

The Future of Trade and Environment: A Roadmap for Reconciling Two Competing Goals

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The global market has experienced an unprecedented increase in cross-border trading, culminating in substantial economic growth for numerous nations. However, this extensive process of economic integration has cast a shadow on various associated domains. Trading activities, intricately linked to the environment due to their reliance on natural resources for production, have indisputably left their mark on global environmental conditions. International trade and environmental preservation, as distinct disciplines, operate under separate sets of laws and regulations. Environmental laws encompass multilateral environmental agreements, and regional and national regulations, while trading activities are governed by the multilateral agreements of the World Trade Organization (WTO) and bilateral agreements. The integration of international trade with environmental measures has become a contentious subject. Proponents of trade argue that it facilitates global access to environment-friendly goods and technologies, thereby facilitating the maintenance of high environmental standards. In contrast, environmentalists contend that international trade laws and practices often impede the governmental efforts to implement regulatory measures aimed at pollution prevention and environmental restoration. The WTO has faced criticism for its perceived inaction in addressing environmental concerns ensuing from trade, despite acknowledging environmental protection as an objective in the preamble of the Marrakesh Agreement. The global discourse on environmental protection has intensified, seeking to accord environmental issues the same weight as trade disputes. This article endeavours to delve into the multifaceted interactions between international trade and environmental protection, scrutinizing their regulatory mechanisms while highlighting the underlying grounds for the disputes that arise between these two realms.

Keywords: Agreement on Fisheries subsidies, Committee on Trade and Environment, Environmental Protection, Free Trade, GATT, Multilateral Environmental Agreements, WTO

1 INTRODUCTION

The development of international and regional trade has facilitated global market access for goods produced in different countries. National economies have gradually amalgamated into an economic structure held together by efficient information and communication technologies. With the assistance of these advanced information and communication technologies, nations can source the necessary resources

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required to produce goods or services from anywhere around the globe. The globalization era has been driven partly by these advanced technologies and partly by increasing investment flows, as well as a reduction in international trade barriers. It has provided an opportunity for economic development to various developed and least developed nations. Consequently, as an outcome, the world has experienced significant growth in the contribution of international trade toward building a global economy.

However, simultaneously, the notion of the adverse impact of free trade on the environment is not new. With the escalating economic globalization and interdependence, the association between trade, environment, and development has acquired much more significance than it had earlier. These issues concerning the linkage between trade, environment, and development deserve a substantially larger amount of emphasis in the policies under the international trade regime.

The industrial development that has taken place worldwide, the aftermath of the World wars, and the upsurge in damage to the biosphere, have had a profound influence on humanity, emphasizing the need for a healthy and clean environment as an indispensable prerequisite for the survival of mankind and the other living species on Earth. Environmental pollution and the degradation of resources are the repercussions of increasing economic development and trading activities. The cost of rectifying these aftereffects is not borne by the polluters as they receive comparatively lesser incentives for taking measures to reduce the harm. Consequently, these environmental costs are borne by third parties, such as society which suffers as a whole. The costs of neglecting issues relating to trade and the environment can be interpreted as being involved in unregulated trading activities that eventually result in causing potentially harmful and irreversible damage to the environment thereby making it an impossible goal to achieve a sustainable trading mechanism. As a result, today the major topics for trade negotiations in the international forum comprised the impact of free trade on the environment, analysing methods and means to internalize the environmental costs as well as integrating trade with sustainable development.

In the present era, economic development and the protection of the environment cannot be ignored at the expense of the other, as neglecting either of these goals could impair the other. They are both equally important for the well-being of people and the planet. On one hand, the increasing level of environmental degradation reduces the planet's ability to sustain economic development. On the other hand, to maintain a healthy environment for the ever-increasing human population, economic development and technological advancement are required. To determine the compatibility between these two domains of trade and the environment, it is necessary to analyse the role of international institutions and legal instruments governing trade and the environment.

2 THE EMERGENCE OF ENVIRONMENTAL CONCERNS IN INTERNATIONAL TRADE

Around the 1970s, a burgeoning wave of social movements emerged intending to disseminate awareness about pollution, its root causes, and the complicity of human beings in exacerbating environmental degradation. These movements sought to establish a robust framework for environmental protection, driven by mounting concerns regarding the detrimental effects of economic development on society and the environment. Consequently, the imperative to engage in international negotiations to safeguard and preserve ecological integrity gained significant traction. In 1972, the United Nations Conference on the Human Environment (Stockholm Conference), was convened in response to the call for international action.

