



Note

Environment and International Trade: Latest Developments in the WTO and Their Possible Implications

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Summary

The note provides a historical review of past work undertaken at the WTO on trade and environment issues. In addition, it highlights the latest development of the three trade and environment initiatives: the Trade and Environmental Sustainability Structured Discussions (TESSD), the Informal Dialogue on Plastics Pollution and Sustainable Plastics Trade (IDP), and Fossil Fuel Subsidy Reform (FFSR). The note further provides reflections for a way forward towards MC12 and beyond.

Introduction

The World Trade Organisation (WTO) contributes to environmental conservation and preservation through its mandate of ensuring sustainable development and avoiding protectionism, as well as through work in various WTO bodies and through its rules and enforcement mechanisms.

The WTO's objective is to reduce trade barriers while also safeguarding an 'open and non-discriminatory' multilateral trading system, while at the same time working for the protection of the environment and sustainable development.¹ However, given there is no 'special agreement' on the environment, under WTO rules, members can adopt trade related measures to safeguard the environment provided the conditions to avoid misuse of such measures for protectionist purposes are met. Nevertheless, the WTO provides key ways of achieving international environmental goals through its goals, regulations, institutions, and forward-looking agenda.²

The trade and environment interface has received greater attention in recent times, including through some plurilateral initiatives among subsets of WTO members. This note aims to provide a brief but comprehensive account of trade and environment issues in the multilateral trading system.

The note is divided into three sections, the first section provides a historical background to the past work undertaken at the WTO at the multilateral level in regard to trade and environment issues. Second section highlights the latest development of the three plurilateral trade and environment initiatives: the Trade and Environmental Sustainability Structured Discussions (TESSD), the Informal Dialogue on Plastics Pollution and Sustainable Plastics Trade (IDP), and Fossil Fuel Subsidy Reform (FFSR), specifically on the activities and issues discussed

within the initiatives. Finally, the third section offers some thoughts for the consideration of developing countries towards their own possible positive agenda on trade and environment, particularly in the run up to the WTO MC12.

Environment at the WTO: Past Work Undertaken at Multilateral Level

The Marrakesh Agreement, established in 1994, highlights the importance of working towards sustainable development and the need to protect and preserve the environment. It states that WTO members recognise:

“that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living..., 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

The preamble acknowledges the important part sustainable development plays in the multilateral trading system.

At the end of the Uruguay Round, Ministers decided to begin a “comprehensive work program on trade and environment” and in 1994, ministers signed a Decision on Trade and Environment, which highlighted that there should not be “any policy contradiction between upholding and safeguarding an open, non-discriminatory and equitable multilateral trading system on the one hand, and acting for the protection of the environment, and the promotion of sustainable development on the other.”⁴ The Decision on Trade and Environment

¹ https://www.wto.org/english/tratop_e/envir_e/envt_intro_e.htm

² https://www.wto.org/english/tratop_e/envir_e/envir_e.htm

³ https://www.wto.org/english/tratop_e/envir_e/hist1_e.htm

⁴ https://www.wto.org/english/tratop_e/envir_e/hist1_e.htm and https://www.wto.org/english/thewto_e/whatis_e/tif_e/bev2_e.htm

called for the creation of the Committee on Trade and Environment.

In 1995, the Committee on Trade and Environment (CTE) was established with the intention to “identify and understand the relationship between trade and the environment in order to promote sustainable development.”⁵ The CTE provides a forum for discussions and sharing of experiences between all WTO members. In addition, CTE works at “recommending whether modifications of the current multilateral trading regime are necessary, compatible with the open, equitable and non-discriminatory nature of the system.”⁶ It recognises the need for rules that promote positive interaction between trade and environmental policies in order to promote sustainable development, as well as the need to avoid trade protectionist measures so as to achieve the targets set out in the Agenda 21.⁷

In addition, another regular body of the WTO the Committee on Technical Barriers to Trade (TBT Committee) provides a forum for discussions including on “technical regulations adopted by governments to mitigate climate change.”⁸ The committee examines climate change policies to ensure they do not obstruct international trade while still achieving the objectives of environmental protection and harmonisation. The TBT Agreement imposes rules on avoiding unnecessary obstacles to trade and harmonisation, as well as requires members to exchange information on technical regulations that may impact trade.⁹

