
International Economic Law Clinic

GREENING THE WTO TRADE POLICY REVIEW MECHANISM:

Improving the coverage of trade-related environmental measures in the Secretariat's Report

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LIST OF ABBREVIATIONS

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal in 1989	Basel Convention
Carbon-Border Adjustment Mechanism	CBAM
Committee on Trade and Environment	CTE
Dispute Settlement Body	DSB
European Union	EU
EU Deforestation-Free Products Regulation	EUDR
General Agreement on Tariffs and Trade	GATT
Informal Dialogue on Plastics Pollution and Environmentally Sustainable Plastics Trade	IDP
Least Developed Country/(s)	LDC/ LDCs
Minutes of the Meetings for the review	MOM/s
Multilateral Environmental Agreements	MEAs
Report of the Secretariat, Report of the Governments of the reviewee Members, Written Questions posed by reviewing Members and the Answers (or Responses) of reviewee Members and Minutes of the Meetings for the review.	TPR Documents
Reports of the WTO Secretariat	Secretariat Report/s
Reports prepared by the Governments of the reviewee Members	Member-Report/s)
Questions and Answers	Q&A
Sustainable Development Goals	SDGs
Sanitary and Phytosanitary	SPS
Technical Barriers to Trade	TBT
Trade and Environmental Sustainability Structured Discussions	TESSD
Trade Policy Review Mechanism	TPRM
Trade Policy Review(s)	TPR(S)

United Nations Framework Convention on Climate Change	UNFCCC
World Trade Organization	WTO
Written Questions posed by reviewing Members and the Answers (or Responses) of reviewee Members thereto	Members' Q&A
WTO Environment Database	EDB

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EXECUTIVE SUMMARY

Over the last decade, there has been a surge in the usage of trade measures to achieve environmental goals. This trend is also evidenced by the concerns raised in different bodies at the World Trade Organization (WTO), including the different Committees functioning towards different objectives, such as the Technical Barriers to Trade and Sanitary and Phytosanitary Committee. Further, a marked increase in trade-related environmental measures has also been observed in the transparency mechanism of the WTO, Trade Policy Reviews (TPRs).

While these measures indicate a transition towards environmentally conscious trade policies, concerns have been raised during TPRs, particularly surrounding the trade impacts of these measures. Notably, in the June 2023 EU's TPR, questions were raised about the EU Green Deal, and in particular, the Carbon-Border Adjustment Mechanism (CBAM) and the Deforestation-free Products Regulation (EUDR).

While trade-related environmental measures have been discussed in TPRs, this is not done systematically. Indeed, the TPR, as it stands, does not include a systematic approach to the inclusion of trade-related environmental measures. In light of the same, this report explores how the WTO's Trade Policy Review Mechanism (TPRM), the organization's main transparency mechanism, can (i) expand the coverage of environmental references for enhanced transparency in this area; and (ii) enhance coherence in the way environmental references are reported in TPRs.

This report has done so by conducting a systematic review of how environmental references are made in TPRs from a subset of 15 WTO Members, representing the diversity of the WTO Membership. It has analysed gaps and inconsistencies regarding how environmental references have been covered, focused on the types of environmental measures that have been included, and the sections of the report in which they are covered. Based on this TPR review, this report has identified the main areas of inconsistency in which TPRs cover environmental references today.

On the basis of this analysis and the identified gaps, this report provides recommendations on how to include Environmental references in TPR more systematically and comprehensively. In particular, this study recommends the introduction of a section to the TPR focused on the environment. This can be done either by introducing a green trade section in Chapter 4 or Chapter 3 of the Secretariat's Report. Each option creates its own opportunities and challenges. This report also includes suggestions for a set of high-level questions relevant to the environmental and green trade measures that the Secretariat can ask Members under review. The introduction of a specific section and questions posed aim to enhance the coverage of environmental references in a systematic manner, to foster coherence amongst Members.

As discussions on greening the TPR continue to gain momentum, this report seeks to contribute to the question of not whether and how to green the TPR. It does not, however, have all the answers, and its main objective is that the recommendations set out in this report can spark initial ideas that can lead to further research in these areas.

1 INTRODUCTION

Over the past decade, there has been a marked increase in the use of trade measures as a tool for accomplishing environmental goals. With the increasing number of environmental concerns, as well as the proliferation of Multilateral Environmental Agreements (MEAs), the recourse to trade measures as tools for addressing them is more frequent and widespread. Environmental trade measures can take many forms, including import prohibitions on environmentally harmful products; requiring compliance with stringent technical environmental requirements or licenses as a condition of import; or the provision of subsidies for the development of renewable energy.

The increase in environmental trade measures has been documented by the World Trade Organization (WTO). For instance, this is reflected in the increase in specific trade concerns raised in the Technical Barriers to Trade (TBT) Committee and Sanitary and Phytosanitary (SPS) Committee, and the increased focus of environmental-trade measures in dispute settlement. Moreover, the increase in environmental trade measures is reflected in the number of environment-related references in Trade Policy Reviews (TPRs)¹ – the transparency mechanism of the WTO – over the last ten years. These references relate to environmental measures having a direct or indirect impact on trade and to trade measures that are specifically designed and employed for achieving environmental goals. For the sake of brevity, this report will use the term “green trade measures” when referencing the above-mentioned types of measures.

