Public Sustainability Policies and International Trade: the role of the WTO

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Trade and the Environment:
From a bumpy start to mutual supportiveness

- International fora discussing environmental issues
- GATT as one of the three legs of international economic cooperation

2021: Environmental initiatives (Min. statements)

2015: Adoption of SDGs and Paris Agreement

2001: Doha Ministerial Conference and establishment of CTESS

1995: Establishment of the WTO + CTE: principle of sustainable development

1986-1994: Uruguay Round

1991-1994: Meetings EMIT Group

1992: Rio : Agenda 21 – sustainable development as the paradigm

1987: Brundtland Report - concept of sustainable development

1972: Stockholm Conference

1971: Establishment of the “EMIT Group” (Group on Environmental Measures and International Trade)

1971: *The Limits to Growth* – Club of Rome

1947: GATT 1947 – post II WW + Bretton woods system

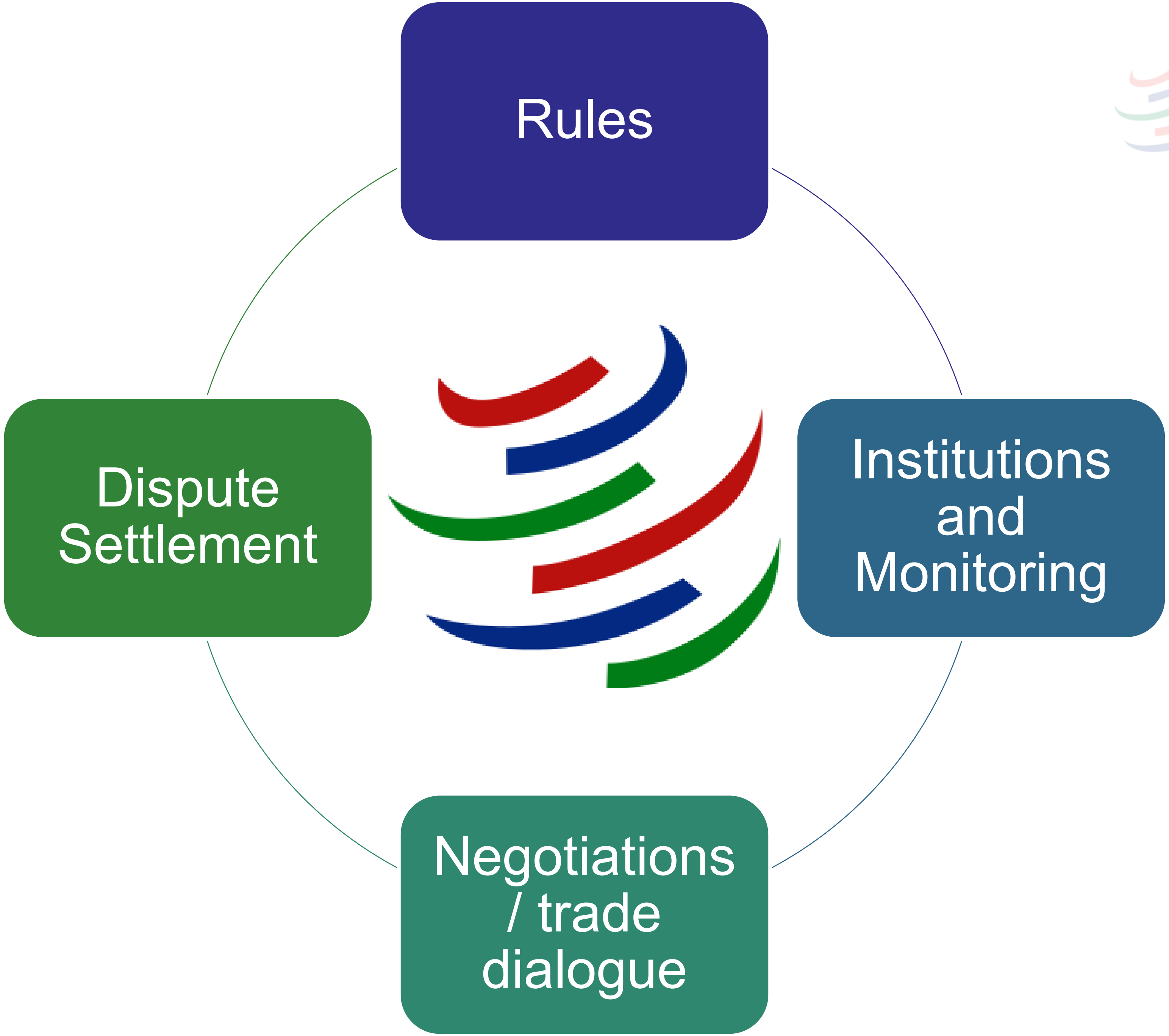
Trade and Environment at the WTO

GATT 1947

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, **developing the full use of the resources of the world** and **expanding the production and exchange** of goods,

Marrakesh Agreement 1995

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.


Rules
Institutions and Monitoring
Negotiations / trade dialogue
Dispute Settlement

WTO Basic Principles

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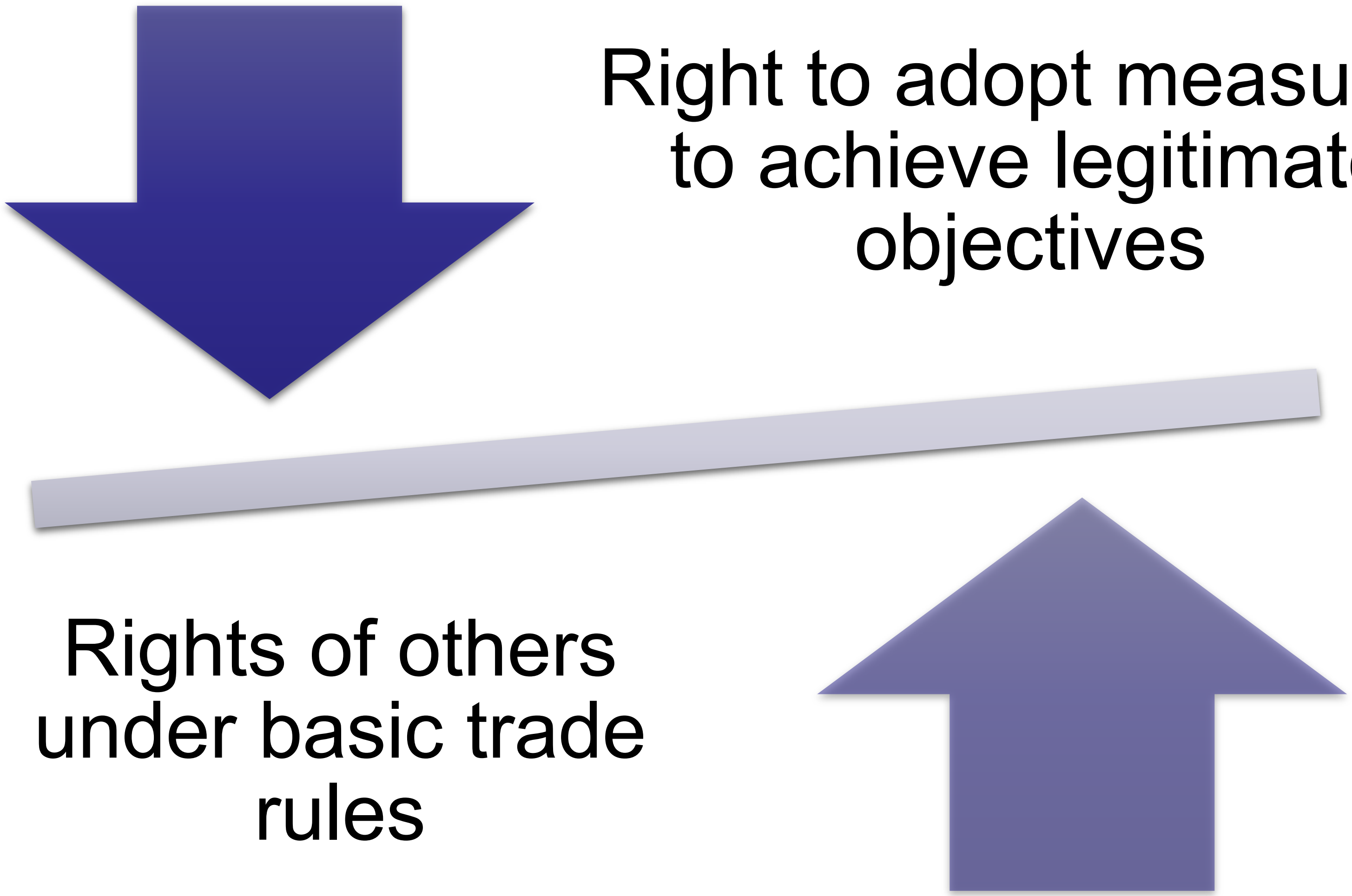
- Non-discrimination (among partners and between imported and domestic products) – e.g. GATT Art. I and III
- Prohibition of quantitative restrictions – e.g. GATT Art. XI
- No unnecessary barriers to trade – e.g. GATT Art. XX
- No protection over agreed limits – e.g. GATT Art. II
- Transparency – e.g. GATT Art. X