In November 2001, negotiations on some trade and environment issues were launched as part of the Doha Development Agreement, with the main objective to enhance the mutual support of trade and environmental policies.¹⁰ Paragraph 31 to 33 of the Doha Declaration covers on trade and environment. These sections highlight

multilateral environmental agreements, information exchange and trade barriers on environmental goods and services, among others. In the Declaration, Ministers agreed to “negotiate procedures for regular information exchange between secretariats of multilateral environmental agreements and the WTO” and negotiate procedures for information exchange between secretariats of multilateral environmental agreements and the WTO, as well as negotiate on the “reduction or elimination of tariff and non-tariff barriers to environmental goods and services.”¹¹ The CTE, in Special Session (CTE-SS) was mandated to undertake these negotiations.

In July 2014, 18 members representing 46 WTO members launched plurilateral negotiations for the establishment of the Environmental Goods Agreement (EGA). Members were seeking to “eliminate tariffs on a number of important environment related products” and promote trade of key environmental products such as solar panels and wind turbines.¹² In 2016, progress was made on EGA, as members discussed the work towards liberalising trade on a range of important environmental goods.¹³ The work, however, came to a virtual standstill after that due to lack of engagement by some key members.

In February 2022, the CTE held a meeting, where members received updates on the three environmental initiatives and discussed efforts by the European Union and the United Kingdom to prevent global deforestation by regulating trade in agriculture.¹⁴

Finally, the WTO Agreement recognises the need to improve the participation of developing countries in international trade to ensure they are capable of protecting the environment. The WTO cooperates with international partners and institutions such as Aid for Trade (A4T),

⁵ https://www.wto.org/english/news_e/news21_e/envir_15dec21_e.htm

⁶ https://www.cuts-geneva.org/pdf/KP2021-Study-Environment_and_International_Trade.pdf

⁷ Ibid

⁸ https://www.wto.org/english/tratop_e/envir_e/climate_challenge_e.htm

⁹ Ibid

¹⁰ https://www.wto.org/english/tratop_e/envir_e/envir_negotiations_e.htm

¹¹ https://www.wto.org/english/tratop_e/dda_e/dohaexplained_e.htm

¹² https://www.wto.org/english/tratop_e/envir_e/ega_e.htm

¹³ https://www.wto.org/english/news_e/news16_e/ega_04dec16_e.htm

¹⁴ https://www.wto.org/english/news_e/news22_e/envir_02feb22_e.htm

Standards and Trade Development Facility (STDF), as well as the Enhanced Integrated Framework (EIF) to assist least developed and developing countries in their capacities to participate in international trade and promote sustainable development.¹⁵

The above brief historical account shows that the WTO: i) has the mandate to discuss issues at the interface of trade and environment, particularly in the CTE; ii) has the mandate to negotiate certain trade and environment issues including trade in environmental goods and services as part of the Doha Development Agenda (DDA), though the progress in these negotiations, like on other issues under the DDA has been slow; and iii) addresses some capacity building issues faced by developing and least developed countries related to trade and environment.

Some Initiatives on Trade and Environment and Latest Developments

On December 15, 2021, Cosponsors of the three new environmental initiatives; the Trade and Environmental Sustainability Structured Discussions (TESSD), the Informal Dialogue on Plastics Pollution and Sustainable Plastics Trade (IDP), and Fossil Fuel Subsidy Reform (FFSR) pledged to place environmental concerns at the heart of future trade discussions. In addition, they committed to aligning their efforts with international environmental initiatives and ensuring that trade can be a part of the solution to combating issues of climate change and plastic pollution as well as building a sustainable global economy. Additionally, to examine how trade and trade rules could positively help address each of their concerns and how these issues could be addressed within the framework of the WTO. The three initiatives aim to support the Sustainable

Development Goals (SDGs), with their discussions open to the participation of all WTO members and external stakeholders/experts.¹⁶