The TPR process of the WTO is a regular and periodic review of trade policies and measures of WTO Members, which is aimed at enhancing transparency of Member’s trade policies.² It is an institutional platform for peer review of individual Members’ policies by fellow Members. A glance at the records of recently concluded TPRs indicates that some green trade measures have garnered attention for their potentially trade-inhibiting and/or trade-distortive effects. For example, in the European Union (EU) TPR that took place in June 2023, WTO Members raised concerns about the EU Green Deal, including its Carbon-Border Adjustment Mechanism (CBAM) and Deforestation-free Products Regulation (EUDR).

At the same time, trade and trade policy is playing an important role in addressing climate change and other environmental challenges, given that it also serves as an important lever to accelerate the diffusion of environmental goods, services and technologies, such as hydro-electric power, electric vehicles, and photo-voltaic cells.

As the WTO’s main transparency mechanism, the Trade Policy Review Mechanism (TPRM) can play an important role in strengthening understanding of the types of green

¹ ‘TPRs | WTO - EDB’.

² World Trade Organization, ‘Overseeing national trade policies: the TPRM’ <https://www.wto.org/english/tratop_e/tpr_e/tp_int_e.htm> accessed on 5th February 2024.

trade measures that WTO Members are adopting and implementing. While there are sporadic instances of reporting of such measures in the TPRM, the focus on green trade measures is mostly *ad hoc*; but not sufficiently systematic or comprehensive. As a result, some WTO Members include an emphasis on trade-related environmental measures in their TPRs, whereas in others it is largely absent. Accordingly, at the Seventh Appraisal of the TPRM, the WTO Membership expressed an interest in increasing the coverage of the trade and environment nexus in the TPRM.³

Against this backdrop, this report examines how to strengthen the coverage of green trade measures, as well as environmental references in the TPRM more generally. It also examines the added value of expanding the coverage of green trade measures and environmental references. We will also identify the precise way the coverage of these measures in TPRM can be expanded, with a view to facilitating TPRM's objective of transparency and information symmetry. Lastly, we will also address the question of whether and how the opportunities relating to environmental goods and services can be harnessed.

This report proceeds as follows: first, it provides background with regards to the linkages between trade and environment, and the TPR system. Second, to better understand how to improve the existing system, it contains an analysis of data extracted from TPRs of a sample set of 15 Members. Third, this report sets out recommendations to expand or enhance the coverage of green trade measures and environmental references in a comprehensive, systematic and systemic manner with the view to enhance transparency, and to foster coherence in the treatment of Environmental references. Accordingly, we develop our recommendations as follows: (i) a proposal for introduction of a section dedicated to the green trade measures in Chapter 3 of the Secretariat's TPR Report and (ii) a proposal to introduce a section dedicated to the environment as a sector in Chapter 4 of the TPR. In addition, this Report has developed a set of questions the Secretariat can ask Members under reviewee, relevant to the environment.

2 INTERRELATION BETWEEN TRADE AND ENVIRONMENT IN THE MULTILATERAL TRADING SYSTEM

2.1 TRADE AND ENVIRONMENT POLICY

For this research, we first examine how to expand or enhance the coverage of green trade measures and environmental references in the TPRM in a comprehensive, systematic, and systemic manner with the view to enhancing transparency and facilitating information-sharing. Second, we analyse how to leverage the TPRM to foster coherence in the governance of environmental goods and services, as a sector of

³ World Trade Organization, 'Trade Policy Review Mechanism: Seventh Appraisal of the Trade Policy Review Mechanism', 3.

industry. In order to do that, it is necessary to look at the linkages between trade and the environment before delving into the TPRM process.

As early as the 1970s, there have been growing concerns about how the adoption of environmental policies would impact international trade.⁴ The concern then was how the adoption of environmental standards would impact international trade, with countries having different environmental standards.⁵

This trend was also seen in the 1980s, with several organizations recognizing the interlinkages between trade and the environment.⁶ The Brundtland Commission, formerly the World Commission on Environment and Development, highlighted the need for a structural approach towards the interlinkages of trade and environment.⁷ A key development in this period was the adoption of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal in 1989 (Basel Convention),⁸ which seeks to reduce the generation and the transboundary movement of hazardous wastes.⁹ The widespread impact of measures seeking to achieve environmental objectives, on trade, led to discussions surrounding the intersection amongst various stakeholders.¹⁰

This pattern of interlinkages between trade and the environment intensified in the 1990s. The Rio Earth Summit of 1992 emphasized the need to integrate the objectives of environmental protection and sustainable development into trade policies.¹¹ Following the Rio Summit, the United Nations Framework Convention on Climate Change (UNFCCC) was adopted. The objective of the UNFCCC was the reduction of

⁴ Organization for Economic Co-operation and Development, 'Celebrating 40 Years of the OECD Environment Policy Committee 1971 – 2011' (2011) <<https://www.oecd.org/env/48943696.pdf>> accessed 16 November 2023.

⁵ *ibid.*

⁶ Iris Borowy, 'Hazardous Waste: The Beginning of International Organizations Addressing a Growing Global Challenge in the 1970s' (2019) 2 11 < <https://www.whp-journals.co.uk/WW/article/view/1030> > accessed 19 November 2023.

