



WORLD TRADE
ORGANIZATION

SHORT ANSWERS TO BIG QUESTIONS

ON THE WTO AND THE ENVIRONMENT



Introduction

This booklet by the Trade and Environment Division of the World Trade Organization (WTO) aims at improving understanding of the role of trade and trade rules with regards to environmental issues. It seeks to answer, in easy-to-understand terms, some of the key questions of the trade and environment debate as they relate to the multilateral trading system. In this sense, it is not an exhaustive analysis of the issues covered, but rather an attempt to provide basic information and examples to answer some common questions raised about trade and the environment.

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1 What are the links between trade and the environment?

The world economy has changed profoundly over the past decades, as there has been a sharp increase in population and a near tripling of average income since 1960. During this period, our economies have become ever more integrated due to advances in communication and information technologies, along with lower barriers to global trade and investment.

These developments have made it possible for production to be increasingly organized into global value chains, where goods are designed in one country, made from parts built in several other countries, assembled in yet another country, and then shipped to consumers around the world.

By boosting growth, trade has contributed to an unprecedented reduction of poverty levels. In fact, the United Nations (UN) met its goal of halving extreme poverty five years in advance of its 2015 deadline. But as trade has grown, concerns have also been voiced about its effects on the environment and, more generally, about the capacity of nature to cope with the environmental effects of economic activity.

Trade opening has impacts on the environment

What are the links between economic activity, trade and the environment?

The impacts of trade on the environment are complex and depend on many factors.



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By boosting growth, trade has contributed to an unprecedented reduction of poverty levels.

Trade promotes development and economic growth, which, without effective policies in place, can lead to environmental degradation. But increased trade also means technology advancements and efficiency gains, which in turn may lead to the dissemination of more environmentally friendly technologies and more sustainable development.

What about restricting trade?

Would that help the environment?

Not necessarily. If countries suddenly stopped trading, they would have to produce everything that they consume themselves, with existing technologies and capabilities. This would mean an overall loss of efficiency – that is, consuming more resources to produce less.



Transportation – what's the role of trade, and what's the impact on the environment?

In terms of transportation used for trade, 87 per cent of global merchandise is carried by sea, which is the least carbon-intensive mode of transportation.

Emission intensity of freight transport varies widely depending on the mode of transportation. For example:



Source: *Climate Change 2014: Mitigation of Climate Change – Contribution from Working Group III to the Fifth Assessment Report (AR5) of the Intergovernmental Panel on Climate Change (IPCC)*, IPCC, 2014, available at: <https://www.ipcc.ch/report/ar5/wg3/>. [pp. 608 and 627]

Great! So, what's the issue?

Carbon emissions from freight transport are not insignificant. Indeed, they represent around 7 per cent of total emissions today. More importantly, emissions from all modes of international merchandise transport could increase by up to 160 per cent by 2050, if no action is taken.

What can we do about it?

Serious efforts to reduce the pollution intensity caused by transportation are ongoing in international institutions such as the International Civil Aviation Organization (ICAO) and the International Maritime Organization (IMO). A combination of renewable energy, innovative technologies, operational measures and less polluting fuels can lessen the environmental impact of all modes of transport.



Pollution havens – an inevitable consequence of robust environmental policies?

Some fear that, instead of complying with strong environmental requirements locally, companies might prefer to move their production to countries with lax environmental standards – an effect often called a “pollution haven”. This would affect the environmental objectives of national policies to reduce pollution and therefore potentially lead to “carbon or environmental leakage”. However, the cost of meeting environmental requirements is only one element of the myriad of costs that enterprises face. Monetary and financial stability, access to quality infrastructure, market size and skilled labour are among the other factors that are also determinants of investment decisions.

For instance, carbon or environmental leakage could happen in some energy-intensive sectors, but the magnitude of the effect is quite small and generally offset

by increased gains in environmentally friendlier products. Once again, international cooperation and targeted, well-designed policies to address those affected by ambitious environmental policies offer more coherent answers.

At the same time, global value chains facilitate knowledge sharing between participating firms on best practices. Given that leading firms usually target markets with higher standards and requirements, value chains can enable the spread of more environmentally friendly production techniques. This, in turn, can accelerate environmental innovation and also have a positive effect on the environment in less demanding markets, rewarding innovators and sustainable entrepreneurs. Curbing trade would curtail these positive benefits without necessarily contributing to better environmental outcomes.



Should we buy local?

Several studies have shown that the life cycle of imported goods (even if imported by air) can have an environmental impact – or footprint – much lower than goods produced locally.

That is because other factors such as production, packaging or disposal can represent most of a product's environmental impact. If the only factor used to decide which product is less harmful to the environment is its transportation, even a well-intentioned consumer might choose a worse option.

