



Task Force 06

STRENGTHENING MULTILATERALISM AND GLOBAL GOVERNANCE

Trade and the Environmental Poly-Crisis – Making the World Trade Organization Fit to Better Deal with Trade and the Environment

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Abstract

The world is struggling with an array of environmental crises. Trade can both fuel and provide solutions for these. Trade policy and environmental protection can thus no longer be viewed in isolation from each other.

The World Trade Organization (WTO) plays an important role in this. While the goals of sustainable development and environmental protection were explicitly stated in the Preamble of the Marrakech Agreement (1994), environmental aspects, however, are not explicitly part of the WTO's multilateral trade agreements. Therefore, the WTO, so far, does not deal sufficiently with the nexus between trade and the environment.

The Policy Brief analyses existing WTO rules, monitoring instruments, and committees, as well as ongoing plurilateral negotiations with the following question in mind: How can the WTO help to regulate trade in a way which fosters open, fair, growth-oriented and development-friendly trade relations while at the same time advancing environmental protection?

The G20 can and should play a key role in better aligning trade and environmental concerns. The Policy Brief recommends that the G20 discuss proposals to enhance current WTO rules to better address environmental concerns and to use dialogue mechanisms to deal with environment-related trade disputes. Furthermore, the G20 should support ongoing discussions on the better alignment of trade and the environment in the WTO Committee on Trade and Environment as well as in plurilateral fora. Lastly, the Policy Brief recommends that the G20 discuss a reform of the WTO's Trade Policy Reviews to enhance transparency on the trade-environmental nexus.

World Trade, the WTO, and the Environment

At the 2023 G20 Summit, the G20 committed to “ensure that trade and environment policies should be mutually supportive, consistent with WTO and multilateral environmental agreements” (G20, 2023). However, little has been achieved so far to reform the rules book of the World Trade Organization (WTO) to better align trade and environmental concerns. This is unfortunate as the world is facing multiple environmental crises. The year 2023 was the warmest year on record; the ten warmest years in the historical record have all occurred since 2010 (Lindsey and Dahlma, 2023). In 2019 around one million animal and plant species are threatened with extinction, many within decades (IPBES, 2019). Plastic waste in oceans amounts to 75 to 199 million tons (Wakefield, 2022). Environmental degradation has severe socio-economic implications, impacting global food security, damage jobs, and harm human health and well-being. In all countries, it hits poor and marginalized groups the most.

Trade policy and environmental protection should not be viewed in isolation from each other as trade can have both a negative and a positive impact on the environment. According to the WTO (2021), around 20-30 percent of total global CO₂ emissions, which account for most greenhouse gas emissions, are associated with the production and transportation of goods and services. At the same time, trade can also make a positive contribution to protecting the environment: it can help facilitate access to goods, technologies, and services that are less emissions-intensive and/or help to alleviate the above-mentioned environmental problems. In addition, trade agreements can positively influence trading partners’ environment policy without sacrificing their trade enhancing effect.



At the centre of the Policy Brief thus stands the question: How can the WTO help to regulate trade in a way which fosters open, fair, growth-oriented and development-friendly trade relations while at the same time advancing environmental protection?

Environmental issues have been on the G20 agenda for many years. As such, the G20 have repeatedly expressed their support for the Paris Climate Agreement in their Leaders' Communiqués. At the G20 Hamburg Summit in 2017, the G20 also adopted the Action Plan on Marine Litter. The Osaka 2019 Declaration recognized biodiversity loss alongside climate change as urgent global challenges. During the 2020 G20 Saudi Presidency, the Global Initiative on Reducing Land Degradation and Enhancing Conservation of Terrestrial Habitats was launched. The environment also played an important role during the Indian Presidency: "We affirm that no country should have to choose between fighting poverty and fighting for our planet. We will pursue development models that implement sustainable, inclusive, and just transitions globally, while leaving no one behind." (G20 2023).

The G20 has also extensively dealt with trade issues, underlining the importance of the WTO and committing to reforming the multilateral trading order. In 2024, WTO reform is once again on the agenda of the G20 under the Brazilian presidency.