⁷ World Commission on Environment and Development, 'Report of the World Commission on Environment and Development: Our Common Future' (1987) <<https://sustainabledevelopment.un.org/content/documents/5987our-common-future.pdf>> accessed 16 November 2023.

⁸ UN Environment, 'Basel Convention on the Control of Transboundary Movements of Hazardous Wastes' (*UNEP - UN Environment Programme*, 7 June 2011) <<http://www.unep.org/resources/report/basel-convention-control-transboundary-movements-hazardous-wastes>> accessed 19 November 2023.

⁹ *ibid.*

¹⁰ Richard Baron and Justine Garrett, 'Trade and Environment Interactions: Governance Issues'.

¹¹ World Bank, 'The Road to Rio+20 and Beyond: 20 Years on from the Earth Summit' (*World Bank*) <<https://www.worldbank.org/en/news/feature/2011/11/16/road-to-rio-twenty-years-after-earth-summit>> (16 November 2011) accessed 19 November 2023.

global greenhouse gas emissions.¹² This was followed by other measures to reduce emissions and address climate change. The adoption of the Kyoto Protocol in 1997 and the Paris Agreement in 2015 has heightened the interlinkage between trade and climate change goals with trade measures being used increasingly as a tool to mitigate climate change.¹³ Similar interlinkage trends can be seen with the adoption of the SDGs and the deployment of trade tools for attaining environmental goals.¹⁴ Both the proliferation of MEAs, as well as the action for achieving SDGs has led to an increased use of environment-related trade measures.¹⁵

Overall, trade has both positive and negative implications for the environment.¹⁶ On the one hand, the increased output or economic activity resulting from further trade liberalization puts pressure on natural resources and increases pollution and emissions of greenhouse gases.¹⁷ Further, trade liberalization may increase the concentration of pollution-intensive activities in countries with lower levels of environmental protection.¹⁸ On the other hand, trade liberalization promotes a more efficient allocation of resources and the improvement in energy and resource efficiency through the dispersion of technologies, know-how, and best practices.¹⁹

2.2 ENVIRONMENT AT THE WTO

The WTO Covered Agreements primarily introduce trade disciplines, both procedural and substantive. Green trade measures have been subject to the disciplines of the WTO.

¹² United Nations Conference on Trade and Development, 'Making Trade Work for Climate Change Mitigation: The case of technical regulations' UNCTAD/DITC/TAB/2022/7 <https://unctad.org/system/files/official-document/ditctab2022d7_en.pdf> (2022) accessed 15 November 2023.

¹³ 'Trade and Climate Change Information Brief No. 1: Overview of Trade Policies Adopted to Address Climate Change' <https://www.wto.org/english/news_e/news21_e/clim_03nov21-1_e.pdf> (2022) accessed 15 November 2023.

¹⁴ World Trade Organization, *Making Trade Work for the Environment, Prosperity and Resilience* (WTO 2018) <<https://www.wto-ilibrary.org/content/books/9789287042972>> (2018) accessed 18 November 2023.

¹⁵ Baron and Garrett (n 10). Kevin Gray, 'Accommodating MEAs in Trade Agreements' <<https://www.worldtradelaw.net/document.php?id=articles/graymea.pdf&mode=download>> accessed 20 November 2023.

¹⁶ Brian Richard Copeland and M Scott Taylor, *Trade and the Environment: Theory and Evidence* (Princeton series in international economics, Princeton Univ Press 2003); Marios Tokas, 'Highest Priority Trade Provisions Related to Sustainable Development and Climate Change: Streamlining Climate Change Commitments in Horizontal Chapters of EU-Americas FTAs' Legal Issue of Economic Intergration.

¹⁷ Nicolas Korves and others, 'Is Free Trade Good or Bad for the Environment? New Empirical Evidence' in Houshan Kheradmand (ed), *Climate Change - Socioeconomic Effects* (InTech 2011).

¹⁸ ; Jevan Cherniwchan and M Scott Taylor, 'International Trade and the Environment: Three Remaining Empirical Challenges' (Carleton Economic Papers, 2022) 25–28.

¹⁹ Matthew A Cole and Robert JR Elliott, 'Determining the Trade–Environment Composition Effect: The Role of Capital, Labor and Environmental Regulations' (2003) 46 *Journal of Environmental Economics and Management* 363; Hilaire Nkengfack and others, 'The Effect of Economic Growth on Carbon Dioxide Emissions in Sub-Saharan Africa: Decomposition into Scale, Composition and Technique Effects' (2019) 10 *Modern Economy* 1398.

2.2.1 Environmental Concerns in the WTO Covered Agreements

From the perspective of substantive legal framework, there are several WTO Agreements that contain provisions related to environmental protection. Some of these provisions take the form of exceptions to violations of obligations, such as those under the General Agreement on Tariffs and Trade (GATT) 1994. Additionally, the TBT and SPS Agreements specify that environmental objectives should be pursued in a manner that minimally restricts trade.

Moreover, the Fisheries Subsidies Agreement, adopted by WTO Members during the 12th Ministerial Conference in June 2023, is noteworthy for its explicit commitment to the progressive protection of marine resources.

