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WTO MC14 and Trade-Sustainability Nexus: Strategic Choices Ahead

R V Anuradha, Rajeev Kher, Anshuman Gupta
and Lakshmi Swathi Ganti



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Abstract: The Marrakesh Agreement establishing the World Trade Organization (WTO) identifies the social, economic, and environmental dimensions of sustainable development in its preamble. The WTO agreements have addressed environmental concerns primarily through exceptions. In contrast, contemporary free trade agreements (FTAs) increasingly incorporate detailed provisions on environment, labour, gender, and sustainable development, while unilateral climate-related trade measures such as carbon border adjustment mechanisms are gaining prominence. In this context, this paper examines the evolving trade-sustainability discussions within the WTO, FTAs, and emerging plurilateral initiatives, including the Trade and Environmental Sustainability Structured Discussions (TESSD), the dialogue on plastics pollution, and fossil fuel subsidy reform. It analyses India's approach, which places technology transfer, access to environmentally sound technologies and equity at the heart of the WTO's trade and environment discussions. As a way forward, the paper highlights the need for India to strengthen coalitions with developing countries and reinvigorate discussions within multilateral WTO forums to shape the emerging agenda.

Keywords: Sustainability; FTAs; Trade and Environment; Technology Transfer; WTO, Unilateral Measures.

1. Background

The 1994 Marrakesh Agreement establishing the World Trade Organization (WTO), references sustainable development in its Preamble. It identifies the three dimensions of sustainable development: the economic, social and environmental, and notes that the ability of each WTO member to address each of these dimensions needs to be enhanced "consistent

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with their respective needs and concerns at different levels of economic development”.¹ Of these, WTO Agreements are primarily focused on the economic dimension. Environmental and labour related agreements have emerged under other specialized bodies of the United Nations, which are institutionally better equipped to deal with these issues.

Increasingly, however, both the environmental and labour dimensions are being addressed either in standalone chapters, or under a common chapter on “sustainable development” under bilateral or plurilateral free trade agreements (FTAs). While primarily driven by developed countries, the use of such provisions has proliferated over the years across FTAs. While India traditionally rejected environment and labour as non-trade issues, its recent FTAs with the United Kingdom (UK) and the European Union (EU) have provisions on environment, labour, gender and sustainable development, though these are excluded from the formal dispute settlement mechanism of the trade agreement.

With climate change and environmental sustainability becoming intrinsically linked to economic competitiveness, it is no longer realistic to maintain that environment is a ‘non-trade’ issue. The absence of a globally agreed carbon price, for example, has led to increasing use of carbon border measures. The EU has started implementing its carbon border adjustment measure (CBAM) that subjects imports to pay the price difference in embedded carbon, as a condition for market access. The UK’s CBAM is expected to be implemented from next year. Carbon taxes, reporting and traceability related measures are also gradually increasing across developed countries.

Meanwhile, the stand that India continues to take at the WTO is that there cannot be substantive discussion on environment and labour, which are predominantly non-trade issues. India has however, sought to push forward the discussion on how obligations relating to trade in transfer of technology, including on climate friendly technologies, should be advanced in discussions under the WTO’s Committee on Trade and Environment (CTE) and the Working Group on Technology Transfer (WGTT).

With the 14th WTO Ministerial Conference (MC14) fast

approaching, this paper outlines the key developments that are taking place at the WTO, and the opportunities and challenges for the issues that India has sought to advance in this regard.

2. Understanding the Concept of “Sustainable Development”

“Sustainable development”, a term which resonates almost intuitively with everyone, does not have a legal definition under any international instrument. The essence of this term is perhaps most eloquently captured in a 1987 report of the United Nations (UN) titled “Our Common Future” which noted that “Humanity has the ability to make development sustainable to ensure that it meets the needs of the present without compromising the ability of future generations to meet their own needs.”²

Since then, practically every major instrument of international law, has emphasized on the need for sustainable development. The UN Conference Earth Summit at Rio in 1992 and its ambitious plan of action outlined in Agenda 21, acknowledged the delicate balance between environmental and developmental concerns, as well as the need for international law to evolve to address the same. It also eloquently laid out the various aspects for consideration, including steps for financial and technological collaboration to achieve sustainable development.³

Close on its heels, the 1994 Marrakesh Agreement establishing the WTO, referenced the three dimensions of sustainable development, as explained in the introductory paragraph of this paper. The preamble of the Marrakesh Agreement acknowledged the delicate balancing of the three dimensions (Box 1).

