



Note

Trade and Plastics Management: The role of WTO towards more Circularity

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Summary

With the surge in plastic usage due to the COVID-19 pandemic, the challenge of sustainable plastics management became even more relevant. The goal of this note is to provide information on the WTO's contribution towards sustainable plastic management. It explains the work of the Committee on Trade and Environment and its role at the heart of the WTO. It also summarizes the discussions under the Plastics' initiative and recalls structured discussions on trade and sustainable development. Finally, it offers some conclusions and suggestions.

Introduction

The COVID-19 pandemic led to a surge in the usage of single-use plastics.¹ Indeed, plastics play a crucial role in protecting people, especially for frontline workers in hospitals. Therefore, the demand for medical equipment and protective gear in plastic has been rising.² However, it is not without consequences. Plastics' usage engendered a rise in plastic waste with irreversible impacts on the environment.³ Plastic waste is now traded more than ever and often ends up in dumping sites on the other side of the world.⁴

Between 2009 and 2018, WTO Members notified 128 measures affecting trade in plastics.⁵ These ranged from technical regulations for better waste management, import licensing schemes for better regulation of trade flows of certain plastics, to taxes, charges, or bans on single-use plastics or plastic bags. 80 per cent of those notified measures came from developing or least-developed countries.⁶

The WTO has, therefore, a role to play in dealing with plastic waste. The World Economic Forum (WEF) lists ways for the WTO to address plastic pollution.⁷ The first recommendation is to strengthen the coherence between trade policy frameworks and domestic policies on plastic pollution. Second, the WTO could implement measures with trade dimensions to support the economic transformation towards a more circular economy. For example, trade barriers for products and services that help the phase-out of plastic

pollution as well as alternatives to plastic products should be reduced. On top of that, the WTO should promote transparency, monitoring, and information-sharing on trends in plastics trade. Moreover, improving capacity building in the fight against plastic pollution in developing countries is also necessary to ensure an inclusive framework. Finally, the WTO could encourage voluntary action to reduce trade in harmful plastics.

Nevertheless, the WTO is already engaged in the fight against plastic pollution. This note will give an overview of policies and measures currently under discussion at the WTO. The work of the Committee on Trade & Environment will be reviewed, as well as the ongoing Plastics' Initiative. The note will also look at structured discussions on trade and sustainable development ongoing at the WTO.

The case of the WTO: its contribution towards sustainable plastics' management

Committee on Trade and Environment

The Committee on Trade and Environment (CTE) was established in 1994 by the WTO's Ministerial Decision on Trade and Environment.⁸ The CTE is open to every WTO member, and some international organisations are participating as observers. Its mandate consists in identifying 'the relationship between trade measures and

¹ WEF (2020). Kristin Hughes. *Protector or polluter? The impact of COVID-19 on the movement to end plastic waste*. Available at: <https://www.weforum.org/agenda/2020/05/plastic-pollution-waste-pandemic-covid19-coronavirus-recycling-sustainability/>

² WEF (2020). Dmitry Konov. *COVID-19 is forcing us to rethink our plastic problem*. Available at: <https://www.weforum.org/agenda/2020/05/covid-19-is-forcing-us-to-rethink-our-plastic-problem/>

³ Ibid

⁴ WEF (2020). *Plastics, the Circular Economy and Global Trade*. Available at: http://www3.weforum.org/docs/WEF_Plastics_the_Circular_Economy_and_Global_Trade_2020.pdf

⁵ WTO Environmental Database. Available at: <http://www.wto.org/edb>

⁶ CUTS (2020). Parnika Jhunjunwala. *The Role of Trade Policy in Plastic Waste Management*. Available at: http://www.cuts-geneva.org/pdf/KP2020-RRN-Plastic_Waste_Trade.pdf

⁷ WEF (2020). Caroly Deere Birkbeck. *Here's how the WTO can help address plastic pollution*. Available at: <https://www.weforum.org/agenda/2020/01/wto-address-plastic-pollution/>

⁸ WTO website. *Committee on Trade & Environment*. Available at: https://www.wto.org/english/tratop_e/envir_e/wrk_committee_e.htm

environmental measures to promote sustainable development' and in making 'appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable, and non-discriminatory nature of the system'.⁹ In short, the CTE is in charge of identifying and promoting the sustainable role of trade in environmental issues.