WTO Rules maintain a delicate balance



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

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Based on past WTO disputes, several useful "checks", including:

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.

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.

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.

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.

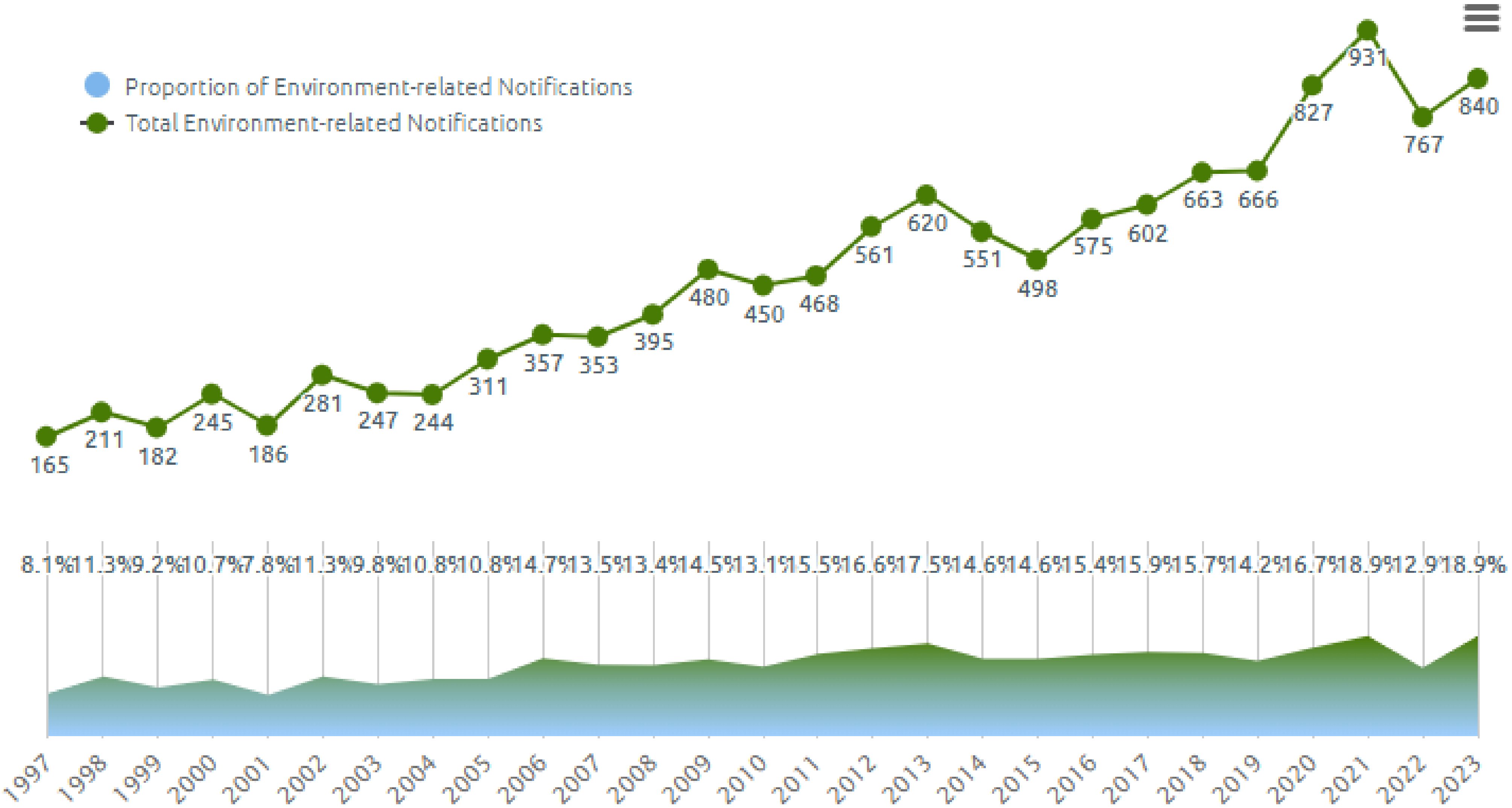
TRANSPARENCY AND MONITORING OF ENVIRONMENTAL MEASURES AT THE WTO

The WTO is a repository for trade-related policy information and a forum for deliberations

Members inform each other about new or forthcoming trade-related measures (including environmental measures)

- Sanitary and phytosanitary measures
- Subsidies
- Technical requirements
- Agricultural measures

Growing number of environment-related notifications



The Committee on Trade and Environment

The Ministerial Decision on Trade and Environment, adopted in Marrakesh on 15 April 1994:

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- called for the establishment of a **Committee on Trade and Environment** (CTE);
- aiming to make international trade and environmental policies **mutually supportive**.

CTE's **terms of reference**:

- "to identify the **relationship between trade measures and environmental measures**, in order to promote **sustainable development**"; and
- "to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the **open, equitable and non-discriminatory nature of the system**"

CTE's mandate is organised along a ten-point **work programme**.

International Cooperation on Trade-related Environmental Measures

World Trade Organization

- The **Committee on Trade and Environment** a forum to foster international cooperation on trade-related green economy measures