The text in Box 1 reflected the clear understanding of the WTO members that there cannot be a *one-size fits all* approach to environmental obligations, and that a key objective of the trade pillar should be to “*enhance the means*” for protection and preservation of the environment, consistent with the differential needs and concerns of countries at different levels of economic development.

**Box 1: Marrakesh Agreement
Establishing the WTO**

Preamble, Para 1:

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, 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

The evolution of environmental agreements under the aegis of the United Nations also reflects the growing complexity of obligations of countries. Box 2 tracks the key developments in international environmental law:

**Box 2: Sustainable Development under Multilateral
Environmental Agreements**

1972	<ul style="list-style-type: none"> ● United Nations Conference on the Environment. ● <i>Stockholm Declaration and Action Plan for the Human Environment</i>; UNEP established.
1973	<ul style="list-style-type: none"> ● CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora). ● 183 parties.
1982	<ul style="list-style-type: none"> ● United Nations Conference on Law of the Sea. ● 167 parties.
1987	<ul style="list-style-type: none"> ● Montreal Protocol on Substances that Deplete the Ozone Layer ● To date the only UN treaty ever that has been ratified by all 198 UN Member States.

1992	<ul style="list-style-type: none"> ● UN Earth Summit. ● Convention on Biological Diversity; AND United Nations Framework Convention on Climate Change (UNFCCC).
1997	<ul style="list-style-type: none"> ● Kyoto Protocol to the UNFCCC.
2015	<ul style="list-style-type: none"> ● Paris Agreement.

The discussions over the years culminated in the UN 2030 Agenda for Sustainable Development, laying down seventeen sustainable development goals (SDGs).⁴ The UN SDG goals recognize that these are integrated and indivisible goals that seek to balance the three dimensions of sustainable development: the economic, social and environmental. The agenda specifically urges states “to refrain from promulgating and applying any unilateral economic, financial or trade measures not in accordance with international law and the Charter of the UN that impede the full achievement of economic and social development, particularly in developing countries.”⁵

In the arena of labour relations, the International Labour Organization (ILO) has adopted around over 190 Conventions since 1919, addressing hours of work, wages, non-discriminatory practices, and progressively covering most areas of labour regulation. The ILO is the only UN agency with a tripartite structure, with its standards, policies and programmes discussed and approved by representatives of governments, employers and workers. State parties are required to provide periodic reports relating to adherence to its principles, and the ILO provides technical assistance to assist in implementation. To put this in perspective, it is interesting to note that of ILO’s fundamental labour conventions, the U.S. has ratified only two,⁶ whereas India has ratified six of these.⁷

The fact that, whether in the arena of environment or labour, instruments of international law are endorsed and adopted by majority of the countries in the world, is itself a testament to the fact that “sustainable development” is universally accepted as a given. And yet, the concept of “trade and sustainable development” is fraught with

significant differences in approaches, quite starkly between developed and developing countries. Clearly, the reason is not the lack of commitment to “sustainable development”; rather, the differences stem from differing perspectives as regards the right and just manner in which sustainability can be truly achieved.

3. Trade and Sustainability in the WTO Agreements and FTAs

3.1. WTO Framework

3.1.1. *Environment at the WTO*

Under the WTO Agreements, environment has traditionally been available as an “exception” to justify inconsistency of a trade measure with WTO obligations, subject to safeguards that aim to ensure that such inconsistent measures are not fronts for protectionist measures, or disguised restrictions on international trade.⁸ Similarly, the WTO Agreement on Technical Barriers (TBT) to Trade and Agreement on Sanitary and Phytosanitary Measures (SPS), provide right of members to take measures for specific environmental reasons, and again subject to obligations such as clear criteria and reasons for such actions.

This broad and generic reference to environment, in the context of sustainable development, also recognizes that while the preservation and protection of the environment is an important objective, it will be done *in a manner consistent with their respective needs and concerns at different levels of economic development*. There is a clear recognition, therefore, that protection of the environment as an ideal in itself, is not the WTO’s objective, rather its focus is on the overall principle of sustainable development.