In 2001, the Doha Ministerial Declaration asked the CTE to focus on certain items in its work programme and to leave other items for negotiations.¹⁰ The three areas of focus are: i) the environmental requirements and market access: preventing 'green protectionism' and 'win-win-win' situations, ii) the relevant provisions of the intellectual property (TRIPS) Agreement, and iii) labelling requirements for environmental purposes.

The first area of focus makes sure that environmental requirements are not an excuse for protectionism and that exporters are able to meet them. It is especially relevant for micro, small, and medium enterprises (MSMEs) in developing countries because they may not have the necessary capacities to adapt to new requirements. Win-win-win situations refer to the fact that eliminating trade barriers on environmental goods and services creates positive situations in three areas: trade, the environment, and development.

The second area of focus, which relates to intellectual property, aims to discuss contentious issues such as patents. Finally, environmental labelling is a cause of concern in developing countries. The use of eco-labels has been increasing, raising issues of complexity and

diversity for customers. The WTO has to ensure that the labels are not misused to discriminate between countries or create unnecessary trade barriers.

The items from the Doha Development Agenda included for negotiations on trade and the environment are: i) the relationship between WTO rules and multilateral environmental agreements (MEAs), ii) the collaboration between the WTO and MEA secretariats and iii) the elimination of tariffs and non-tariff barriers on environmental goods and services.¹¹ Those negotiations are taking place in the Special Sessions held by the CTE.

The Doha mandate on multilateral environmental agreements (MEAs) aims at clarifying the relationship between trade measures taken under the MEAs and WTO rules. Indeed, out of the 250 MEAs, about 20 include provisions that can affect trade, for example through trade prohibition on certain products.¹² Thus, the CTE has the authority to bring advice and recommendations to those agreements.

Trade in plastic waste was brought to the CTE's discussions in 2018 by the Basel, Rotterdam, and Stockholm (BRS) Conventions. As the BRS has observer status on the CTE, the latter was briefed on the preparation for the 2019 Conferences of Parties which included plastics under the listing of several chemicals and wastes.¹³ Under the same item, the European Union (EU) presented its plastics strategy as part of the EU Circular Economy Action Plan.¹⁴

In 2019, the BRS Conventions updated the CTE on their decision to establish the Basel Convention Partnership on Plastic Waste.¹⁵ This topic triggered many reactions from WTO

⁹ WTO website. *Items on the CTE's Work Programme*. Available at:

https://www.wto.org/english/tratop_e/envir_e/cte00_e.htm

¹⁰ WTO website. *Items of focus*. Available at:

https://www.wto.org/english/tratop_e/envir_e/cte_doha_e.htm

¹¹ WTO website. *Negotiations on trade and the environment*.

Available at:

https://www.wto.org/english/tratop_e/envir_e/envir_negotiations_e.htm

¹² WTO website. *The Doha mandate on MEAs*. Available at:

https://www.wto.org/english/tratop_e/envir_e/envir_neg_meas_e.htm

¹³ WT/CTE/25 (2018). Available at:

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/CTE/25.pdf&Open=True>

¹⁴ Ibid

¹⁵ WT/CTE/26 (2019). Available at:

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/CTE/26.pdf&Open=True>

Members.¹⁶ Many of them shared their experience on plastics and circular economy. Several delegations highlighted domestic initiatives undertaken to promote a circular economy regarding plastic. One delegation noted the impact of fossil fuel subsidies on the competitiveness of virgin plastics relative to recycled ones. This issue will be of considerable importance in future discussions. On top of that, some international organisations such as the Organisation for Economic Cooperation and Development (OECD) and the United Nations Environment Programme (UNEP) provided insightful inputs relative to their work on circular economy. To conclude this topic, one delegation asked organisations to present viable alternatives to plastic products. Another requested the challenges faced by LDCs should be addressed to ensure their better participation in the circular economy.

At the last CTE meeting, in 2020, informal consultations on plastics pollution and environmentally sustainable plastics trade were held.¹⁷ China and Fiji launched a plastics' initiative with the support of six other delegations. The aim of the initiative was to explore how the WTO could contribute to global efforts to tackle plastics pollution and transition to a more circular and sustainable plastics trade. (The note will provide more information on this initiative in the following section.) As in the previous meeting, several WTO members and organisations provided their inputs on how to manage plastics waste in a circular economy. Finally, the BRS Conventions provided the latest developments on the implementation of their new plastic waste amendment to enter in force in 2021.