Carbon footprint schemes and methodologies	Trade elements of climate mitigation and adaptation policies	Illegal logging and deforestation
Eco-labelling schemes and market access	Initiatives to raise environmental/ climate standards	Sustainable supply chains

CBAM main design features

Seeks to be aligned with **EU's international policies**

Mirroring EU **carbon pricing** by applying carbon price on imported goods

Focusing on **carbon-intensive sectors**

Addressed to companies, not countries, based on **actual carbon content** of imported goods, or alternatively based on default values

Taking into account **carbon price effectively paid by third-country operator**

What are the sectors in scope?

❑ In the **first phase**:

CEMENT

IRON & STEEL

ALUMINIUM

FERTILISER

ELECTRICITY

HYDROGEN

❑ **Selected on the basis of 3 criteria**:

- ✓ *High risk of carbon leakage (high carbon emissions; high level of trade)*
- ✓ *Covering more than >45% of CO2 emissions of ETS sectors*
- ✓ *Practical feasibility*

❑ **Exclusions** (under 150€ / countries linked with the EU ETS)

❑ In a **second stage**, CBAM may be extended to a limited list of ETS sectors at risk of carbon leakage (such as refineries and chemicals), provided that such an extension is justified based on selected criteria.

Main workstreams for the CBAM implementation

Transitional period
October 2023 - December 2025

Post-transitional period
January 2026 onwards

2025

2026

(1) CBAM Simplification
Agreed in June 2025

(2) Review & further adjustments

(3) Adoption of implementing legislation

The implementation of CBAM is being informed by:
- Feedback from third countries and operators
- Feedback from EU importers and EU National authorities
- Learnings from processing and analysing data from transitional registry
- Dedicated studies

WHAT ARE THE MAIN WTO LEGAL ISSUES?