Trade and Environmental Sustainability Structured Discussions

On November 2020, 50 WTO members¹⁷ announced their intention to ‘intensify work on trade and environmental sustainability by organising structured discussion for WTO members and dialogue with external stakeholders.’ The Trade and Environment Sustainability Structured Discussions (TESSD) were thus launched, coordinated by Canada and Costa Rica, with the objective of contributing to completing the existing work of the Committee on Trade and Environment and other relevant WTO committees and bodies as well as supporting the objectives of the Marrakesh Agreement.¹⁸

The cosponsors would collaborate to “identify areas for future work to help the WTO address sustainable development challenges more effectively and work on possible environmental sustainability actions and deliverables.”¹⁹ Some WTO members expressed the need for action to support global efforts in achieving the SDGs and other environmental commitments and recognising the COVID-19 impact on the global economy, hence the need to strengthen the resilience and sustainability of global supply chains.²⁰

The initiative seeks to identify areas for future needs, in addition to sharing experiences and best practices, promoting transparency, information sharing, supporting technical assistance and capacity building needs, particularly in least developed countries.²¹ In the discussion, it was suggested that members could take steps to strengthen coherence at the national and international level, increase

¹⁵ https://www.wto.org/english/res_e/publications_e/unereport2018_e.pdf

¹⁶ https://www.wto.org/english/news_e/news21_e/envir_15dec21_e.htm

¹⁷ The following developing countries have co-sponsored the TESSD initiative: Chad, Chile, China, Colombia, Costa Rica, the Gambia, Senegal, Singapore, Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu

¹⁸ https://www.wto.org/english/tratop_e/tessd_e/tessd_e.htm

¹⁹ Ibid

²⁰ https://www.cuts-geneva.org/pdf/KP2021-Study-Environment_and_International_Trade.pdf

²¹ <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:WT/C/TE/W249.pdf&Open=True>

cooperation among relevant external actors, including international organisations, civil society, NGOs, academic institutions and business communities. Additionally, members noted the need to work on possible environmental sustainability actions and deliverables in other WTO areas.²²

During the TESSD meetings held in 2021, participants discussed topics of trade related climate measures, environmental goods and services, circular economy, sustainable supply chains, green aid for trade, fossil fuel subsidy reform and sustainable food and agriculture, in addition to giving consideration to the opportunities and challenges for sustainable trade for developing countries and LDCs.²³

At the first formal TESSD meeting in March 2021, participating members identified parameters for negotiation on liberalising trade in environmental goods and services and recognised the importance of expanding participation within the discussions.²⁴ Some of the possible discussion topics suggested by members included circular economy, biodiversity loss, trade and climate change, fossil fuel subsidies and carbon adjustments measures. Members emphasised the importance of broadening participants within the discussions, taking into account the needs of developing and least developed countries and avoiding duplication of efforts with the ongoing work of relevant WTO bodies.²⁵

In November 2021, proponents of TESSD circulated their proposed Ministerial Statement for the MC12, seeking to identify and compile best practices and explore opportunities for partnerships to ensure that trade contributes to “achieving a more resource-efficient circular economy, promoting sustainable supply chains and addressing the challenges and opportunities arising from the use of sustainability standards and any related measures, in particular for developing Members and promoting and

facilitating access to environmental goods and services.”²⁶

With the MC12 indefinitely postponed due to Covid-related travel restrictions, the TESSD proponents issued a Ministerial Statement in December 2021 on Trade and Environmental Sustainability, stating the future work of the initiative to cover the areas of trade and climate change, trade in environmental goods and services, circular economy and sustainable supply chains, among others.²⁷ The statement recognises that international trade and trade policy can support environmental and climate goals, promote sustainable production and consumption, while also taking into account the progress of achieving a just transition and achieving the SDGs. It acknowledges the importance of environmental sustainability for the WTO agenda.²⁸