On top of its collaboration with MEAs, the CTE holds negotiations on different topics during

'Special Sessions'.¹⁸ In 2014, a group of WTO members launched plurilateral negotiations for the establishment of an Environmental Goods Agreement (EGA) which seeks to promote trade in a number of key environmental products. Those negotiations focused on the elimination of tariffs and non-tariff barriers (NTBs) on environmental goods. However, no progress was made since 2016.

In 2020, during the WTO Informal Dialogue on Plastic Pollution, the former DDG Alan Wolff stated: 'A revived Environmental Goods Agreement (EGA) negotiation could contribute to better plastics trade by reducing trade barriers to environmentally sound plastic substitutes, as well as to equipment that helps to enhance waste management'.¹⁹ Indeed, the EGA's goal is to create 'win win win' situations for trade, the environment, and development.²⁰ By reducing or eliminating tariffs and NTBs, governments will be able to acquire some needed services such as consultancy services on waste management at a lower cost. The use of environmental goods and services will reduce negative externalities that damage the environment and citizens will benefit from an improved life quality. Finally, trade liberalization will assist developing countries in obtaining new tools as part of their development strategies.

In addition to the Doha mandate, Members of the CTE are also discussing technical assistance for developing countries through cooperation and capacity building. It aims at helping developing countries to participate more effectively in CTE's work thanks to courses, seminars, and workshops. Moreover, WTO Members are also sharing expertise and experiences on national environmental reviews. The goal is to improve collaboration in environmental and trade policies

¹⁶ Ibid

¹⁷ WT/CTE/27 (2020). Available at : <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:WT/CTE/27.pdf&Open=True>

¹⁸ WTO website. *Negotiations on trade and the environment*. Available at: https://www.wto.org/english/tratop_e/envir_e/envir_negotiations_e.htm

¹⁹ WTO news (2020). *WTO Informal Dialogue on Plastic Pollution and Environmentally Sustainable Plastics Trade. Remarks by DDG Alan Wolff*. Available at: https://www.wto.org/english/news_e/news20_e/ddgaw_17nov20a_e.htm

²⁰ WTO website. *Eliminating trade barriers on environmental goods and services*. Available at: https://www.wto.org/english/tratop_e/envir_e/envir_neg_serv_e.htm

and to identify actions that will enhance positive environmental impacts.²¹

Finally, the Doha Declaration mandates the CTE and the Committee on Trade and Development (CTD) to act as forums for debating the environmental and developmental aspects of trade negotiations to achieve sustainable development. Thus, WTO members have used CTE as an open forum to discuss trade issues arising in their efforts to move towards a more circular economy, including plastics management. The participants received briefings on several domestic initiatives on waste management, producer responsibility, and recycling.²² However, some members also proposed greater consideration of the role that the WTO could play in helping combat plastic pollution.²³

Overall, the CTE is contributing to plastics discussions through many channels. Thanks to its technical assistance to developing countries, its collaboration with MEAs, its negotiations on tariffs and non-tariff barriers, and its open forum, the CTE has brought an insightful contribution to sustainable plastics' discussions.

Plastics' initiative at the WTO

Informal discussions on plastic pollution at the WTO began in November 2019 with China's co-organising a workshop titled: 'What role for the WTO in addressing plastics pollution?'.²⁴ The purpose of the workshop was to provide an opportunity for WTO members, international organisations, industry representatives, and relevant experts to raise awareness about plastic pollution, promote discussion, and share experiences and challenges. A few months later,

an informal consultation on the subject was held, in February 2020, co-hosted by China and Fiji with the goal to launch a WTO plastic initiative at the 12th Ministerial Conference (MC12).²⁵ 48 delegations attended this informal consultation.

At the 3rd July 2020 meeting of the CTE, China and Fiji updated WTO Members on their past informal discussions and announced their plan to launch the WTO plastic initiative at the next Ministerial Conference postponed to November 2021. The two countries asked the United Nations Conference on Trade and Development (UNCTAD) to circulate a document on trade, plastic pollution, and a sustainable plastics economy.²⁶ The aim of this report was to provide information and an analysis to Members amidst the discussion on trade, plastic pollution, and sustainable plastics economy.

In November, Fiji briefed delegations at a side event held during WTO Trade and Environment Week. It marked the first meeting of the Informal Dialogue on Plastics Pollution and Environmentally Sustainable Plastics Trade. Eight delegations co-sponsored the launch of the open-ended Informal Dialogue which aims to support and complement global environmental efforts on the topic. The main topics discussed included improving transparency, monitoring trade trends, promoting best practices, strengthening policy coherence, identifying the scope for collective approaches, assessing capacity and technical assistance needs, and cooperating with other international processes and efforts. The dialogue is open to all WTO Members, and collaboration with sustainable initiatives outside and in the WTO will be enhanced.