While the G20 have discussed many aspects of the environment as well as trade, they have, so far, not dealt in depth with the trade-environment nexus. The 2023 Communiqué stated that the G20 wanted to "ensure that trade and environment policies should be mutually supportive, consistent with WTO and multilateral environmental agreements" (G20, 2024). However, the G20 have not identified concrete steps how to achieve this goal. Given the lack of progress at the last Ministerial Conference of the WTO in February 2024 on trade and the environment, a deeper discussion within the G20 seems more important than ever. Protecting the environment is not explicitly part of most WTO



agreements, although the goals of sustainable development and environmental protection are stated in the Preamble of the Marrakech Agreement (1994). The first, and so far only, agreement to structurally address environmental concerns is the Agreement on Fisheries Subsidies, adopted in 2022. Moreover, the WTO offers different avenues to reconcile trade and environmental concerns: the Committee on Trade and Environment (CTE), Article XX of the General Agreement on Tariffs and Trade (GATT), the rules on subsidies, plurilateral negotiations, and monitoring instruments. While bilateral and regional free trade agreements comprehensively encompass environmental provisions (Trade and Environment Data Base), the track record of the WTO is much more mixed.

Without doubt, there is a need to manage the nexus between trade and environmental concerns. On one hand, WTO rules- and decision-making should do no harm to countries' attempts to regulate for the environment. On the other hand, the WTO should ensure that unilateral policies, adopted to further environmental related objectives, do not discriminate against trading partners.

Recommendations

A. Rules and Agreements

1. GATT Article XX

Recommendations to the G20

⇒ While the WTO Appellate Body has supported the ability of WTO members to introduce environmental objectives in several cases, much uncertainty around Art. XX remains. As changing the language of Article XX is impossible in the current climate, the G20 members need to explore creative ways to clarify its application and reach.

⇒ The G20 should set up a new sub-working group under the Trade and Investment Working Group, which should closely collaborate with the WTO's Trade and Environmental Sustainability Structured Discussions (TESSD) process (see below), with the aim to establish best-practice principles for unilateral trade restrictive measures, which are applied to protect the environment. While recognising that it would be almost impossible to multilateralize these principles, they could guide unilateral policy-making as well as bilateral and plurilateral trade agreements.

⇒ In relation to the increasing recourse to environmental subsidies, the G20 should also factor in the Agreement on Subsidies and Countervailing Measures (ASCM). For reasons discussed below, the ASCM constrains adoption of potentially environmentally beneficial subsidies. More clarity regarding environmental subsidies could help developing guiding principles for the application of Article XX.

⇒ Given the increasing number of environmental measures WTO members are implementing, more trade disputes are likely to emerge. As such, it is pivotal to re-instate a working dispute settlement procedure and to overcome the deadlock regarding the Appellate Body. The G20 should work on actionable proposals which address voiced

concerns regarding the appeals process. In the meantime, G20 members should commit, not to appeal “into the void”, but instead foster understanding through dialogue (if possible).

2. WTO Agreement on Subsidies and Countervailing Measures (ASCM)

Recommendations to the G20

⇒ It is necessary to allow for non-actionable environmentally beneficial subsidies. A starting point could be the expired provisions of Article 8 of the ASCM, which could be reinstated and amended to acknowledge the environmental poly-crises, for example by defining grace periods for environmental subsidies (inter alia). The G20 should commence with defining what such subsidies might look like and the conditions under which they could be granted: a taxonomy. Such work is already under way in the TESSD process (discussed below), as well as in the IMF, OECD, World Bank trilateral industrial subsidies coordination process, inter alia, but should be strengthened.

⇒ The WTO Agreement on Agriculture could serve in part as role model for a reform of the ASCM, introducing a “box system”. The Amber Box would contain domestic support measures considered to distort production and trade (with some exceptions). These should be avoided and phased out. The Blue Box would deal with domestic support which focuses on production, impacts trade, but is less trade distorting. Strict conditions should be applied to such subsidies. Domestic support programs for the purpose of environmental protection would fall under the so called “green box” subsidies (if they are not trade-distorting and not targeted at specific products).

3. Agreement on Fisheries Subsidies

Recommendations to the G20

⇒ All G20 members should complete the domestic ratification process without delay. Those G20 members who have not acceded to the Protocol yet (WTO, 2024), should do so as quickly as possible.

⇒ G20 members should prioritise the conclusion of negotiations on all outstanding issues in the agreement.

4. Agreement on Technical Barriers to Trade (TBT)

Recommendations to the G20

⇒ G20 leaders should empower the G20 Trade and Investment Working Group and the G20 Environment and Climate Sustainability Working Group to improve cooperation in order to support the WTO TBT Committee in submitting proposals where appropriate for necessary amendment of the Agreement text, especially regarding issues pertinent to necessity tests, risks associated with the non-fulfilment of legitimate purposes, and technical and scientific matters.