Members agreed to intensify work on common interest area and identify concrete actions to be taken to expand a more inclusive and transparent environmentally sustainable trade. They agreed to support continued discussions on environmental effects of relevant subsidies, identify challenges and opportunities for sustainable trade and enhance collaborating among members in strengthening capacity building and technical assistance on trade as well as explore opportunities and approaches for promoting and facilitating trade in environmental goods and services.²⁹

TESSD held its first meeting of 2022 on 7th February 2022 which discussed a draft work plan for 2022 to implement the elements of the December 2021 Ministerial Statement. The draft work plan envisaged focussed work in small groups on some specific issues in addition to the plenary meetings, with a final Stocktaking meeting to be held in December 2022. Many participating members provided comments and

²² https://www.cuts-geneva.org/pdf/KP2021-Study-Environment_and_International_Trade.pdf

²³ https://www.wto.org/english/tratop_e/tesdd_e/tesdd_e.htm

²⁴ https://www.cuts-geneva.org/pdf/KP2021-Study-Environment_and_International_Trade.pdf

²⁵ https://www.wto.org/english/news_e/news21_e/tesdd_08mar21_e.htm

²⁶ https://wtoplurilaterals.info/plural_initiative/trade-and-environmental-sustainability-structured-discussions-tesdd/#init2

²⁷ https://www.wto.org/english/news_e/news21_e/envir_15dec21_e.htm

²⁸

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:WT/MI/N21/6R2.pdf&Open=True>

²⁹ Ibid

suggestions on the draft work plan which is expected to be finalised soon.³⁰

The TESSD process in 2022 is expected to be intense and substantive, particularly with the envisaged functioning of small groups on specific issues, requiring commitment of substantial human and technical resources by participating developing and least developed country members.

Informal Dialogue on Plastics Pollution and Environmentally Sustainable Plastics Trade

Launched in November 2020, the Informal Dialogue on Plastics Pollution and Environmentally Sustainable Plastics Trade (IDP), “seeks to address the rising environmental, health and economic cost of plastics pollution and use trade as a tool in promoting environmentally sustainable trade in plastics.”³¹ The co-coordinators of the initiative are Australia, Barbados, China, Ecuador, Fiji and Morocco.³²

Ambassador Xiangchen Zhang of China explained the possible areas for discussion to include enhancing transparency, promoting best practices, monitoring trade trends, strengthening policy coherence, assessing capacity and technical assistance needs, as well as cooperating with international efforts.³³

The Former WTO Deputy Director General Wolf stated the importance of defining principles for effective and coherent trade measures that would tackle plastic pollution, establishing a monitoring mechanism for trade measures and setting targets to reduce trade of unsustainable plastics, as well as enhancing support for capacity building through Aid for Trade and the Enhanced Integrated Framework. He recommended that the revival of the Environmental Goods Agreement

negotiations could lead to an improved plastics trade by reducing barriers to substitutes and waste management equipment.³⁴

The dialogue on plastic pollution seeks to complement discussions in the Committee on Trade and Environment and other relevant WTO bodies. During their joint communication to the CTE, the participants acknowledged the increasing environmental, health, and economic cost of pollution, a concern for all countries. They noted the need to coordinate global actions and to identify opportunities for enhanced trade cooperation in the WTO to contribute to domestic, regional and global efforts to reduce plastic pollution and support efforts in other forums.³⁵

Ambassador Nazhat Khan of Fiji noted the convergence around the area of transparency, acknowledging that the group plans to keep the CTE informed about the discussions and encourage more member to participate. During the four meetings held since the launch of the group, participants have received feedback on their trade related research, in addition to domestic, regional and global efforts to combat plastic pollution from relevant stakeholders.³⁶

The dialogue of March 2021 placed emphasis on enhancing transparency and international cooperation with the aim of establishing a factual foundation to support members’ efforts to reduce plastic pollution, to understand the source of data deficits and to understand the role other international organisations and actors play.³⁷

Ambassador Chenggang Li of China said that the WTO should focus on “studying the production and use of plastics across their life cycle.” Several organisations took the opportunity to share their experience and cooperation with the initiative. Some members suggested that the dialogue address eliminating imbalances or disadvantages that developing countries may have in the global