²¹ WTO website. *Environmental reviews*. Available at: https://www.wto.org/english/tratop_e/envir_e/reviews_e.htm

²² WTO (2020). *WTO Contribution to the 2020 HLPF*. Available at: https://sustainabledevelopment.un.org/content/documents/26126WTO_HLPF_Input_2020.pdf

²³ Ibid

²⁴ Workshop's schedule. Available at: https://www.wto.org/english/tratop_e/envir_e/cte_week_251119_e/china_251119.pdf

²⁵ WT/CTE/27 (2020). Available at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/CTE/27.pdf&Open=True>

²⁶ WTO (2020). *Communication on trade in plastics, sustainability and development by the United Nations Conference on Trade and Development (UNCTAD)*. Available at: https://unctad.org/system/files/information-document/wto_unctad_CTE2020_en.pdf

On 29th March 2021, the WTO held the second session on Informal Dialogue on Plastics Pollution and Environmentally Sustainable Plastics Trade.²⁷ The 14 participants discussed mainly transparency and international cooperation at this meeting. The purpose was to identify where data are missing concerning plastics' trade and to learn about initiatives undertaken by other international organisations and stakeholders. Proponents circulated a concept note concerning technical work to be conducted to improve those two issues (transparency and international cooperation) as well as a roadmap for a potential ministerial declaration at MC12. Several Members reaffirmed the importance of factual-based discussions supported by data and shared their domestic experiences. Others also highlighted the need to eliminate any imbalances faced by developing countries concerning the global plastics economy. International organisations such as the UNEP and the OECD shared their information about plastics pollution. The next meeting is scheduled to take place in June again back-to-back with the CTE meeting. Discussions will focus on strengthening policy coherence, assessing capacity and technical assistance needs, and identifying the scope for collective approaches.

Structured Discussions on Trade and Environmental Sustainability

On 17th of November 2020, 53 WTO members launched the Trade and Environmental Sustainability Structured Discussions (TESSD).²⁸ The initiative aims to establish structured discussions on the role of the WTO in regulating trade with a sustainable focus. Concerned members estimate that there is a need to

coordinate action to address the challenge of environmental sustainability. They promote transparency and information sharing within the discussions.²⁹ The group will also provide technical assistance and capacity building, particularly for least-developed countries.³⁰ Furthermore, it will work on deliverables of environmental sustainability in the various areas of the WTO. Their mission is not to overtake the mandate assigned to the CTE but to complement their existing work.³¹

The former DDG Alan Wolff stated that the group work programme could i) contribute to eliminating tariff and non-tariff barriers in environmental goods and services, ii) reform inefficient fossil fuel subsidies that encourage wasteful consumption, iii) promote a global circular economy, iv) strengthen the mutual supportiveness between trade and the action agenda on climate change and v) assist efforts in the smallest poorest countries to identify green financing sources to develop skills, supply capacity and trade infrastructure.³²

Multiple items in this work programme relate indirectly to plastics. As mentioned previously, eliminating tariff and non-tariff barriers in environmental goods and services could enable developing countries to have access to services and knowledge on recycling. Plastic pelletizing machines or consultancy services would be much cheaper to import and would benefit the country's waste management.

Moreover, reforming fossil fuel subsidies will allow for an evened competitiveness between virgin and recycled plastics. Indeed, fossil fuel subsidies foster the production of virgin plastics at the

²⁷ WTO news (2021). *Informal Dialogue on Plastics Pollution kicks off again*. Available at: https://www.wto.org/english/news_e/news21_e/tessd_29mar21_e.htm

²⁸ WTO news (2020). *New initiatives launched to intensify WTO work on trade and the environment*. Available at: https://www.wto.org/english/news_e/news20_e/envir_17nov20_e.htm

²⁹ Ibid

³⁰ WTO news (2020). *New initiatives launched to intensify WTO work on trade and the environment*. Available at: https://www.wto.org/english/news_e/news20_e/envir_17nov20_e.htm

³¹ Ibid

³² WTO news (2020). *DDG Wolf remarks on the Structured Discussions on Trade and Environmental Sustainability*. Available at: https://www.wto.org/english/news_e/news20_e/ddqaw_17nov20_e.htm

expense of recycled plastics.³³ It conflicts with the concept of circular economy which promotes the reinsertion of post-consumption waste into the economy.

