus. The same could apply to the WTO. Negotiations on new agricultural rules, as well as the work of the COA and CTE, may explicitly consider how trade measures can support work of the UNFCCC in the field of agriculture.
- Interested members, either individually or collectively, may consider making similar proposals to the agriculture streams of the WTO and the UNFCCC.
- Joint studies conducted by the WTO and the UNFCCC can be undertaken on an agriculture issue that is being addressed by both.

The foregoing may be perceived as not enough for some and too much for others, but these recommendations are meant to chart a possible way forward addressing agriculture in the WTO and the UNFCCC in a way that helps make progress on this important and sensitive issue with the hope of contributing to both climate-change and trade objectives.

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CUTS International, Geneva, is a non-profit NGO that amplifies the pro-trade, pro-equity voices of the Global South in international trade and development debates in Geneva. We and our sister CUTS organisations in India, Kenya, Zambia, Vietnam, Ghana and Washington have been placing our footprints in the realm of economic governance across the developing world.

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