Agreement	Link with the environment
GATT 1994	Articles XX(b) and XX(g) provide exceptions to violations of the GATT to protect human, animal and plant life and health, and to prevent exhaustion of natural resources.
General Agreement on Trade in Services	Article XIV provides similar exceptions to the GATT to protect human, animal and plant life and health, and to prevent exhaustion of natural resources.
SPS Agreement	Focuses on measures for the protection of human, animal and plant life and health. It allows the adoption of SPS measures for environmental purposes (e.g. protection of biodiversity) but subject to risk assessment, transparency and non-discrimination requirements.
TBT Agreement	Allows the adoption of voluntary and mandatory product specifications (and their related compliance procedures) for the protection of environment (among else), subject to non-discrimination, harmonization and transparency requirements. The TBT measures should not create unnecessary obstacles to trade.
Agreement on Fisheries Subsidies	Prohibits harmful fisheries subsidies, which are responsible for widespread depletion of the world's fish stocks.
Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)	Provides exceptions from patentability inventions when doing so is necessary to protect human, animal and plant life or health, or to avoid serious prejudice to the environment.

Table 1: Environmental Concerns in the WTO Covered Agreements

Many trade disputes have been initiated with regards to environmental measures that have trade effects. Amongst the most prominent is the US - Shrimp²⁰ which dealt with an import ban on shrimp and shrimp products; the EC - Seals²¹ which concerned a ban on importation and sale of processed and unprocessed seal products, and the US - Tuna²² relating to a ban on imports of tuna from countries that did not have a conservation program designed to protect dolphins in the tuna-fishing process.

2.2.2 *Institutional Discussions and Negotiations on Trade and Environment*

WTO members have examined environmental concerns and policies linked to environmental protection within the WTO institutions. The 1994 Ministerial Decision on Trade and Environment created the CTE, which is open to the entire WTO membership, with some international organizations as observers.²³ The CTE's mandate is broad, and it has contributed to identifying and understanding the relationship between trade and the environment in order to promote sustainable development²⁴. During the Meetings of the CTE, Members specifically discuss how to enhance the work of the WTO amid the rising use of trade measures for environmental objectives.²⁵

Pursuant to the CTE's Recommendations, in 1996, the WTO Environment Database (EDB) was launched to compile data on environment-related entries featured in the documents pertaining to the TPRM (including the Secretariat Reports, Members' Reports, etc.).²⁶ The EDB has been used by WTO research division and general academic discourse to discuss the interaction of environmental and trade policy within the WTO.²⁷

Further, the WTO members have extensively discussed and analysed national measures

²⁰ Panel Report, United States – Import Prohibition of Certain Shrimp and Shrimp Products, WT/DS58, circulated 15 May 1998

²¹ Appellate Body Report, European Communities – Measures Prohibiting the Importation and Marketing of Seal Products, WT/DS400/AB/R, WT/DS401/AB/R, adopted 18 June 2014.

²² Appellate Body Report, United States – Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products – Recourse to Art. 21.5 of the DSU by the United States, WT/DS381/AB/RW/USA, WT/DS381/AB/RW2, circulated 14 December 2018.

²³ World Trade Organization <https://www.wto.org/english/tratop_e/envir_e/wrk_committee_e.htm> accessed on 12th October 2023.

²⁴ World Trade Organization <https://www.wto.org/english/tratop_e/envir_e/wrk_committee_e.htm> accessed on 12th October 2023.

²⁵ World Trade Organization, 'Environment committee draws members' broad engagement, considers proposals to enhance work' <https://www.wto.org/english/news_e/news23_e/envir_15mar23_e.htm> (15 March 2023) accessed on 24th October 2023.

²⁶ Aik Hoe Lim, Sajal Mathur and Gowoon Suk, 'Trade and environment: What can we learn from trade policy reviews?' <https://www.wto.org/english/res_e/reser_e/ersd202006_e.htm> (March 2020) accessed on 5th February 2024.

²⁷ World Trade Organization, 'Report (1996) of the Committee on Trade and Environment' <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/CTE/1.pdf>> accessed on 10th December 2023.

adopted to protect the environment, within the context of the TBT and SPS Committees. Among others, WTO members have submitted complaints, the so-called 'specific trade concerns', within these committees in order to review, clarify, and gain information on TBT and SPS measures adopted by other WTO members.

Additionally, the concept of sustainable development and protecting the environment is found vested in the Marrakesh Agreement. As examined above, some WTO covered agreements also refer to environmental objectives. This is also in line with the existence of procedural avenues within the organisation for WTO Members to change the existing treaty texts. From an institutional perspective, the Ministerial Conference and, to some extent, the General Council have the authority to amend existing agreements or provide a waiver for environmental measures. Recently, the Ministerial Conference adopted the Fisheries Agreement at the 12th Ministerial Conference in 2022.²⁸

In 2020, 75 WTO Members established Trade and Environmental Sustainability Structured Discussions (TESSD), to deepen the discussion on trade and the environment; thus, avoiding the deadlock at the multilateral level. The TESSD currently has adopted four areas of discussion: trade and climate change, trade in environmental goods and services, circular economy, and sustainable supply chains.²⁹ Four informal working groups have been established to discuss these issues.³⁰

Similarly, 70 WTO Members have established the Informal Dialogue on Plastics Pollution and Environmentally Sustainable Plastics Trade (IDP) to conduct discussions related to the rising environmental, health, and economic costs of plastic pollution using trade as an instrument to reduce plastic pollution and promote environmentally sustainable trade in plastics.³¹

Finally, in 2021, 48 WTO Members established the Fossil Fuel Subsidy Reform (FFSR) talks, which are open to all WTO Members. The FFSR serves as the avenue for information sharing and structured discussions on phasing out inefficient fossil fuel subsidies with a view to reducing wasteful consumption.