B. WTO Multilateral Negotiations and Plurilateral Initiatives

1. Trade and Environment Committee

Recommendations to the G20

⇒ In order to move the multilateral talks in the CTE forward, the G20 should be used as a forum for open discussions. G20 members have diverse views on trade and the environment. A way forward could be to address all three aspects of sustainability, i.e. the ecological, social, and economic dimensions. This means focussing on the issue of sustainable and environmentally friendly trade, which reduces on ecological footprints,



while still enabling opportunities for broader growth, development, and prosperity. By broadening the discussions (including capacity building and climate financing issues), the G20 could find a way forward and develop guiding principles for future talks at the WTO.

2. WTO Trade and Environmental Sustainability Structured Discussions (TESSD)

Recommendations to the G20

⇒ All G20 members should sign up to TESSD – currently only 12 have done so. ⇒ G20 Trade and Environment Ministers should establish a joint working group with sub-committees to mirror the TESSD process, whereby the two can mutually reinforce each other. It could, for example, take the subsidies work of the TESSD into the G20 and look to establish principles for reforming the ASCM, as well as political approaches that G20 members could pursue jointly to “disarm” their subsidies arsenals before things get out of hand.

⇒ In the meantime, willing G20 member states should consider an approach of “concerted multilateralism”. They should agree on goals and objectives on the topics of the TESSD process and implement these in a unilateral way.

3. WTO Informal Dialogue on Plastics Pollution and Sustainable Plastics Trade (IDP)

Recommendations to the G20

⇒ In the current environment, the focus needs to be on transparency, best practices, and a common understanding of the necessary goals. In general, the problem of plastics is a unifying issue. Therefore, individual G20 members – in addition to open discussions – should commit to undertaking unilateral action (with clear targets) such as incrementally phasing out fuel and petrochemical subsidies as well as reducing tariffs on



non-plastic and sustainable alternatives to address plastics pollution. The aggregate unilateral concessions could help immediately, without waiting for a multilateral consensus. The proposed annexes by the IDP are an important way forward toward more effectiveness.

4. WTO Fossil Fuel Subsidy Reform (FFSR)

Recommendations to the G20

⇒ Despite various commitments taken by G20 Members since 2009, they have failed to phase out fossil fuel subsidies. Fossil fuels are a divisive issue between G20 member states. Therefore, the G20 should be used as a central forum to increase transparency on this issue, to speak about externalities of policy decisions, and as such to establish trust. This could help improve the discussions at the multilateral level.

C. WTO Monitoring

1. Trade Policy Reviews (TPRs)

Recommendations to the G20

⇒ A key recommendation to make TPRs a more powerful assessment tool of members' trade-related environment policies is to include a dedicated section on the environment in the TPR methodology. The G20 should facilitate a discussion on which aspects should be covered. The G20 may wish to appoint a group of experts to come up with a methodology based on past and present trade-related environmental policy (and environment-related trade policy) measures.



Scenario of Outcomes

At present, the G20 are far from leading by example in aligning trade policies with current world challenges. Instead, the rift that is seen among the WTO member states is mirrored in the G20. The most likely scenario is a negative scenario, which is mirrored by the neglect of environmental issues during MC13: G20 countries cannot agree on a common approach to the trade environment nexus. This leads to unilateral approaches by the large players (U.S. Inflation Reduction Act, EU CBAM, EU Green Deal Industrial Act), widening the rift and further eroding trust among G20 members. This could also lead to a global (green) subsidies race. The leadership of Brazil, which will host the climate COP in 2025, offers the possibility to avoid such a negative scenario.

In the middle scenario, G20 countries could still not agree on trade and environmental issues, but a minimal consensus is possible: A commitment to refrain from filing complaints against environment-related trade measures, the pledge not to appeal “into the void” at the WTO, and a dialogue to foster understanding and increase transparency.

Based on these discussions, G20 countries could agree to establish a series of best practices, from which the participating members can voluntarily select and implement. In a **positive scenario**, considerable progress would be made in the WTO facilitated by the G20. The G20 would find common landing ground by connecting the different aspects of sustainability. So far, most discussions on environmental initiatives and trade are lacking the social and economic dimension of sustainability, including development aspects (capacity building), and mechanisms to address social transformation processes. If the broadening of the agenda could lead to more trusted discussions, the G20 could be the agenda-setter to put these three aspects together for a common multilateral landing zone in the future.



The G20 has dealt with climate and environmental issues during many presidencies, supporting many climate COPs. At the same time, the G20 also committed to reform the rules-based multilateral trading order. This silo approach, however, is not sufficient anymore. In the present global poly-crisis it is imperative to connect these two issues more strongly. The joint meeting of G20 Climate Change and Finance Ministers in October 2024 could be an important opportunity to advance discussions.



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