During the preparations for the Stockholm Conference, the GATT Secretariat was tasked with conducting a comprehensive study to evaluate the intricate relationship between economic growth and escalating levels of environmental pollution.

This study titled ‘Industrial Pollution Control and International Trade’¹ was presented by Director-General Olivier Long in 1971. Its primary focus was to ascertain the impact of environmental policies on international trade, shedding light on concerns expressed by traders who perceived such policies as barriers to trade, potentially promoting protectionist measures in the form of green protectionism.²

Responding to the insights gleaned from this study, GATT created the Group on Environmental Measures and International Trade (EMIT) in November 1971. However, despite its establishment, the EMIT group remained dormant for two decades, as summoning its session required explicit requests from the members of the General Agreement on Tariffs and Trade.

It was not until the conclusion of the Uruguay round of negotiations, nearly two decades after the creation of the EMIT Group, that attention was again refocused on environmental issues arising from trade activities.³ These concerns relating to trade and environmental protection policies were brought to the forefront in 1991 through the ‘Tuna-Dolphin’⁴ dispute between the US and Mexico. Mexico challenged the embargo imposed upon tuna imported from

¹ WTO, *The GATT Study 1971*, https://www.wto.org/english/tratop_e/envir_e/hist1_e.htm (accessed 27 Feb. 2023).

² WTO, *Early Years: Emerging Environment Debate In GATT/WTO*, https://www.wto.org/english/tratop_e/envir_e/hist1_e.htm (accessed 27 Feb. 2023).

³ WTO, *Trade and Environment in The WTO's Founding Charter*, https://www.wto.org/english/tratop_e/envir_e/hist1_e.htm (accessed 27 Feb. 2023).

⁴ WTO, *Mexico etc VS US- ‘tuna-dolphin’*, https://www.wto.org/english/tratop_e/envir_e/edis04_e.htm (accessed 27 Feb. 2023).

Mexico, arguing that it was inconsistent with the principles of international trade. The United States claimed that the basis of the embargo was Mexico's use of 'purse seine' nets for tuna fishing, which was deemed harmful to dolphins and other mammals by entangling them. The dispute settlement body of GATT ruled in favour of Mexico, declaring the embargo imposed by the United States to be inconsistent with the principles of international trade rules. However, the Dispute settlement body's ruling faced criticism from many environmentalists who contended that these rules of international trade acted as barriers to implementing environmental protection measures.

Subsequently, the Rio Declaration on Environment and Development,⁵ also known as the Earth Summit, held in 1992, underscored the importance of global trade in eradicating poverty and mitigating ecological degradation. Through its program of action and Agenda 21, similar to the Stockholm Conference, global trading systems were endorsed, designed to address the needs of the developing nations while ensuring sustainable economic growth. Principle 12 of the Rio Declaration emphasized collaborative efforts among states to promote and support a global economic system that fosters economic growth, along with ensuring sustainable development and addressing the issues associated with environmental degradation.⁶ The Earth Summit significantly influenced the outcomes of the Uruguay Round, culminating in the formation of the World Trade Organization (WTO), marking a historic reform in the international trading system since the inception of GATT in 1947.

Tas the first trade regulatory body, the WTO assumed responsibility for addressing not only issues relating to international trade but also trade-related environmental issues. Consequently, the agenda to promote trade in alliance with the objectives of sustainable development was imbibed into the preamble to the Marrakesh Agreement,⁷ which established the WTO. The Preamble acknowledged on behalf of the WTO members, the significance of optimizing global resources in harmony with the objectives of sustainable development, protecting and preserving the environment while fulfilling economic development needs, and elevating the standard of living.⁸

In April 1994, ministers at Marrakesh signed a Decision on Trade and Environment, emphasizing the necessity for trade policies to strike a delicate balance between upholding an inclusive, non-discriminatory global trading system

⁵ U.N. Conference on Environment and Development, *Rio Declaration on Environment and Development*, U.N. Doc. A/CONF.151/26/Rev.1 (Vol.1) annex 1 (Aug.12.1992) [hereinafter Rio Declaration].

⁶ Rio Declaration principle 12.