²⁸ 'WTO 12th Ministerial Conference' (*European Commission - European Commission*) <https://ec.europa.eu/commission/presscorner/detail/en/IP_22_3792> (17 June 2022) accessed 19 November 2023.

²⁹ Trade and Environmental Sustainability Structured Discussions (TESSD): Ministerial Statement on Trade and Environmental Sustainability (Revision) 14.12.2021.

³⁰ World Trade Organization, 'Members discuss possible TESSD outcomes for delivery at MC13' <https://www.wto.org/english/news_e/news23_e/tessd_11jul23_e.htm> (11 July 2023) accessed on 24th October 2023.

³¹ World Trade Organization, 'New initiatives launched to intensify WTO work on trade and the environment' <https://www.wto.org/english/news_e/news20_e/envir_17nov20_e.htm> (17 November 2020) accessed on 24th October 2023.

2.3 TRADE AND ENVIRONMENT: THE CRUCIAL ROLE OF THE TPRM

The increasing interlinkage between trade and the environment, as evidenced by global environmental developments and trade policies over the decades, has led to a notable rise in references to environmental issues within the TPRM. The evolving landscape, marked by the proliferation of MEAs, the adoption of SDGs, and the heightened use of trade tools for environmental goals, has prompted a paradigm shift in addressing environmental concerns. The historical pattern, ranging from early recognition of environmental impacts on trade to recent climate change mitigation efforts through trade measures, underscores the urgency to integrate environmental considerations into trade policies.

The growing awareness, as demonstrated by the conclusion of the Fisheries Subsidies Agreement and the establishment of plurilateral discussions such as TESSD, highlights a concerted effort to deepen discussions on trade and the environment. These initiatives signify a recognition of the challenges posed by environmental degradation and the role trade can play in addressing them.

In this context, the TPRM's increasing focus on environmental aspects reflects a broader acknowledgment of the necessity to evaluate trade policies in light of environmental considerations. The ongoing discussions and initiatives within the WTO indicate a proactive approach to address environmental concerns through trade mechanisms, aligning with the evolving global commitment to sustainable development.

3 THE CONCEPTUAL FRAMEWORK OF THE TRADE POLICY REVIEW MECHANISM

The TPRM was established as a periodic review mechanism with the objective of enhancing the transparency of WTO Members' trade policies and facilitating the smooth functioning of the multilateral trading system.³² It is conducted in accordance with the Rules of Procedure established for the meetings of the TPRB.³³ Annex 3 of the Marrakesh Agreement provides:

“The purpose of the Trade Policy Review Mechanism (TPRM) is to contribute to improved adherence by all Members to rules, disciplines and commitments under the Multilateral Agreements, and hence to the smoother functioning of the

³² Mathias Kende, ‘Trade Policy Review Mechanism – A Critical Analysis’ (2018) Oxford University Press, 1

³³ Rules of Procedure for Meetings of the Trade Policy Review Body (Revised 16th June 2017).

multilateral trading system, by achieving greater transparency in, and understanding of, the trade policies and practices of Members."³⁴

There are three main ways in which the TPRM enhances trade conditions. Firstly, it allows Members to evaluate each other's trade policies and practices, their impact on and their alignment with WTO principles.³⁵ Secondly, it provides the Members, those being reviewed and those reviewing, an opportunity to improve their understanding of WTO principles. Thirdly, it stimulates actions to increase the coherence of national trade policies and other policies of Members being reviewed with WTO principles.³⁶ Importantly, it is not a mechanism for measuring the compliance or consistency of a Member's trade policies or measures with the legal obligations and commitments enshrined in the multilateral agreements of the WTO, since this falls within the competencies of the WTO-DSB.

Although the TPRM cannot be used to collect admissible evidence for dispute settlement under the WTO,³⁷ the information it provides enables pressure to build up on the reviewed Members to adopt WTO-compliant measures that are transparent, predictable, and gradually open.

As explained below, the process of the TPRM encompasses various stages/phases, which form the processual elements that make up the design of the TPRM. They are complemented by certain structural and/or institutional elements that represent the nodal points in the process of the TPRM. The key actors involved in this process are the WTO Secretariat, the reviewee-Member, and most significantly, the reviewing Members who all participate in the review process in varying roles and capacities. The role of each of these participants and the sequence of the TPRM are explained below.

3.1 THE CHRONOLOGICAL DESIGN PEER-REVIEW MECHANISM AND KEY ACTORS

The format of the peer review stage is divided into:(i) the information stage and, (ii) the review stage. Stage (i) spans steps 1-3, while stage (ii) spans steps 4-6. Unlike judicial proceedings, the reviewee Member cannot be compelled to disclose information. The key takeaway is that the TPRM process has elaborate stages where various stakeholders can share their input up to the culmination of the review meeting. Each stage of the process must adhere to specific timelines. The chronological steps of the TPRM process are illustrated below:

³⁴ Trade Policy Review Mechanism (Adopted 15th April 1994).