Correct information is crucial for a conscious, effective choice!



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Protecting the environment and participating in international trade can go hand in hand

WTO Agreements recognize the need to improve the participation of developing countries in international trade, including ensuring that they are better positioned to protect the environment. Indeed, numerous economic gains can occur by adopting well-designed environmental policies, including using materials and energy in a more sustainable and efficient manner, opening up trade in low-carbon equipment and environment-related services, restoring degraded land and disciplining fisheries subsidies.

Some successful examples of sustainable trade show how individuals and companies are seizing the growing number of opportunities. From sustainable seaweed exporters to solar-powered, pay-as-you-go mobile bankers and off-grid energy service providers, public and private stakeholders are increasingly aware of the potential offered by sustainable business models.

The WTO cooperates with several international partners to help developing and least-developed countries (LDCs) improve their capacity to participate more fully in international trade and promote sustainable development. The Aid for Trade initiative, the Enhanced Integrated Framework and the Standards and Trade Development Facility are examples of WTO-led partnerships working to achieve this objective. All three illustrate how the WTO is putting into practice Sustainable Development Goal (SDG) 17, which calls on the international community to revitalize global partnerships for sustainable development.



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2 Do WTO commitments prevent governments from protecting the environment?

Sustainable development is central to the WTO

The first paragraph of the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement) states that sustainable development and the protection of the environment are central objectives of the multilateral trading system.

Trade rules do not prevent ambitious environmental action!

WTO members are free to adopt environmental policies, such as environmental requirements and taxes, at the level they choose, even if they significantly restrict trade, as long as they do not introduce unjustifiable or arbitrary discrimination or disguised protectionism through the back door.

In that sense, trade rules are no excuse for inaction!



In fact, governments are widely using trade measures for the environment

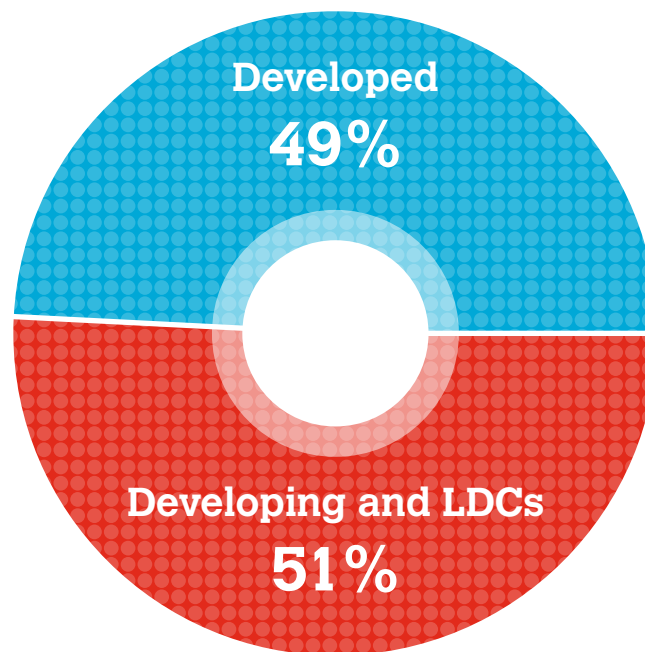
WTO members have increasingly adopted trade measures for a variety of environmental purposes. These include establishing minimum energy efficiency requirements for household goods, introducing licensing schemes to limit trade in endangered species of wildlife, creating taxes applicable to hazardous chemicals and supporting policies for the development of low-carbon technologies.

Indeed, the WTO's Environmental Database shows that from 2009 to 2018 WTO members notified more than 11,000 environmental measures to the WTO. In 1995, less than one in 12 notifications of trade measures had an environmental component; today, it is one in six. Presently, more than 15 per cent of all notifications made to the WTO include environmental objectives. In fact, many more measures of this nature are probably in place, as not all trade-related environmental measures need to be notified to the WTO.

The vast majority of environmental measures affecting trade do not raise any disagreement in the WTO – only around 10 disputes involving environmental measures have been decided at the WTO. In all such cases, the validity of environmental objectives pursued by the measures was never put into question by the decisions rendered, but rather certain incoherent elements of such measures.

At the WTO, an increasing number of developing country members have notified trade-related environmental measures. In fact, in recent years, they were responsible for approximately 50 per cent of all environmental measures notified.

Environment-related measures notified in 2018 (by type of member)



Source: WTO Environmental Database.

3 Since WTO rules do not prevent environmental action, what do they say?

What to keep in mind when developing a trade-restrictive environmental measure

When it comes to the environment, the basic thrust of WTO rules is that environmental objectives should not be used as an excuse to protect domestic producers.