The TBT agreement seeks to ensure that product specifications, whether mandatory or voluntary (known as technical regulations and standards), as well as procedures to assess compliance with those specifications (known as conformity assessment procedures), do not create unnecessary obstacles to trade. In its preamble, the TBT agreement

recognizes countries' rights to adopt such measures to the extent they consider appropriate — for example, to protect human, animal or plant life or health, or the environment.⁹

The SPS agreement deals with food safety, and human, animal and plant health and safety regulations. It recognizes members' rights to adopt SPS measures but stipulates that they must be based on a risk assessment, should not create unnecessary obstacles to trade (should be applied only to the extent necessary to protect human, animal or plant life or health), and should not arbitrarily or unjustifiably discriminate between members where similar conditions prevail.¹⁰

There have been several prominent disputes at the WTO dealing with the trade and environment interface.¹¹ The jurisprudence that has evolved clearly recognizes that:

- WTO law does not exist in clinical isolation of international law and developments, including environmental concerns. However, environmental measures to restrict trade can be adopted only under certain strict conditions.
- Multilateral solutions to environmental issues are the preference; a WTO Member should therefore make *serious efforts to negotiate* such solutions. If despite such efforts, an agreement cannot be concluded, then unilateral measures for protection of environment may be taken, even outside that country's jurisdiction.
- Adequate scientific evidence and risk assessment lie at the core of any action under the WTO's SPS Agreement which allows for measures to protect human, animal and plant life and health.
- Tests of *necessity* and availability of *less trade restrictive measures* need to be applied prior to application of any trade restriction on environmental grounds.

3.1.2. Labour at the WTO

There has been strong opposition to the linkage of labour standards to trade at the WTO. The Singapore Ministerial Declaration in 1996, unequivocally rejected the use of labour standards for protectionist purposes.¹² Specifically, the Singapore Ministerial Declaration stated

that: “economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of these standards. We reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question.” It is with this in view that the WTO and ILO Secretariats were asked to continue their existing collaboration.

3.2. Trade and Sustainability Linkages: Difference in WTO and FTAs

Trade as a vehicle of economic productivity and growth, relies on the principle of comparative advantage, which is essentially that countries should specialize in production of those goods which they can produce efficiently and economically. Economic efficiency is linked to the cost of production, which in turn is impacted by factors of production such as labor, land and capital, as well as cost of raw materials, consumables and technology. A WTO Secretariat paper from 1997 acknowledged that trade instruments are not the first best policy for addressing environmental problems.¹³ With regard to labour, the WTO Singapore Ministerial Declaration of 1996 noted that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question under the WTO agreements.

The trend in FTAs is the shift from “environment as an exception” to “environment as an obligation”. Early FTAs entered into by the United States (US), beginning with the North American Free Trade Agreement (NAFTA) in 1994, started addressing “environment” and “labour” as side agreements. This has continued to grow in complexity and detailing, and incorporation into the main agreement, including trade sanctions for non-compliance.

Labour chapters are increasingly finding reflection in trade agreements. A study done for the ILO notes an increasing trend in use of labour provisions in FTAs since the global financial crisis of 2008.¹⁴ The scope and approach adopted by FTAs varies widely, ranging from

referencing specific ILO Conventions to the general ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (ILO 1998 Declaration), to a general commitment by parties to enforce labour standards under their own national labour law.

Environment and labour provisions in US FTAs can be enforced through the dispute settlement provisions of the FTA itself; including through provisions on trade sanctions in the event any inconsistency is found. In other words, to ensure compliance with a country's own labour or environmental law, US as a FTA partner has the right to suspend trade obligations or impose higher tariff costs.

The approach in EU's FTAs was initially confined to recommendations of an expert panel which needed to be considered in good faith by a FTA party. However, EU has now aligned its approach with that of US FTAs which emphasize on use of trade sanctions for enforcement of environment, labour and sustainable development obligations in a FTA.¹⁵

India has recently agreed to environment, labour and sustainable development obligations in its FTAs with the UK and the EU. While these exclude formal dispute settlement and trade sanctions, they emphasize a consultative process to resolve any potential concerns. Neither of the FTAs directly contest the unilateral environmental measures such as CBAM. The India-UK FTA reportedly has a diplomatic note verbale under which India has ascertained the right to rebalance if the UK CBAM undermines FTA concessions. The FTA with EU appears to acquiesce to EU's CBAM, with the only leeway present being that for accounting for carbon price paid in India, which to begin with is significantly lower than that of EU.