³⁵ Sam Becker, 'Leveraging Trade Agreements to Reduce Greenhouse Gas Emissions in Accordance with the Paris Agreement', 48.

³⁶ Ibid.

³⁷ Trade Policy Review Mechanism (Adopted 15th April 1994).

1.	Scheduling	Secretariat and Member set timing of review according to the rules of procedure agreed by Members.
2.	Collecting Information	Secretariat requests Member to provide information and data within 4 to 6 weeks.
3.	Secretariat Report	Secretariat prepares report and chapters are progressively sent to national authorities for verification and comments. After visiting the capital, to discuss the preliminary draft report with authorities, private sector organisations and research institutes, the Secretariat incorporates the comments by the authorities and finalises the draft Secretariat report and policy statement are circulated five weeks before review meeting.
4.	Questions by other Members	Members submit written questions to the Member being reviewed at least two weeks before the review meeting. This Member uses the two-week window to prepare and submit replies in writing when the meeting commences.
5.	Review meeting conducted by the TPRB in Geneva	Divided into two sessions, usually taking half a day. In the first session, Member under review makes an initial statement on an overview of its policies and new developments since the completion of the Secretariat's report, before receiving additional questions from Members. In the second session, the reviewed Member provides a summary of its answers and replies to additional questions.
6.	Publication of documents	Secretariat visits the Member for 7 to 10 days to discuss the preliminary draft report with authorities, private sector organisations and research institutes.

Table 2: Stages of the TPRM process and Key Actors

The following table provides information on the main documents issued and discussed during the TPRM.

Description	
Secretariat Report	<p>The Secretariat Report is one of two pillars of the Double-reporting paradigm envisaged by the TPRM.</p> <p>The preparation of this document involves a consultative engagement between the TPRD and the reviewed-Member.</p> <p>This investigative and fact-finding process informs the shaping of the content presented in the Secretariat Report.</p> <p>This report is broken into:</p> <ul style="list-style-type: none"> (i) Economic environment (ii) Trade and Investment policy framework (iii) Trade policies and practices by measure (iv) Trade policies by sector
Member-Report/	The Member's Report is prepared by the Member being reviewed. It contains information on their trade policies and measures. There is no said structure to this Report.
Members' Q/A	This document contains a list of questions posed by other Members to the Member being reviewed and the answers provided by the Member being reviewed.
Minutes of the Meeting (MOMs)	This document contains the Minutes of the Meeting – of the TPR process in Geneva.

Table 3: Four TPR Documents explained

3.2 EFFICACY OF THE TPRM IN CREATING TRANSPARENCY AND INFORMATION SHARING ON TRADE AND ENVIRONMENT

The TPRM enhances transparency and promotes information-sharing. Additionally, the TPRM aims to foster coherence in policymaking among WTO Members by aligning with the fundamental principles of the WTO.

The TPRM serves as a platform for open discussions on trade policy developments in an objective and independent manner. While it initially garnered praise for these qualities, sustaining such acclaim requires necessary enhancements.³⁸ The TPRM needs improvements to capture nuanced information on pressing issues like the environment.

³⁸ Sam Laird, 'The WTO's Trade Policy Review Mechanism – From Through the Looking Glass' (1999) 22 *The World Economy* 741,760-761.

These views were also expressed during the eighth Appraisal of the TPRM, where suggestions were also made to broaden the TPRM's scope to address transparency on environmental concerns and climate change, aligning with its mandate more effectively.³⁹ It is crucial to note that these improvements should not delve into the realms of dispute settlement or acquiring a legislative mandate.

4 TRENDS AND PATTERNS REGARDING ENVIRONMENTAL REFERENCES IN TPRS – FINDINGS AND ANALYSIS

In this section, we identify and analyse the observations with respect to the coverage and placement of environmental references in TPRs. The analysis focuses on the environmental references contained in the Secretariat Reports across TPRs of the 15 Members. Before proceeding to the substantive analysis, it is useful to set out some of the broad trends and patterns emerging from the dataset we created. The observations and inferences from the data analysis for the 15 TPRs inform our qualitative analysis of the two central questions. Apart from validating our hypotheses, these observations shed light on the coverage, placement, and treatments of environmental references across different chapters of the Secretariat Report. This helps us situate our recommendations, as explained in the Methodology.

4.1 METHODOLOGY

In order to recommend ways to include environmental references, including green trade measures, more systematically and more comprehensively into the TPR, this section engages in a quantitative analysis of TPRs related to 15 Members. A table containing the list of these 15 Members and the criteria used for their selection is produced below. For these 15 Members, it examines the ways in which environmental references have been included in the TPR and identifies similarities and differences between the approaches adopted by Members.

This sample set is intended to be representative of the wider WTO Membership, both in terms of level of development and in terms of geographical region in which they are located. Specifically, in selecting the sample set, we looked at the following: (i) timeframe of 7 years, (ii) share of the concerned Members in the world trade combined with level of development and (iii) geographical location of the concerned Members.

³⁹ World Trade Organization, 'Trade Policy Review Mechanism: Seventh Appraisal of the Trade Policy Review Mechanism', 3.