Environment-related disputes at the WTO have helped clarify that there are several useful checks to ensure that, when enacting measures to protect the environment, there is no protectionist intent or misuse for protectionist purposes. These checks include:



Coherence

The trade restriction or difference in treatment between domestic and imported products provided by the measure is justified by the legitimate objective and not to protect domestic sectors.



Fit-for-purpose

The measure can efficiently contribute to the legitimate objective in a balanced way or is part of a national conservation policy also restricting domestic production or consumption.



Mindful and holistic

The measure is part of a holistic environmental policy and considers the impact on other countries, as well as on other national, regional and international efforts on the same topic.



Flexible

The measure is result-oriented and takes into account alternative measures to address the same challenge as effectively, albeit through different methods, including due to national and regional environmental conditions.



Examples of environment-related WTO cases

Several WTO disputes confirm the importance of the considerations mentioned earlier. In such cases, the environmental objective was never the issue. Instead, the disputes focused on the protectionist and arbitrary aspects of the measure that could not be justified by the environmental objective and that actually worked against it.

Examples include:



Import ban on retreaded tyres to avoid waste accumulation but which contained exceptions for certain countries and domestic firms that operated against the objective (*Brazil – Retreaded Tyres*)



Fishing gear requirements to protect turtles from shrimp fishing activities that did not allow for other equally effective protection methods to be employed (*US – Shrimp*)



Export restrictions on rare earths and valuable minerals, whose production is highly polluting, without related restrictions to domestic production and consumption (*China – Rare Earths*)



Import ban on seal products to avoid inhumane killing of seals whose exception for traditional Inuit populations only benefited those from certain regions (*EC – Seal Products*)



Environmental requirements to ensure cleaner fuels, imposing harsher baseline calculations to the detriment of potentially cleaner imported fuels (*US – Gasoline*)



Labelling requirements to protect dolphins from tuna fishing activities that only fully addressed the risks from certain fisheries but not others, leading to potential misinformation for consumers (*US – Tuna II (Mexico)*)

In fact, WTO dispute settlement cases to date show that, after the application of these principles, the resulting environmental measures were often more coherent and effective in protecting the environment, even if this resulted in more significant trade effects.

This is because once the unjustifiable or arbitrary discriminatory elements of these measures were corrected or eliminated, the environmental policies were often applied to a wider and more coherent number of goods, while requiring the effective application of the requirements justified by the legitimate objective.

In sum, WTO rules serve primarily to ensure coherence, avoid disguised protectionism and allow trade to play its role in promoting the most efficient solutions to environmental challenges.



WTO members can differentiate between polluting and greener products but must avoid unjustifiable or arbitrary discrimination

The first dispute decided under the WTO dispute settlement system (*US – Gasoline*) addressed measures adopted to ensure that cleaner gasoline entered the market, making a differentiation based on the cleanliness of gasoline. In this case, the right of WTO members to adopt such measures, and to ensure a healthier environment, was expressly recognized. This right has been systematically recognized in all following disputes with an environmental component. For instance, in another case (*EC – Asbestos*), a member was able to ban certain asbestos products while allowing less dangerous alternatives to be used.

Differentiating between cleaner or dirtier products is not the issue. In fact, a measure can differentiate between products based on their health or environmental consequences if the difference in treatment operates to further the stated objectives. Conversely, a member cannot, under the guise of a legitimate objective, provide arbitrary protection to domestic products, in a manner that is not in line with the stated environmental goal.

The main problem with the gasoline measure examined in *US – Gasoline* was that it did not allow for foreign producers to demonstrate how much cleaner (or not) their gasoline had become in the same manner that was allowed for domestic refiners. The discrimination was therefore not justified by the stated objective.

Discrimination is not the same as differentiation!



4 Can governments provide green support?

Members provide green support all the time

Since 2009, more than 5,000 support measures for a host of environmental objectives have been notified to the WTO.

In recent years, whenever disputes involved support programmes for renewable energy production, the goal of promoting renewable energy was never challenged. Rather, what was found to go against WTO rules were requirements for producers to use local components and products, which prevented them from choosing the most efficient, innovative and competitive solutions available on the world market to promote renewable energy production.

Not all green support measures are covered by the Agreement on Subsidies and Countervailing Measures (SCM Agreement)

Only financial contributions, income or price supports that confer a benefit are covered by the SCM Agreement.

Only subsidies harmful to trade relations give rise to an “action” under WTO rules

Action to counter such harmful subsidies can be taken by affected members only in cases where subsidies are specific to certain enterprises and cause adverse effects.