Table 1 summarises the nature of provisions on environment and labour that India's FTAs with the UK and EU have incorporated.

Table 1: Nature of Provisions on Environment and Labour

India- UK FTA¹⁶

India- EU FTA¹⁷

<p>It has separate dedicated chapters on Environment, Labour and Gender</p>	<p>Dedicated Trade and Sustainable Development Chapter discusses issues on environment, labour and Gender</p>
<p>Chapter 21: Environment</p> <ul style="list-style-type: none"> ● Commit to high levels of environmental protection and not lowering standards to attract trade or investment. ● Reaffirm commitments to global environmental frameworks (e.g., Paris Agreement) while retaining the right to regulate domestic environmental policies. ● Promote cooperation on climate change, clean energy, and trade in environmental goods and services to support sustainable development. 	<ul style="list-style-type: none"> ● Trade, environment and climate – supporting global governance and the green transition ● Commit to implementing key global environmental agreements (Paris Agreement, biodiversity, wildlife protection). ● Cooperate on climate action, renewable energy, and sustainable management of forests, biodiversity, and marine resources. ● Promote green transition by easing trade in low-carbon goods, services, and technologies and supporting a circular economy.
<p>Chapter 20: Labour</p> <p>Commitment to ILO standards. Must not weaken labor protections to encourage trade or investment</p>	<p>Trade and workers' rights</p> <ul style="list-style-type: none"> ● Upholds core ILO principles: freedom of association, collective bargaining, and elimination of forced and child labour, along with non-discrimination.
<p>Chapter 23: Trade and gender equality</p> <ul style="list-style-type: none"> ● Promotes gender equality by ensuring women can access and benefit from trade and economic opportunities under the agreement. ● Aims to identify and address barriers faced by women in trade, integrating gender considerations into trade policies and initiatives. 	<p>Gender equality and women's empowerment</p> <ul style="list-style-type: none"> ● Provisions regarding relevant UN and ILO conventions on advancing women's economic empowerment and gender equality, including promoting cooperation in international fora to advance these objectives.

Source: Based on UK- India FTA text and European Commission, EU-India FTA Chapter wise Summary. The reason why India's approach in FTAs, and the gradual acceptance of trade and sustainability in FTAs generally, is important for any discussion in the WTO context, is because they provide valuable insights into where the trade and sustainability linkages can mature into the WTO. India's stand in FTAs will also have a bearing on its stand at the WTO, since it will be difficult to defend a dual approach-of negating trade-environmental linkage at the WTO, while agreeing to this under FTAs.

4. India's Approach at the WTO CTE

India has been one of the staunchest opponents to the linkages of trade with environment and labour related issues at the WTO. It has instead taken a focused approach at the WTO on emphasizing the role of trade as a vehicle for transfer of much needed technology to achieve green development.

With particular reference to environment and sustainability issues, WTO Members agreed at the Doha Ministerial Conference to (i) negotiations on a limited set of trade-and-environment topics (paragraph 31) and (ii) instructed the CTE, within its existing terms of reference, to give particular attention to issues like the market-access effects of environmental measures—especially for developing countries (paragraph 32).¹⁸

India has sought to advance the role of the CTE through several notable submissions in this regard. These include the following: (a) India's proposal before the WGTTT in 2005¹⁹, (b) a Room Document, co-sponsored by India before the WGTTT in 2008 entitled "Facilitating Access to Information on Appropriate Technology Sourcing-A step to increase flows of technology to developing countries"²⁰, (c) a joint proposal co-sponsored by India before the CTE in 2011,²¹ and (d) communication on "Concerns on emerging trends of using environmental measures as protectionist non-tariff measures", discussed in the CTE in March 2023.²²

In its March 2023 submission, India argued that unilateral climate-related trade measures undermine multilateral outcomes under MEAs and upset the negotiated balance of rights and obligations and should not be normalized through WTO workstreams. Subsequently, at the 13th WTO Ministerial Conference (MC13, Abu Dhabi, 2024), a group of 72 members, including Bangladesh, Indonesia, South Africa, Argentina, and the African Group, circulated a communication calling for curbs on unilateral trade-related environmental measures imposed by developed countries and for discussions to be brought back into WTO forums instead of through unilateral action.²³

The African Group has also called attention to the importance of technology transfer to developing countries to address environmental challenges. One of these, titled “Role of Transfer of Technology in Resilience Building: Climate Change Mitigation and Adaptation”²⁴ has highlighted the following critical issues to be discussed with a view to making recommendations for adoption at MC13, namely: (a) assessment of the TRIPS agreement to enhance technology transfer for diffusion of climate change technologies including compulsory licensing; (b) transfer of Environmentally Sound Technologies (EST) and financial commitments to ensure access to such technology; and (c) creation of a Trade and Environment Fund with the objective of facilitation transfer of EST at reasonable prices.