³⁰ TESSD plenary meetings tentatively schedule on 31 March 1 April; 19 20 July; 26-27 October. Informal Working Groups tentatively schedule on: 14-15 March; 17-18 May; 27-28 September

³¹ https://www.wto.org/english/news_e/news21_e/envir_15dec21_e.htm

³² The following developing countries have cosponsored the Informal Dialogue on Plastics Pollution: Barbados, Cameroon, Central African Republic, Chad, China, Colombia, Costa Rica, Ecuador, Gambia, Hong Kong-China, Jamaica, Morocco, Panama, Peru, Philippines, Thailand and Uruguay

³³ https://wtoplurilaterals.info/plural_initiative/plastics-pollution/

https://www.wto.org/english/news_e/news20_e/envir_17nov20_e.htm

³⁴ Ibid

³⁵ https://www.wto.org/english/tratop_e/ppesp_e/ppesp_e.htm

³⁶ Ibid

³⁷ https://www.cuts-geneva.org/pdf/KP2021-Study-Environment_and_International_Trade.pdf

plastics economy. Members discussed the roadmap for MC12 and were also cautioned against duplicating work already done.³⁸

At the meeting in June 2021, Ambassadors Valencia of Ecuador and Blackman of Barbados, invited participants to analyse policy coherence, discuss collective approaches and assess developing countries' capacity building needs. During the discussions, members noted the importance of "starting negotiations on a global plastics agreement under the UN Environment Assembly (UNEA)" and the need to coordinate efforts to restrict unnecessary single-use plastics and encourage the use of environmentally friendly alternatives.³⁹

In October 2021, "IDP's work was captured in a factual report" which highlighted information presented and discussed in 2021, providing proponents and stakeholders a glimpse of evidence-based discussions in the IDP.⁴⁰

In December 2021, a ministerial statement from the group was issued, setting out "a roadmap for work in support of global efforts to reduce plastic pollution and transition towards environmentally sustainable plastics trade, sharing experiences on data collection regarding trade flows and supply chains, strengthening regulatory cooperation with other international bodies, identifying environmentally sustainable trade policies and mechanisms, and strengthening technical assistance for vulnerable economies."⁴¹

The statement notes the role trade plays in achieving SDGs and environmental sustainability as well as its role in the fight against climate change, biodiversity loss and pollution. It acknowledges the importance and value of a broad and diverse member participation as well as the impact plastic pollution has had on economies and the environment. In the

statement, members agreed to intensify their work on areas of common interest and support global efforts to reduce plastic pollution, identify best practices regarding unnecessary plastic products and the use of technologies that can reduce plastic pollution.⁴²

On February 2022, Australia updated the CTE on the initiative's work and noting the ongoing work in the IDP to draft the plan for implementing the Ministerial Statement launched in December 2021.⁴³

Fossil Fuel Subsidies' Reform

At the 2017 Ministerial Conference, New Zealand and eleven other WTO members⁴⁴ issued a statement advocating for the rationalisation and phasing out of "inefficient fossil fuel subsidies that encourage wasteful consumption, including through enhanced WTO transparency and reporting that will enable the evaluation of the trade and resource effects of fossil fuel subsidies programmes."⁴⁵

The statement acknowledged the importance of the WTO forum in furthering discussions on achieving effective fossil fuel subsidies. The initiative seeks to increase dialogue and information sharing with the hope that it will lead to the phaseout of inefficient fossil fuel subsidies that encourage wasteful consumption in a way that fully considers the needs and conditions of developing countries, as well as minimises the potential negative impacts on their development. New Zealand and other members worked to build momentum and consensus for the initiative as well as towards a renewed version of this statement for MC12.⁴⁶

The Fossil Fuel Subsidies Ministerial Statement issued in December 2021 (despite the postponement of WTO MC12), acknowledges that

³⁸ https://www.wto.org/english/news_e/news21_e/tesd_29mar21_e.htm

³⁹ <https://greenfiscalpolicy.org/wto-informal-dialogue-calls-for-ministerial-declaration-on-plastics/>

⁴⁰ <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/INF/T/EIDP/W3.pdf&Open=True>