In addition, some subsidies are simply prohibited:



Subsidies contingent upon the use of domestic goods

Subsidies contingent upon export performance



Members are also encouraged to reduce or eliminate environmentally harmful subsidies

In the WTO Committee on Trade and Environment (CTE), created in 1995, WTO members discuss initiatives that could contribute to better trade, development and environmental outcomes: the so called “win-win-win” solutions.

Eliminating environmentally harmful subsidies is a prime example of such discussions.

The Doha Round of trade negotiations, launched in 2001, introduced the first environment-specific negotiation elements, including the issue of disciplining certain fisheries subsidies that contribute to overcapacity and overfishing. Successful conclusion of the WTO fisheries subsidies negotiations would also deliver on SDG 14.6:

“By 2020, prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, and eliminate subsidies that contribute to [illegal, unregulated and unreported (IUU)] fishing, and refrain from introducing new such subsidies, recognizing that appropriate and effective special and differential treatment for developing and least developed countries should be an integral part of the WTO fisheries subsidies negotiation.”



5 What is the role of the WTO in furthering members' environmental policies?

Ensuring rules-based trade plays its role in achieving sustainable development goals

The WTO advocates for rules-based trade, not free-for-all trade. WTO rules, by providing predictability and ensuring that protectionism is not introduced through the back door, contribute to more effective and coherent environment-related trade policies.

A forum for debate

The CTE was created to make sure that trade and environmental policies are mutually supportive. Its work aims to equip trade officials with the information and tools to maximize the contribution of trade to the broader goal of sustainable development, as called for in the 2030 Agenda for Sustainable Development.

In addition to the CTE, several other WTO committees also discuss trade measures adopted for environmental objectives notified to the WTO. These discussions allow government representatives to look at a number of sustainability issues relating to international trade and the global rules-based trading system.

Energy efficiency, invasive alien species, sustainable public procurement practices and the relationship between the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and the UN Convention on Biological Diversity are recent topics of discussion in these committees.

Due to their practical and technical nature, the discussions provide government officials with a wealth of information and experiences that can support their countries' own efforts to design and implement efficient, coherent and fit-for-purpose approaches to achieve sustainability goals. In this way, the WTO's committee work serves not only to improve the quality of trade policies around the world, but also to strengthen much-needed coherence between trade, environmental and other policies essential for sustainable development.

Collaboration between the WTO and Multilateral Environmental Agreements (MEAs)

Additionally, the WTO Secretariat constantly collaborates with UN environmental entities to ensure mutual supportiveness between trade and environmental policies.

Two recent outcomes of these cooperative efforts are the joint publications “[CITES and the WTO: Enhancing Cooperation for Sustainable Development](#)” (with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)) and “[Making Trade Work for the Environment, Prosperity](#)

and Resilience” (with the UN Environment Programme (UNEP)). A number of events and technical assistance workshops, as well as [eLearning courses](#), have been hosted throughout the years. The Secretariat also continuously follows meetings and decisions of relevant MEAs, compiling trade related information in the [WTO MEA Matrix](#).

This work has helped enhance and further collective understanding of how the WTO and MEAs interact, and how such collaboration can be improved.

Selected topics recently raised at the CTE:

- Carbon footprint schemes
- Trade elements of climate mitigation and adaptation policies
- Fossil fuels subsidies reform
- Eco-labelling schemes and market access
- Illegal logging
- Illegal, unregulated and unreported (IUU) fishing
- Circular economy and plastics



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Resources

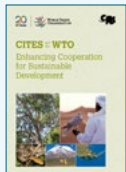
Publications



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WTO (2015), "Trade and Environment: Building pathways to sustainable development", *WTO@20 Series*, available at: https://www.wto.org/english/thewto_e/20y_e/wto_environment_e.pdf



WTO and CITES (2015), *CITES and the WTO: Enhancing Cooperation for Sustainable Development*, available at: https://www.wto.org/english/res_e/publications_e/citesandwto15_e.htm



WTO (2011), *Harnessing Trade for Sustainable Development and a Green Economy*, available at: https://www.wto.org/english/res_e/publications_e/brochure_rio_20_e.pdf



WTO and UNEP (2009), *Trade and Climate Change*, available at: https://www.wto.org/english/res_e/booksp_e/trade_climate_change_e.pdf

Other resources

- WTO Environmental Database: <https://edb.wto.org/>
- WTO Matrix on Trade-Related Measures Pursuant to Selected Multilateral Environmental Agreements (MEAs): https://www.wto.org/english/tratop_e/envir_e/envir_matrix_e.htm
- WTO Trade and Environment eLearning courses: <https://wtolearning.csod.com>
- WTO Trade and Environment website: https://www.wto.org/english/tratop_e/envir_e/envir_e.htm



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