4.1. Submission on EST by India

Building on the above, India made a submission in October 2023, highlighting that effective climate action requires reinvigorated WTO work on trade-related transfer of ESTs to developing countries, including by creating finance and information mechanisms, and operationalizing long-standing but largely unimplemented technology transfer commitments under UN climate and sustainable development instruments. It also highlights the need for consolidation from various repositories of ESTs and related IP information, and for WTO to play a more proactive role as a facilitator of transfer of much needed technology.

A key message it makes is that simple steps such as tracking significant technological developments and trends can play an important role in avoiding duplicative research and development, and enable technological leapfrogging and other forms of cumulative development. For this, it also draws on the 2008 room document before the WGTTT referenced above,²⁵ which proposed the establishment of a WTO web portal on technology transfer that could serve as a conduit for technology-related information. The paper explained how this could be leveraged to ensure adequate synergies for such a portal with other existing platforms, such as the technology implementation arm of the UNFCCC – the Climate Technology Centre and Network (CTCN) and

WIPO Green – an online platform for technology exchange that supports global efforts to address climate change by connecting providers and seekers of environmentally friendly technologies.

Indias submission also refers to a Trade and Environment Fund to: finance incremental costs of accessing proprietary and non-proprietary ESTs, provide grants for importing and retrofitting ESTs, support collaborative R&D and demonstrations, and finance technical assistance and capacity building. Annex 1 to India’s submission set out a detailed “post-MC13” roadmap structured around: (a) WTO discussions in CTE, TRIPS Council and WGTTT; (b) Finance; (c) Information platforms and databases; (d) Voluntary licensing and regulatory environment; and (e) Use of TRIPS flexibilities including compulsory licensing.

4.2. Proposed Ministerial Declaration for MC14 by India

In December 2025, India proposed a “Draft Ministerial Declaration on enabling the transfer of relevant and advanced technologies for trade”.²⁶ It highlights the need to facilitate improved trade flows from developing and least developed countries (LDCs) by addressing structural barriers to technology access, including high costs, restrictive intellectual property regimes, export controls, and domestic capacity constraints. It urges developed Members to act without undue delay to facilitate transfer of technology and report progress. Further, it instructs the WGTTT make recommendations to the next Ministerial Conference on measures that can facilitate transfer of technology and to deliver a timebound roadmap for realization of such measures. It aims to institutionalize the work of the WGTTT under this declaration as a standing item on the General Council agenda.

India’s draft ministerial declaration seeks to embed technology transfer and equity at the heart of the WTO’s trade and environment discussions. At the same time, it’s approach of requiring technology transfer may be difficult to monitor and implement for two simple reasons: (a) Most technology, particularly proprietary ones, vest with private entities; and (b) Governments cannot promise to compel their private sector actors to transfer technologies.

In that regard, a more practical approach would possibly be creating repositories of technologies, their IP status, their costs, and whether public funding could defray the costs. This was the essence of the 2023 submission that India had made.

In any event, whatever approach is considered, it would be useful to see if India is able to obtain the support of other members, particularly African group and LDCs, to co-sponsor any effort. This would be crucial for expecting any realistic outcome to emerge from the forthcoming ministerial.

5. Joint Ministerial Statements and Discussions on Environmental Issues at the WTO

In December 2021, groups of WTO members issued ministerial statements outlining signatories' plans of action respectively on trade and environmental sustainability, plastics pollution, and fossil fuel subsidies reform. These have resulted in the *Trade and Environmental Sustainability Structured Discussions (TESSD)*, and dialogues on Plastics Pollution and Environmentally Sustainable Plastics Trade and on Fossil Fuel Subsidies Reform. With the growing number of participants and proponents in these initiatives, it is important to be cognizant of the nature of discussions.