<u>Band</u>	<u>Criterion (1)</u> Frequency or Periodicity of TPR	<u>Member</u>	<u>Year of Review</u>	<u>Criterion (2)</u> Geographical region
Band 1	Members that are reviewed every 3 years	European Union	2023	Europe
		United States of America	2022	North America
		Japan	2023	East-Asia
		China	2021	East-Asia
Band 2	Members that are reviewed every 5 years	Canada	2019	North America
		India	2020	South-Asia
		Brazil	2022	South America
Band 3	Members that are reviewed every 7 years	Mozambique	2017	South-Africa
		Soloman Islands	2016	Oceania (South- Pacific Ocean)
		New Zealand	2022	Oceania
		Fiji	2023	Oceania (South- Pacific Ocean)
		Dominican Republic	2023	Caribbean
		Liberia	2023	West-Africa
		Uganda	2019	East-Africa
Nepal	2018	South-Asia		

Table 4: Overview of selected WTO Members for the analysis

Time-Frame: With respect to the 15 WTO Members selected, we focus on their TPRs from the last 7-8 years, given that these tend to include more environmental references than the earlier ones, reflecting increased awareness of the importance of environmental concerns.

The choice of a 7-year period would ensure coverage of the most recent cycle of TPRs. For these reasons we have picked a time-frame starting from late 2016 and early 17, extending up to mid-2023.⁴⁰

⁴⁰ The oldest TPR Document from our sample set is dated 2016. The most recent TPRs from our sample set are from 2023.

Even within the said time frame, we have consciously geared our review towards the more recent TPRs. Out of the 15 Members we have selected for our review, 5 Members have been reviewed in 2023, and 3 Members have been reviewed in 2022. Our sample set also includes Members such as the Solomon Islands, Canada, etc., who would be undergoing TPR in the upcoming months.

Share of world trade/level of development: We postulate that the needs and priorities of Members, in terms of trade policy formulation, as well as their appetite or capacity for environmental governance, are correlative to their share in world trade and/or the level of development of their economies.⁴¹ We hypothesize that TPRs of Members who hold the largest share of world trade (i.e., Developed Countries and a set of large developing countries) would contain the most exhaustive and comprehensive coverage of Environmental references or sectorial treatment of the environment. By extension, we hypothesize that the TPRs of Members with a smaller share in the world trade (i.e., a subset of smaller developing Countries and Least-Developed Countries (LDCs)) would have less comprehensive environmental references in their TPRs. Practically, this translates into categorization of Members (which are States) in terms of the level of development.⁴² Thus, combining the two parameters of share in world trade and level of development, we have identified 3 distinct bands for grouping the 15 Members. The description of each of these bands is set out in Table 1. The criteria used for grouping these Members in to the 3 bands is the frequency⁴³ or the periodicity⁴⁴ of TPRs for each of the selected Members.

Geographical location: Within each of the 3 bands, we have attempted to maintain diversity in terms of geographical locations. The purpose of making each of the bands geographically diverse is to ensure regional representation of Members from different continents of the world. The emphasis on regional representation is for ensuring that the coverage of Members factors in the regional arrangements for trade cooperation and environmental action that may exist between them.⁴⁵ The criterion geographical

⁴¹ By capabilities and capacities of Members, we refer to the infrastructure and the resources (economic/financial, human and technological or scientific) that are at the disposal of the Members for effecting and implementing policies. Very often, it is these capabilities that shape a Member's appetite for environmental regulation or the ambition with which they pursue environmental goals. They determine the priority with which Members assign to environmental concerns, the degree and the frequency with which they take recourse to trade-related measures to achieve environmental objectives, and the manner in which the Members address environmental issues.

⁴² However, it is pertinent to note that the expressions 'developed' and 'developing' are used to describe countries/nation-states. At the same time, WTO Membership admits non-state actors such as regional organizations and customs' unions etc. (though many WTO Members qualify as state actors). The WTO recognizes the category of LDCs, as designated by the United Nations (UN). The expressions 'developed' and 'developing' used to describe countries are nowhere defined within the framework of the UN or the WTO. These adjectives are used colloquially nonetheless, and it is often up to Members to classify themselves. However, there are other categories along these lines that have been designated by the UN Development Programme, the World Bank, and the International Monetary Fund. These categorizations, as well as the classifications that the Members themselves identified with, also inform our selection of a sample set of Members.

⁴³ The frequency of reviews is determined by its percentage of share in the world trade.

⁴⁴ The reviews are carried out every 3 years for the four most prominent trading Members; every 5 years for the next 16 and every 7 years for the other Members.

⁴⁵ In a lot of continents and geographical regions, we have noticed that the conclusion of Regional Trade Agreements (RTAs) has facilitated the development of regional institutional mechanisms for economic cooperation amongst Members. This has, in turn, resulted in shared values and perspectives amongst Members situated in common regional belts. In order to avoid overlap and duplication of content, we have avoided selecting Members from the same geographical or regional belts.

location is intended to serve as a denominator for regional representation.⁴⁶

4.2 Extracting Data in relation to TPRs of the Sample set of Members and creation of datasets

Our analysis is centred around two issues:⁴⁷ Expansion of the scope of TPRM to include green trade measures; and (ii) expansion of the scope of TPRM to address the environment as a sector. To address these issues, we focus our data analysis on the following aspects: (i) the coverage, placement and treatment of Environmental references and measures relating to governance of environment as an industry sector, in the Secretariat Reports; and (ii) the number, nature and types of questions asked by Reviewing Members to the Reviewee Members on the adoption and implementation of Environmental references as well as governance measures pertaining to the sectorial treatment of the environment.