⁷ Marrakesh Agreement Establishing the World Trade Organization, 15 Apr. 1994 [hereinafter Marrakesh Agreement].

⁸ Marrakesh Agreement preamble.

while ensuring environmental protection and concurrently promoting sustainable development.⁹ The decision on trade and environment also called for the creation of the Committee on Trade and Environment (CTE) which took over the EMIT Group. The CTE was provided with the following task under the mandate:

- To analyze the intricate correlation between international trade measures and environmental protection measures, with the ultimate aim of ensuring sustainable development and
- Furthermore, it was tasked with recommending appropriate modifications to the provisions of the multilateral trading system to foster an open, non-discriminatory, and equitable trading regime.¹⁰

The official launch of the Doha Development Agenda took place at the 4th WTO Ministerial Conference which was held in Doha, Qatar, in November 2001. The primary objective of this agenda was to restructure the multilateral trading system by implementing lower barriers to trade and revisiting the existing trade norms.¹¹ The ministers at the Doha round also agreed to engage in negotiations on trade and the environment, with the overarching goal of enhancing mutual support between trade and environmental policies. These negotiations aimed to address the application of World Trade Organization rules to members participating in Multilateral Environmental Agreements (MEAs). In essence, the negotiations sought to elucidate the correlation between trade-related environmental measures outlined in the MEAs and the established rules of the WTO. Moreover, these negotiations encompassed the reduction and elimination of tariff and non-tariff barriers pertaining to environmental goods, as well as clarifying and improving existing WTO rules related to fisheries subsidies.¹²

3 ENVIRONMENTAL PROVISIONS UNDER THE TRADE AGREEMENTS

The Marrakesh Agreement¹³ upholds sustainable development and the protection and preservation of the environment as the fundamental goals of the WTO. While there are no trade agreements specifically dedicated to addressing environmental

⁹ WTO, *Text Of 1994 Decision*, https://www.wto.org/english/tratop_e/envir_e/issu5_e.htm (accessed 27 Feb. 2023).

¹⁰ WTO, *WTO- Environment Issues*, https://www.wto.org/english/tratop_e/envir_e/issu5_e.htm (accessed 27 Feb. 2023).

¹¹ WTO, *The Doha Round 2001*, https://www.wto.org/english/tratop_e/dda_e/dda_e.htm (accessed 27 Feb. 2023).

¹² WTO, *Doha Development Agenda 2001*, https://www.wto.org/english/thewto_e/whatis_e/tif_e/doha1_e.htm (accessed 27 Feb. 2023).

¹³ Marrakesh Agreement, *supra* n. 7, at 5.

concerns, the rules of the WTO allow for the use of trade-related environmental measures provided that they align with the principles of international trade law and are non-discriminatory in nature, thus preventing their abuse for protectionist purposes. The provisions for trade-related environmental measures have been provided under the following multilateral trade agreements:

- Article XX General Agreement on Tariffs and Trade, 1994:

The General Agreement on Tariffs and Trade under Article XX provides an exception clause that allows members to adopt trade-related environmental measures aimed at protecting the environment. The exception clause under Article XX provides that the trade-related measures should not be used in a manner that is arbitrary and unjustifiably discriminatory in nature or the form of a disguised restriction on trade. These restrictions are applicable in case of trade measures that are used on countries having the same conditions. In addition to the above conditions, the contracting parties can adopt and enforce measures if:

- such measures are necessary to protect the health of human beings, animals, and plant life, as provided under Article XX paragraph (b), and
- they are related to the preservation of exhaustible natural resources, after ensuring that these measures are in conjunction with the limitations imposed upon domestic production or consumption, as stated under Article XX paragraph (g).¹⁴

For a member nation to invoke an exception under the provisions of Article XX, they must establish a clear connection between the trade-related environmental measure at issue and the stated objectives of their environmental policies. Furthermore, they need to provide well-founded justifications to demonstrate that such measures were 'necessary' for the protection of human beings, animals, and plants. The WTO's Appellate body has employed different procedures to assess the validity of trade-related environmental measures based on the grounds of necessity on multiple occasions. These assessments involve scrutinizing factors such as the role of the environmental measure in achieving policy objectives, its significance in serving the common interest, and its implications on international trade. By comparing the environmental measure with other possible measures that impose lesser restrictions on trade while still contributing to the environmental goals, the Appellate Body determines whether the trade-related environmental measure is deemed necessary. Notable cases where the Appellate Body has

¹⁴ Marrakesh Agreement Art. XX.

examined the validity of such measures include the US Shrimp Turtle¹⁵ and the US- Reformulated Gasoline¹⁶ cases.