5.1. Trade and Environmental Sustainability Structured Discussions (TESSD)

The Trade and Environmental Sustainability Structured Discussions (TESSD), launched in November 2020 by an initial group of 23 WTO Members, represent a significant shift in how sustainability issues are being addressed within the WTO framework. It is open to all WTO members. Co-convened by Canada and Costa Rica, the initiative has expanded considerably and, as of 2025, includes 79 co-sponsors spanning developed, developing, and least-developed countries.

Substantively, TESSD is structured through four thematic working groups focusing on i) trade-related climate measures, ii) environmental goods and services, iii) circular economy, and iv) trade impact of relevant subsidies, including agricultural subsidies. These discussions

cover issues such as carbon measurement methodologies, clean energy transitions, sector-specific facilitation of environmental goods, lifecycle approaches to circularity, and transparency in subsidy design. While not yet producing binding outcomes, TESSD is working toward shaping a shared understanding of trade and sustainability linkages and identifying areas for future cooperation and possible legal disciplines.

5.2. Dialogue on Plastics Pollution

The Dialogue on Plastics Pollution and Environmentally Sustainable Plastics Trade, is aimed at exploring how the WTO could contribute to efforts to reduce plastics pollution and promote the transition to more environmentally sustainable trade in plastics. Like TESSD, it operates in an open and voluntary format. The initiative is co-coordinated by Australia, Barbados, China, Ecuador, Fiji, and Morocco. As of February 2025, it includes participation from 83 WTO Members across developed, developing, and least-developed countries.

Substantively, the dialogue focuses on practical, trade-related actions, including improving transparency in global plastics trade flows, reducing environmentally harmful and unnecessary single-use plastics, and promoting alternatives such as non-plastic substitutes and sustainable technologies. It also places emphasis on capacity-building and technical assistance for developing countries, recognizing asymmetries in regulatory and technological capabilities.

At MC13, coordinators of this group advanced a draft statement²⁷ outlining key principles and a set of actionable priorities aimed at positioning trade as part of the solution to plastic pollution. Building on this, discussions are ongoing toward possible outcomes at MC14, including a draft Ministerial Statement circulated by the co-coordinators.

5.3. Fossil Fuel Subsidy Reform

The Dialogue on Fossil Fuel Subsidy Reform (FFSR), launched at the WTO in 2021, represents another initiative aimed at addressing the environmental and trade distortions associated with fossil fuel subsidies. Coordinated by New Zealand and open to all WTO Members, the

initiative currently has 48 co-sponsors, reflecting a coalition of developed and developing countries interested in advancing reform in this area. FFSR seeks to promote the rationalization, phasing out, or elimination of harmful fossil fuel subsidies through a combination of existing WTO mechanisms and the exploration of new reform pathways.

In terms of substantive work, FFSR has focused on enhancing transparency and improving the understanding of the scale and impact of fossil fuel subsidies, particularly in light of their implications for climate objectives and trade distortions. At MC13, co-sponsors issued an updated Ministerial Statement²⁸ accompanied by a detailed Work Plan for 2024-2025, which sets out a structured approach to advancing discussions. This includes the development of a non-exhaustive set of questions on fossil fuel subsidies for incorporation into WTO Trade Policy Reviews (TPRs), as well as work across three key pillars: i) enhanced transparency, ii) crisis-related support measures, and iii) the identification and reform of harmful fossil fuel subsidies.

6. Conclusion

India has been a strong votary of preserving the WTO's integrity of discussing multilateral agreements, within its institutional framework. It has resisted the fragmentation of the WTO into a series of plurilateral and other joint discussion verticals.

India has also argued against use of unilateral climate-related trade measures, and stressed that WTO work on trade and environment must respect the United Nations Framework Convention on Climate Change (UNFCCC) and Paris Agreement principles of equity and common but differentiated responsibilities and respective capabilities (CBDR-RC), and that the WTO is not the right forum to discuss this.

While taking a consistent stand against any substantive trade and environment linkage, India has sought to advance specific work items of the CTE by highlighting the importance of trade in technology transfer. While the underlying thematic elements of India's submissions resonate with those of other developing countries, there appears to be some weakness in India's ability to build coalitions with like-minded

members, and reinvigorate the CTE discussions. Its October 2023 paper which laid a clear roadmap for discussions at the CTE, continues to be a “restricted” WTO document.