⁴¹ https://www.wto.org/english/news_e/news21_e/envir_15dec21_e.htm

⁴² <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/M/N21/8R2.pdf&Open=True>

⁴³ https://www.wto.org/english/news_e/news22_e/envir_02feb22_e.htm

⁴⁴ The following developing countries have signed on to the draft Ministerial Declaration on Fossil Fuel Subsidy Reform: Chile, Costa Rica and Uruguay

⁴⁵ <https://www.iisd.org/articles/members-call-wto-play-central-role-ending-inefficient-fossil-fuel-subsidies>

⁴⁶ https://wtoplurilaterals.info/plural_initiative/fossil-fuel-subsidy-reform-ffsr/

fossil fuel subsidies have increased in the past decade to about USD 500 billion in 2019 and “diverting funding from such subsidies will support a just transition towards a green, sustainable economy.” It recognises that the phase out of fossil fuel subsidies would contribute to the achievement of the temperature goal of the Paris Agreement and support the Sustainable Development Goals, particularly the SDG 12 target as well as support the transition towards a green and sustainable economy.⁴⁷

The statement further acknowledges that the inefficient fossil fuel subsidies encourage wasteful consumption and disadvantaging renewable energy. The proponents called for the rationalisation and phaseout of inefficient fossil fuel subsidies that encourage wasteful consumptions and recognised that reforms need to take into account specific needs and conditions of developing countries and minimise any potential negative consequences on their development.⁴⁸

In the statement, Members agreed to share information and experiences to advance discussions in the WTO and through enhanced transparency and reporting, enable the evaluation of the trade, economic and environmental effects of fossil fuel subsidy programs. Members agreed to develop “concrete options to advance this issue” at the WTO ahead of MC13.⁴⁹

In February 2022, New Zealand updated the CTE on the initiative’s work and noted that forty-five WTO members had endorsed the Ministerial Statement and planned to meet in the coming months to advance work. While several cosponsors expressed their support, some members noted that the issue should not be addressed in the WTO.⁵⁰

Looking Forward Towards MC12 and Beyond

The WTO framework provides members with a foundation to harmonise their international trade obligations with their domestic laws and regulations on environmental protection. Therefore, WTO members should continue to make an effort to ensure that trade and environmental issues are harmonised. In particular, support for continued collaboration between the WTO and other relevant stakeholders in the environmental field as well as with multilateral environmental agreements can be envisaged. “Increased cooperation among Members will drive towards fostering trust, which is necessary for progress in addressing environmental issues within the WTO.”⁵¹ Member can, through the sharing of experiences and best practises, help support a more environmentally conscious WTO.

In order to ensure uniformed and inclusive environmentally sustainable trade, members need to support developing and least developed countries through technology transfer and technical and financial assistance. Regular updates should be provided to developing and least developed countries, including non-members, of the three environmental initiatives, so that they remain aware of the key developments. Moreover, participating countries in these initiatives should ensure that development concerns are at the core of the initiatives.

Advancing a balanced and development-oriented trade and environment agenda towards MC12 and beyond will require the following:

- Concluding the negotiations on fisheries subsidies with an ambitious outcome and effective special and differential treatment

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<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:WT/M/N21/9R1.pdf&Open=True>

⁴⁸ https://www.wto.org/english/news_e/news21_e/envir_15dec21_e.htm

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<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:WT/M/N21/9R1.pdf&Open=True>

⁵⁰ https://www.wto.org/english/news_e/news22_e/envir_02feb22_e.htm

⁵¹ https://www.cuts-geneva.org/pdf/KP2021-Study-Environment_and_International_Trade.pdf

for developing and least developed countries;

- Reviving the trade and environment negotiations already mandated under the DDA, including on environmental goods and services;
- Strengthening information exchange and collaborations between the Secretariats of the WTO and UNFCCC;

- Identifying win-win-win issues, i.e. that contribute to economic, social and environmental progress; and
- Supporting demand-driven capacity building of developing and least-developed countries on these issues through commitment of additional resources.



CUTS International, Geneva

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