Article XX in its initial clause stipulates that these measures must not be applied in a manner that amounts to 'arbitrary or unjustifiable discrimination' or takes the form of a 'disguised restriction on international trade'. The clause seeks to restrict the abuse of exceptional provisions and, therefore, allows for a provisional justification of the measure based on the grounds outlined in Article XX. Its purpose is to ensure that such measures are implemented in good faith, without imposing unnecessary discriminatory barriers to trade:

- Agreement on Technical Barriers to Trade (TBT)¹⁷:

The Technical Barriers to Trade (TBT) Agreement establishes provisions for technical and regulatory standards, as well as assessment procedures for trade measures. Its primary objective is to ensure that these standards and procedures are not discriminatory in nature and do not act as redundant barriers to trade. At the same time, the Agreement recognizes the rights of the WTO members to adopt measures that serve legitimate policy goals, including the protection of people, animals, and the environment. The Agreement promotes transparency in trade and also encourages the members to adhere to international standards when implementing measures to ensure trade growth.

According to the Preamble to the TBT Agreement:

Nations should be allowed to adopt measures to ensure the quality of exports and protect human, animal, and plant life, and prevent deceptive trade practices. However, these trade measures should not be applied in a manner that is arbitrary and unjustifiably discriminatory in nature nor should they serve as a disguised restriction on trade between countries facing similar conditions. The measures must also be coherent with the principles outlined in the TBT Agreement.¹⁸

The TBT Agreement places an obligation on its members to ensure that the preparation, adoption, and application of the technical regulations do not create unnecessary barriers in the international trading system. These regulations should only impose trade restrictions that are necessary to fulfil a legitimate purpose, considering the potential risks associated with the non-fulfilment. The assessment

¹⁵ Appellate Body Report, *United States – Import Prohibition of Certain Shrimp and Shrimp Products* WTO Doc.WT/DS58/AB/R (adopted 6 Nov. 1998).

¹⁶ Appellate Body Report, *United States – Standards for Reformulated and Conventional Gasoline* WTO Doc. WT/DS2/AB/R (adopted 20 May 1996).

¹⁷ Agreement on Technical Barriers to Trade (15 Apr. 1994), Marrakesh Agreement Establishing the World Trade Organization Annex 1A [hereinafter TBT Agreement].

¹⁸ TBT Agreement preamble.

of these risks involves analysing factors like scientific and technical data availability, relevant technologies, and the proposed final use of the product.

The TBT Agreement covers the standards related to trade measures that may be in the form of non-tariff barriers to trade. These non-tariff barriers comprise standards for technical performance that a product must satisfy to be eligible for import and export. Additionally, standards related to health, environment, and labour, are also considered to be a part of non-tariff barriers. The TBT Agreement applies to all government standards and provides conditions under which these barriers can be used. Green marketing, eco-labelling, and general principles of environmental management and auditing systems are a few concepts that are promoted by technical regulation. These regulations intend to help multinational corporations in maintaining environmental quality globally:

- Agreement on Sanitary and Phytosanitary Standards (SPS):

The Agreement on Sanitary and Phytosanitary Standards (SPS),¹⁹ similar to the Agreement on TBT, was negotiated in the Uruguay Round. The Preamble to the SPS Agreement states that the:

members should not be prevented from implementing measures that are necessary for protecting the life and health of human beings, animals, and plants. These trade measures should not be applied in a manner that is arbitrary and unjustifiably discriminatory in nature or the form of a disguised restriction on trade among countries with the same circumstances.²⁰

Like the TBT Agreement, the Agreement on SPS also lays down stringent standards for making rules governing sanitary and phytosanitary measures. The SPS Agreement provides specific criteria such as issuing notifications and ensuring transparency through rules and following international standards whenever it is appropriate and so forth. The standards laid down must be based on risk assessment and the available scientific evidence. The Agreement also provides specific provisions for temporary measures which may be made in case of unavailability of scientific data for the purpose of adopting permanent measures. Thus, it makes the Agreement on SPS one of the World Trade Organization's agreements that observes a precautionary approach.