That paper drew valuable interlinkages between sustainable development and the role that trade can play in this regard, consistent with other multilateral agreements, including multilateral environmental agreements. It presented a nuanced position that highlights the positive and proactive relationship between trade and environment, whereby transfer of environmental technology can advance trade, and contribute to sustainable development. For this, the paper highlights several pathways, including the need to address the financing gaps, the technology gaps, and IPR issues.

To take the discussion forward on the post MC-13 roadmap that it had outlined, India needs co-sponsors to its submission. There clearly exist synergies with the submissions of other members, particularly the African group. It is in India’s interests to revive the discussions at the CTE and WGTT discussions. Only a concerted effort can make these bodies the fulcrum of the negotiations.

A key development which India cannot afford to ignore is TESSD. This is being shaped by proponents, such as the EU, to discuss climate-linked trade measures. India has emphasized the need for trade–environment work at the WTO to focus on issues “emanating from WTO agreements” and within the multilateral framework (CTE, TBT, SPS, etc.), rather than shifting sensitive climate-trade rule-making into informal platforms such as TESSD.

India is right to be sceptical of the negotiations in format such as the TESSD, and those relating to plastics pollution and fossil fuel subsidies. But to ensure that trade related sustainability discussions do not get fragmented, a more consistent and clear approach is needed that can deliver outcomes at the multilateral forums such as CTE and WGTT. Strengthening engagement in these multilateral forums could help foster inclusive outcomes and ensure greater consistency in advancing these issues.

7. Way Forward

For ensuring an effective counterfoil to the TESSD discussions, a clear path for reinvigorating discussions at the CTE is crucial. India has a powerful message to deliver on the concept of trade and sustainable development, and it has already set the stage for this with its submissions at the WTO. It needs to drive this forward ahead of MC14. Instead of simply dismissing “environment” as a non-trade issue which cannot be discussed at the WTO, it needs to lean in and take control of its narrative and its powerful message- which includes that: (a) the CTE is the body where trade and environmental issues need to be discussed head on; (b) the use of unilateral trade measures in the name of climate change makes a mockery of both trade rules and MEA rules; (c) there exists a way in which trade can play a complimentary role for achieving the goal of climate change, and this is by unleashing and enabling the transfer of environmentally friendly technologies, at affordable prices. India’s oral and written submissions have brought in these themes; but this needs to be done with greater focus and with collaboration with other like-minded countries.

The core question is no longer whether trade and sustainability should be linked, but where, how, and under whose rules. MC14 presents India with an opportunity to reaffirm the WTO’s centrality by advocating multilateral principles governing trade-related environmental measures, principles grounded in equity, proportionality, capacity constraints, and policy diversity. India could push for open and inclusive frameworks that discipline unilateralism while enhancing predictability for developing-country exporters.

Endnotes

- ¹ World Trade Organization. (1995). Marrakesh agreement establishing the World Trade Organization. Preamble, first paragraph: “Recognising their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production

of and trade in goods and services, 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.”

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- ³ UNGA. (1992). Report of the United Nations Conference on Environment and Development: Agenda 21 (A/CONF.151/26/Rev.1). <https://digitallibrary.un.org/record/170126?ln=en>.
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- ⁶ International Labour Organization. (1957). Abolition of Forced Labour Convention, 1957 (No. 105).; International Labour Organization. (1999). Worst Forms of Child Labour Convention, 1999 (No. 182).
- ⁷ India has ratified six core ILO Conventions: Forced Labour Convention, 1930 (No. 29); Abolition of Forced Labour Convention, 1957 (No. 105); Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Minimum Age Convention, 1973 (No. 138); and Worst Forms of Child Labour Convention, 1999 (No. 182).
- ⁸ WTO. (1994).General Agreement on Tariffs and Trade 1994 (GATT 1994), art. XX(b), (g), Pursuant to these two paragraphs, WTO members may adopt policy measures that are inconsistent with GATT disciplines, but necessary to protect human, animal or plant life or health (paragraph (b)), or relating to the conservation of exhaustible natural resources (paragraph (g)).; WTO (1994), General Agreement on Trade in Services (GATS), art. XIV provides for an exception related to environment that is worded similar to Article XX(b).
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