- CBAMs raise two main types of legal issues:

border tax adjustments vs **trade-restrictive environmental measures**

- **Indirect taxes** can be "adjusted" at the border (e.g. VAT or environmental excise taxes)
  - Depending on their design, carbon taxes can have characteristics of both indirect and direct taxes

- Members can seek to justify CBAMs (applied on imports) **under GATT Article XX**

(less clear with regards to exports - rebates) (*other agreements – TBT, ASCM – might also be relevant*)

  - the general Art. XX principles/considerations apply (TED's recent publication offers some elements):
  - The **environmental objective has to be at the centre** of the CBAM – *justifications based on competitiveness effects are more problematic.*

SAMPLE OF CONCERNS RAISED

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WTO Inconsistency and Discrimination:

- Incompatibility with WTO Non-Discrimination Principles
- Disguised Protectionism:
- Unilateral and Discriminatory Nature of the measure: The unilateral imposition of CBAM was criticized as a departure from multilateral cooperation and a source of discrimination against developing countries' trade.

Conflict with Climate Principles:

- Undermining Common but Differentiated Responsibilities (CBDR)
- Doesn't respect the Paris Agreement and NDC's "botto-up approach"
- Shifts the burden of emission reduction from developed countries to developing ones,

Technical and Administrative Burdens:

- Data Collection and Disclosure: technical complexity, cost and lack of quality infrastructure to collect and prepare GHG emissions data,
- Lack of internationally harmonized carbon accounting methodologies
- Burden of Verification: The requirement to use certified verifiers.

Limited Recognition of other members' Policies/interoperability:

- Non-Acceptance of non-tax domestic policies

EUDR main features

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Applies to the following commodities

- Coffee
- Cocoa
- Soy
- Cattle
- Palm oil
- Rubber
- Wood

Due diligence: varying degrees of due diligence requirements based on EU Risk Classification Benchmarking

Low Standard High

Recent developments

- Application postponed to 30 December 2025 for large and medium companies and 30 June 2026 for micro- and small enterprises
- Initial Benchmarking – Published end of May – 4 economies classified as High, 50 as standard and 140 as low-risk

Reform by Doing - Strengthened CTE, env in other committees

New developments

- CTE Thematic Sessions
  - Trade's role in the clean energy transition
  - Trade-related climate measures
  - Technology transfer
  - Sustainable agriculture
- Proposals by Members
  - TrCMs and interoperability
  - Sustainable agriculture
  - Industrial development
  - Technology transfer
- Environmental discussions in other WTO bodies
  - Committee on Market Access thematic session on greening the HS
  - TBT Committee Thematic sessions (Plastic, Climate Change)
  - Fish phase II
  - SPS deliberations
  - Trade Forum for Decarbonization Standards
  - Industrial subsidies discussion

NEW ENVIRONMENTAL INITIATIVES

World Trade Organization

Trade and Environmental Sustainability Structured Discussions (**TESSD**)

- Topics: trade and climate change, trade and environmental goods and services, circular economy, and sustainable supply chains

Dialogue on Plastics Pollution and Environmentally Sustainable Plastics Trade (**DPP**)

- Topics: improve transparency of supply chains; strengthen regulatory cooperation; identify env. sustainable trade policies and mechanisms; strengthen trade-related technical assistance for vulnerable economies

Fossil Fuel Subsidy Reform (**FFSR**)

- Seeks to rationalize and phase out inefficient fossil fuel subsidies that encourage wasteful consumption by sharing information and experiences, while taking into account the specific needs and conditions of developing countries

NEW ENVIRONMENTAL INITIATIVES

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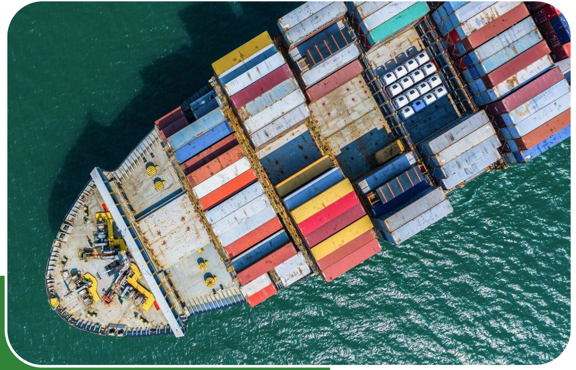
- Official launch at **joint event** of three environmental initiatives on 15 December 2021
- Intended to **complement** the work of the CTE and other relevant WTO bodies
- Share the **objective** of making trade part of solutions to addressing global environmental challenges
- **Inclusive approach**: open to all Members and actively seek the engagement of stakeholders from the private sector, civil society, international organizations and academia