Sanitary or Phyto-sanitary measures encompass various processes and methods for production, testing, inspection, certification, and other factors associated with the transportation of plants and animals. This includes methodologies for assessing risks, stipulations for packaging, and labelling mainly associated with ensuring food

¹⁹ Agreement on Sanitary and Phytosanitary Standards (15 Apr. 1994), Marrakesh Agreement Establishing the World Trade Organization Annex 1A [hereinafter SPS Agreement].

²⁰ SPS Agreement preamble.

safety. In contrast to the Agreement on TBT, which permits a country to restrict or reject imports lacking appropriate environmental certification or labels, the Agreement on SPS allows for the prohibition of imports if the level of pesticide residue or genetically modified organisms exceeds the specified tolerance level. Both the Agreement on SPS and TBT agreement overtly state their intention to prevent the use of environmental standards or protection measures as unnecessary obstacles to trade:

- Committee on Trade and Environment (CTE):

The CTE was established in 1994 by ministerial decision and was charged with adopting the work that had begun under the EMIT. The main aim of the committee on trade and environment was to provide recommendations to bring the environment and sustainable development concerns formally within the policy setup of the World Trade Organization and to develop an understanding of the correlation between trade and the environment under the wider international domain.

The CTE was assigned ten distinct areas to work upon. At the first WTO ministerial meeting in Singapore, the CTE presented a comprehensive report covering all of the areas in its mandate. The report provided suggestions for further work and made recommendations for each category. These areas of work were classified as follows:

1. The provisions applicable under the international trading system in association with the trade-related environmental measures and their alignment with the multilateral environmental agreements. It aimed to ensure coherence and consistency between trade rules and environmental objectives.
2. The correlation between trade-related environmental policies and measures that have substantial trade impacts and the associated rules of the international trading system. It sought to strike a balance between environmental objectives and trade liberalization, addressing potential conflicts and seeking mutually supportive approaches.
3. This area of work delved into the interface between rules of international trade and charges and taxes and other requirements associated with environmental goals such as eco-labelling, recycling, and technical regulations.
4. The provisions relating to transparency of trade measures used for environmental purposes, as well as environmental measures that have a significant impact on trade.

5. This area focussed on the compatibility between the mechanism for settlement disputes as provided by the multilateral trade agreements and the environmental agreements;
6. This area emphasized the impact of environmental measures on the ability to access markets, particularly in developed countries, and the potential environmental benefits derived from eliminating trade barriers and reducing trade distortions.
7. The concerns associated with the exports of goods that are prohibited domestically
8. The CTE was entrusted to cover within its ambit the work provided under the Decision on Trade in Services and the Environment and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).²¹

The CTE has had some influence on the trade–environment debate, but it has not achieved major outcomes in the majority of areas of its work. It is, however, restricted because it is a political committee and does not have the authority to implement its recommendations. The Committee has not proved to be a success and has not achieved as much as it could have had as an implementing committee on trade environment issues under the WTO.

4 ISSUES AND CHALLENGES ON THE TRADE AND ENVIRONMENT CORRELATION

The linkages between trade, environment, and development are not isolated, they are fundamentally interrelated. Most of the environmental damages are a result of the increasing level of economic activity globally and the major contribution to this rising level is made by international trade that makes it an important factor in stimulating environmental change. With the growth of economic globalization and the severity of environmental problems, it is more evident that there will be inconsistency between the multilateral trading system and the multilateral environmental agreements. The growing concern between these two domains can be outlined as follows:

- Trade and environment debate:

In theory, the pursuit of both trade and environmental objectives is assumed to be entirely compatible. However, in practice, there are different approaches to the

²¹ WTO, *Decision on Trade and Environment*, https://www.wto.org/english/docs_e/legal_e/56-dtenv_e.htm (accessed 2 Mar. 2023).

trade and environment link. The theory of comparative advantage suggests that countries should be allowed to specifically trade and produce such goods and services in which they are comparatively more efficient. This allows countries to trade in goods and maximize their output with the help of available resources, which ultimately serves the purpose of ensuring environmental sustainability. Furthermore, the liberalization of trade helps in removing subsidies and policies that are trade distortive in nature, promotes efficient allocation of resources, and fosters the adoption of environmentally friendly technologies. However, to establish this link, appropriate policies need to be pursued simultaneously.