Finally, green financing sources are necessary for developing countries to enhance their skills, capacities, and infrastructures. Those countries often lack funding to improve their ability to recycle waste whether through the acquisition of new machines or the securing of their staff, often composed of informal workers.³⁴

On the 5th of March 2021, the first meeting of the Structured Discussions on Trade and Environmental Sustainability was held. The new DG Ngozi Okonjo-Iweala expressed her agreement with the group on the need to harness the power of trade for the environment.³⁵ Reiterating the words of the former DDG Alan Wolf, she suggested that the group could discuss issues such as trade in environmental goods and services, ways WTO rules could foster circular economies, and options for addressing environmentally harmful subsidies.³⁶ Participants target to deliver potential discussion results for the WTO's next Ministerial Conference (MC), planned for November 2021. Their goal is to set parameters for negotiations on liberalizing trade in environmental goods and services and to agree on a work programme for addressing other pressing issues for MC12.³⁷ The next meeting of the TESSD will take place on 27th and 28th of May 2021.

³³ WEF (2020). *Plastics, the Circular Economy and Global Trade*. Available at: http://www3.weforum.org/docs/WEF_Plastics_the_Circular_Economy_and_Global_Trade_2020.pdf

³⁴ WB (2018). *Solid And Industrial Hazardous Waste Management Assessment. Options and Action Area to Implement the National Strategy*. Available at: <http://documents1.worldbank.org/curated/en/352371563196189492/pdf/Solid-and-industrial-hazardous-waste-management-assessment-options-and-actions-areas.pdf>

³⁵ WTO news (2021). *DG Okonjo-Iweala hits the ground running*. Available at: https://www.wto.org/english/news_e/news21_e/dgno_05mar21_e.htm

³⁶ Ibid

Conclusion

To conclude, it is important to denote the recent nature of dialogues revolving around plastics at the WTO. Plastics have been used increasingly since the 1980s but issues about trade in plastic waste only arose later.³⁸ Those issues were notified to the WTO 128 times between 2009 and 2018, showing the need for Members to discuss and to take action against plastic waste.³⁹ The demand for more information and advice was strong, especially from developing countries.⁴⁰ However, the response from the WTO took some time. Even though the CTE has existed since 1994, plastics issues have only been regularly raised at meetings for the last five years.⁴¹

The occurrence of plastics topic has been growing since. With China's ban on plastics waste import in 2018 and the launch of the Plastics' Initiative in 2020, plastics have found their way into the WTO. In addition, subjects raised at the Structured Discussions on Trade and Environmental Sustainability drew multiple links with the circular economy of plastics. Altogether, plastics now have their own place in discussions at the WTO. This shows the evolution of the WTO which strives to include multidimensional subjects as interest and issues arise.

It is likely that plastics will take even more significance in the years to come as trade-related environmental policies are increasingly brought to the fore at the WTO. In fact, some kind of Ministerial Decision among like-minded members

³⁷ WTO news (2021). *First meeting held to advance work on trade and environmental sustainability*. Available at: https://www.wto.org/english/news_e/news21_e/tessd_08mar21_e.htm

³⁸ Our World in data (2021). *Plastic Pollution*. Available at: <https://ourworldindata.org/plastic-pollution>

³⁹ CUTS (2020). Parnika Jhunjhunwala. *The Role of Trade Policy in Plastic Waste Management*. Available at: http://www.cuts-geneva.org/pdf/KP2020-RRN-Plastic_Waste_Trade.pdf

⁴⁰ Ibid

⁴¹ WTO news (2020). *WTO Informal Dialogue on Plastic Pollution and Environmentally Sustainable Plastics Trade. Remarks by DDG Alan Wolff*. Available at: https://www.wto.org/english/news_e/news20_e/ddqaw_17nov20a_e.htm

is likely to happen at the next WTO Ministerial Conference (MC12) later this year.

Developing countries too are confronted with the issues of plastics waste trade and are trying to deal with them at the national and regional levels. They should follow the relevant discussions at the WTO closely and contribute as needed to put

forward their own concerns and interests in this area.

Finally, strengthening the multilateral framework through collaboration between countries and organisations will be necessary in order to ensure an inclusive and efficient plastics waste circular economy.



CUTS International, Geneva

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