TESSD – Topics



Trade-related climate measures

- Policies and their implications; best practices in the development of such measures; challenges facing MSMEs and developing countries

Environmental goods and services

- Opportunities and approaches for promoting and facilitating trade in EGS to meet environmental and climate goals

Circular economy – circularity

- Supporting sustainable CE transition (reducing unsustainable resource use, promoting resource efficiency, minimizing waste)

Subsidies

- Environmental effects and trade impacts of subsidies including agricultural and green subsidies

What are environmental goods?

Green or clean technologies

The use of technology that makes products and processes more environmentally friendly, for example, by reducing CO2 emissions or by making products more biodegradeable.

Eco-innovation

Non-technological innovation where environmental benefits arise during production (e.g. organic production), consumption and use (e.g. bicycles, energy efficient products) or disposal (e.g. recyclability) or as substitutes reducing pollution (e.g. natural fibres, jute).

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Examples

Renewable energy technologies (solar panels, wind turbines)

Pollution control equipment (filters, scrubbers)

Resource-efficient goods (water-saving devices, energy-efficient appliances)

Sustainable raw materials (biodegradable plastics, eco-friendly chemicals)

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Challenges in Identifying Environmental Goods

Lack of a Universal Definition	What qualifies as "environmental"? Some goods have dual use (e.g., steel for wind turbines vs. general construction).
Evolving Technologies	Innovation leads to new environmental goods, making static lists quickly outdated.
Sectoral & Political Considerations	Economies prioritize different goods based on national industries and trade interests (e.g., biofuels vs. electric vehicles).
Process v. Product Debate	Some goods are environmentally friendly in use but not in production (e.g., solar panels with high carbon footprints in manufacturing).
Measuring Impact	How to quantify environmental benefits? Should criteria include life-cycle assessments or only end-use benefits?

DPP – Topics

Crosscutting issues

- Capacity building and technical assistance
- Fostering international cooperation and collaboration among IGOs and collective approaches

Promoting trade to tackle plastic pollution

- Environmentally sustainable waste management technologies; substitutes and alternatives; reused and recycled plastics.

Reduction to tackle plastic pollution

- Supporting efforts to reduce unnecessary or harmful plastic products, including single-use plastics and plastic packaging
- Approaches to move towards more circular resource efficient and environmentally sustainable plastics trade

3 workstreams

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reduction to tackle plastic pollution