On the other hand, if the environmental externalities are not factored into economic prices and decision-making processes, trade can exacerbate unsustainable patterns of economic activity and the problems related to the environment. The process of ensuring environmental sustainability occurs at varying paces in different countries, where environmental taxes or regulations are employed to address these externalities. Even though the national efforts aim for environmental sustainability and the policies are formulated to control the transboundary environmental issues, the rules of international trade and the entire trading system still have not successfully achieved environmental sustainability. Additionally, nations with stricter environmental standards often express concern that their economies may be adversely affected by competition from other nations with more lenient environmental regulations, as the latter may incur lesser production costs:

- Environmental reviews:

The diverse approaches of the member nations, including developed and developing countries, pose a significant concern in addressing trade and environmental issues. These differences arise on various matters, such as the importance of environmental reviews, which have been highlighted by the CTE. During the Doha Development Agenda in 2001, the significance of environmental reviews as a part of the WTO trade negotiations was emphasized and addressed under paragraph 6 of the Doha Declaration.²² The Declaration also recognized the voluntary efforts of the Member nations in conducting an environmental assessment of their national trade policies:

The Member nations mutually agreed to draft policies that encourage coherence between international trade and the environmental realm. They acknowledged the value of exchanging information regarding the methodologies used and the proper application of environmental reviews, and they agreed to provide

²² World Trade Organization, Ministerial Declaration of 14 Nov. 2001, WTO Doc. (01)/DEC/1,41 ILM 746 (2002) [hereinafter Doha Declaration].

technical assistance where necessary. However, simultaneously, the members also acknowledged the fact that different countries have varied approaches to environmental reviews. They recognized that the process of gathering the reviews was hard and the methodology used for the same was still in its budding phase. Few member nations expressed the view that they did not have appropriate tools for conducting the reviews and that different tools may be required for different situations.

The developing country members held the perspective that the environmental review process should be conducted on a voluntary basis, without imposing any obligations on the members to conduct such reviews. They believed that the process of conducting reviews should align with the nation's priorities and requirements, taking into account their capacity, expertise, and level of development. Additionally, they emphasized the importance of utilizing available resources in accordance with the local situation.²³

One approach is that environmental assessments should serve as a means of recognizing the challenges that are faced by developing countries and should encourage sustainable development with the goal of providing environmental, economic, and social advantages to all countries. The nations should strive to find solutions and adjust policies that reduce the tension between trade and the environment, facilitating development without having a detrimental effect on each other. The alternative viewpoint considers environmental review to be a voluntary process that should not be binding on the policymakers. Environmental reviews should serve as a mechanism for self-assessment for ensuring greater coherence in policies:

- Scientific uncertainty:

In several cases, the WTO's Dispute settlement body has encountered challenges in resolving conflicts related to environmental policies on the ground of scientific uncertainty. This uncertainty arises when determining the environmental risks associated with policies or assessing the effectiveness of proposed measures in mitigating those risks. The issue also arises in cases involving minor environmental risks that result in a measure that is significantly trade-restrictive or when there is a mix of motives where countries employ such measures to preserve the environment and also as a form of green protectionism:

- Subsidies:

Subsidies are monetary assistance provided by the government to businesses or industries to maintain competition and lower commodity prices. Many governments perceive subsidies, specifically, those related to fishing and agriculture, as

²³ WTO, *Environmental Reviews*, https://www.wto.org/english/tratop_e/envir_e/reviews_e.htm (accessed 5 Mar. 2023).

trade-distorting in nature and detrimental to the environment, also known as perverse subsidies. They believe that removing subsidies would improve conditions and reduce trade distortions and minimize damage to the environment. Subsidies are trade distortive, as they do not reflect the actual production costs or the true environmental impact. Subsidies for internationally traded goods provide an undue cost advantage in comparison to similar categories of goods without subsidies. However, despite the condemnation of subsidies globally, their removal remains a topic of ongoing discussions. These discussions mainly cover subsidies for agriculture, fossil fuels, fisheries, and forestry:

- Committee on Trade and Environment:

‘The Committee on Trade and Environment was assigned various areas of work and tasked with providing recommendations in that regard. However, to date, the Committee on Trade and Environment has not reached consensus on any recommendations’.²⁴ The Committee’s work is still undergoing negotiations, and it has not achieved significant outcomes in most of its areas of focus. Its limitations stem from being a political committee rather than an implementing body. To address environmental issues effectively within the WTO, the CTE must exhibit greater dynamism as only then the questions on legitimacy shall be resolved for the consideration of environmental issues at the WTO:

- TBT and SPS Agreement:

The stringent standards that are prescribed by the TBT and SPS Agreements present challenges for developing nations with scarce technical and administrative resources incapable of satisfying them. Furthermore, environmental standards under the SPS Agreement particularly may vary under national and international regimes. For instance, the provisions for temporary measures in the SPS Agreement are applicable in situations of uncertainty, while the Cartagena Protocol adopts a broader scope by allowing precautionary measures.

5 CONCLUSION

The contemporary landscape of international trade necessitates a proactive approach to combat the growing impact of international trade on the environment. It is imperative to integrate robust environmental measures within the domain of the WTO while simultaneously pursuing further liberalization efforts. A thorough examination of past experiences and an analysis of environmental concerns

²⁴ WTO, *Items on The CTE's Work Programme 1994*, https://www.wto.org/english/tratop_e/envir_e/cte00_e.htm (accessed 5 Mar. 2023).

addressed within the WTO underscore the need for a comprehensive mandate and appropriate instruments to safeguard environmental interests effectively.

The essence of the matter lies not in determining whether trade is inherently detrimental to the environment, but rather in establishing a framework of international safeguards that promote sustainable trade practices while discouraging environmentally destructive activities. This requires a paradigm shift in the narrative surrounding the nexus between trade and the environment. The focus must be on mitigating the adverse impacts of trade and trade agreements on the environment, ensuring that the needs of nations are met harmoniously.

An efficient and equitable multilateral trading system necessitates the seamless integration of trade and environmental policies. This integration ensures the proper allocation of resources and fosters sustainable economic growth. Recognizing sustainable development as a goal of equal importance to trade liberalization within the WTO is crucial. To achieve this, environmental measures must undergo rigorous scrutiny and assessment, surpassing mere considerations of trade-related aspects. Evaluating the impact of harmful subsidies on both the planet and humanity, rather than solely focusing on trade distortions, is a step towards achieving a harmonious balance.

To effectively address the environmental implications of trade, it is imperative to enhance the scientific basis and resources dedicated to the analysis of policy-induced environmental effects. Promoting robust science-policy interactions within the WTO, in collaboration with stakeholders such as the United Nations, will facilitate a comprehensive evaluation of the environmental consequences of trade policies. Establishing a systematic and inclusive science-policy interface within the WTO will enable a nuanced understanding of cases where trade can contribute to environmental preservation. Access to green technologies, sustainable products, and the elimination of harmful subsidies can all be examined through this lens, contributing to the broader goals of sustainable development.

Fisheries subsidies have long been a topic of intense discussion due to their detrimental impact on marine ecosystems. While the recent adoption of the Agreement on Fisheries Subsidies marks a milestone in addressing Illegal, Unreported, and Unregulated fishing activities. However, the Agreement falls short of adequately addressing the issue of overfishing. A comprehensive approach to fisheries subsidies must encompass not only the provision for overfished stocks but also robust measures to curtail overfishing itself. Article 12 of the Agreement on Fisheries Subsidies tends to be self-destructive in nature and requires re-evaluation to ensure it does not undermine the overall objective of preserving marine biodiversity.

Moreover, the World Trade Organization must take a proactive stance in addressing the impact of inefficient subsidies for fossil fuels on climate change. Strengthening disclosure rules for member nations will foster transparency and accountability, enabling a more comprehensive evaluation of environmental impacts.

Trade rules that fail to acknowledge the profound implications on the environment are counterproductive. Despite the availability of information highlighting the escalating risks to society and the environment, trade policies are often implemented without due consideration of these factors. This perpetuates the emergence of new risks and uncertain conditions. Structural change is imperative, requiring a systematic approach to address trade and environmental concerns comprehensively. This approach must prioritize economic stability and cost-effectiveness, and above all, promote sustainable development.

In conclusion, integrating environmental measures within the realm of international trade through the WTO necessitates a concerted effort. By promoting sustainable trade practices, discouraging environmentally harmful activities, and establishing robust scientific and policy interfaces, the global community can foster an equitable and prosperous future that ensures the preservation of our environment for generations to come.