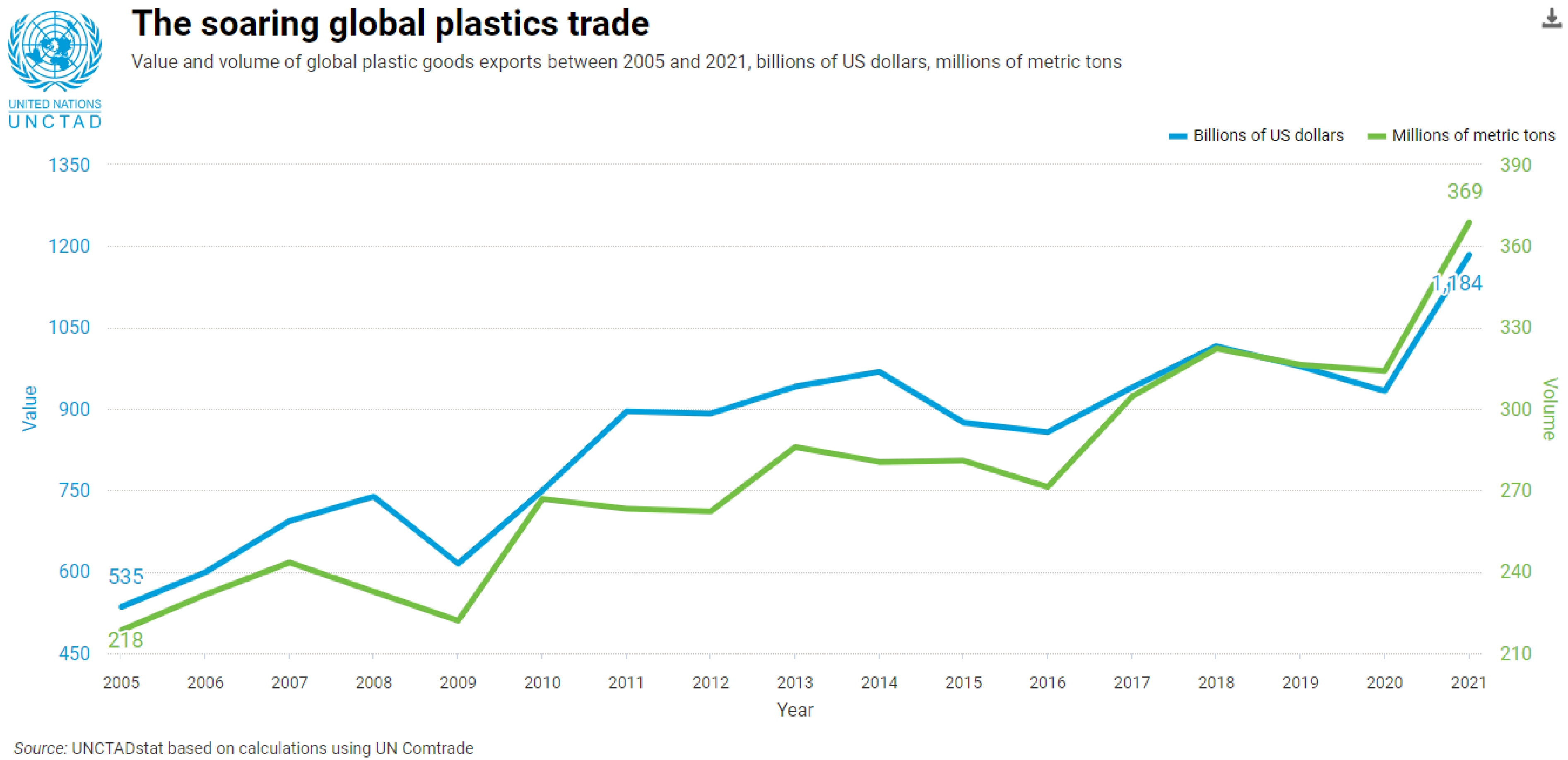
cross-cutting

- transparency
- TA/CB
- other (e.g. regional and int. coop.)

promotion to tackle plastic pollution

How Trade (and Trade policies) interact with plastic pollution?

- UNCTAD mapping of global trade in plastics – more than 1.2 trillion dollars (~5% of global trade) and 40% higher than previously estimated
- Concentrated in primary plastics (very little by value in waste), while most trade measures mid and downstream



"hidden flows" of plastics associated with international trade

- Packaging
- Plastic "embedded" in goods

Example of differences in approach in regulating the same plastic product

thickness of material (eg: < 50 microns)

usage (eg: purpose, capacity)

Commonalities

How do Members define "single-use plastic bags"?

Polymer input (eg: bio or polymer based)

End of life properties

FFSR - TOPICS

Stocktake of international efforts

- Current activities related to FFSR by WTO Members and international bodies
- Existing evidence of environmental harms from fossil fuel subsidies and gaps in the evidence base

Development and social aspects

- Economic and social analysis of distributional effects of fossil fuel subsidies
- Development concerns related to fossil fuel subsidies

Further work

- Understanding the extent of temporary measures taken in response to the energy crisis
- Understanding of the landscape of existing subsidies, based on sector, purpose, or environmental and trade impact

How to identify that a traded good is "environmentally preferrable" (in particular at the border)?

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Proliferation of certification schemes (e.g. for steel)

Steel Standards Principles

Common emissions measurement methodologies to accelerate the transition to near zero

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