4.2.1 Coverage, placement and treatment of environmental references in TPRs

The question of 'coverage' concerns reporting and information-sharing. Therefore, out of the 4 TPR documents, the Secretariat Reports and the Member Reports are the most critical for understanding what green trade measures or environmental issues are being reported on at present. In particular, the Secretariat Reports are the main focus of our analysis, given that Members' Reports are voluntarily prepared policy statements of Reviewee Members' governments, which are prepared without any specific guidance vis-à-vis their preparation. Neither are Member-Reports homogeneous in terms of contents or structure.

For each of the 15 Members, we extracted the relevant text containing environmental references from the Secretariat Reports. While extracting the text, we maintain a distinction between texts extracted from different chapters of the Secretariat Report.⁴⁸ Using this approach, we create country-specific data sheets, which demonstrate the coverage (in terms of range, volume, and placement) of environmental references in the Secretariat Reports. For each of the references featured in the datasheet, we assign a binary value of either 0 or 1 based on whether or not the nature of the reference is material.

From a preliminary review, we have observed that these environmental references fall under three broad classes: (i) generic references⁴⁹ to environment and environmental

⁴⁶ Of the 15 Members selected by us, 2 are from North America, 7 from Asia-Pacific and Oceania, 3 Members from Africa, 1 Member each from South America and the Caribbean.

⁴⁷ The critical questions are: (i) how to expand or enhance the coverage of environmental references in the TPRM in a comprehensive, systematic, and systemic manner with the view to enhance transparency and facilitate information-sharing; (ii) how to leverage the TPRM for fostering coherence in the governance of environmental goods and services, as a sector of industry.

⁴⁸ This aims to appreciate the placement of the extracted text within the scheme of the Secretariat Report.

⁴⁹ These generic references do not relate to any specific environmental measure or policy. Rather, they appear in the context of a Member's broad policy formulation goals and objectives (located in Chapter 2

issues or concerns; (ii) references to trade measures⁵⁰ These are designed or deployed by Members for achieving environmental objectives as well as environmental measures that produce direct⁵¹ or indirect⁵² trade effects i.e., Environmental references as well as references to commercial activity relating to environmental goods or products which help achieve environmental or climate protection goals⁵³; and (iii) references with regards to the impact⁵⁴ of Environmental references and policy-decisions affecting commerce in environmental products.

We have also noticed that references described in items (ii) and (iii) often converge. Besides, there are also instances of references that can be placed under both criteria. In item (i), the line between different trade measures directed at environmental goals and environmental measures with attributes of trade measures often becomes blurred. Similarly, the line between environmental measures producing direct trade effects and environmental measures producing indirect trade effects is hard to draw. Nonetheless, we consider references to both trade and environment measures and policies as material references. Similarly, we consider the references to the impact or implications of such measures or policies as material data. Accordingly, both these categories of references are ascribed a value of 1.

From the collection of 15 datasheets created, we have developed a dataset by collating information about environmental references from Secretariat Reports for TPRs of all 15 Members. While collating this information, we again maintain a distinction between the references which relate to different chapters of the Secretariat Report. Regardless of the binary value assigned to each reference in the individual country datasheet, every single reference is counted while collating information across the 15 Members' TPRs.

of the Secretariat Report). They may also include references to the extant state of affairs in a Member's territory that have drawn their attention to environmental concerns. Lastly, this classification would also cover other environmental references that do not qualify either as a 'green-trade measure' or as instances where Members have treated 'environment' as a sector of industry.

⁵⁰ They include references to specific measures and policies of Members. The latter category encompasses references to policies of Members without reference to any particular measure. Import bans and quantitative restrictions under MEAs like the CITES would fall under this classification of green-trade measures.

⁵¹ References to environmental measures or policies include references to policies that are identified as environmental in nature but still have features or attributes of a trade measure (e.g., the CBAM policy of the EU). They also include references to environmental that produce direct trade effects, regardless of whether they possess features or attributes of trade measures (e.g., a ban on harmful fisheries subsidies is an environmental measure that directly impacts trade, though such a ban does not innately qualify as a trade measure).

⁵² References to environmental policies or measures include purely environmental measures that do not produce direct trade effects but may produce indirect trade effects (e.g., governmental policy move towards energy transition. A measure such as this affects the commerce of non-renewable energy at a domestic level. However, it may also have cost implications for other industrial sectors that rely upon non-renewable energy sources)

⁵³ This description encompasses references to green technologies, goods, or commodities. These include products that can help achieve environmental and climate protection goals, such as generating clean and renewable energy, improving energy and resource efficiency, controlling air pollution, managing waste, treating wastewater, monitoring the quality of the environment, and combatting noise pollution.

⁵⁴ These references may or may not reference a precise policy instrument or measure.

4.2.2 Use of Data extracted from the TPRs of the Sample set of Members

With respect to trade and environmental linkages, the data extracted from the TPR Documents of these 15 Members will help identify the significant environmental issues that are of interest to the Reviewee Members and the Reviewing Members. Particularly, this data will demonstrate the precise nature and types of environmental references made by the Reviewee Members and their impact on imports to and exports from the territory of the Reviewee Members. It will also help identify the instances when Reviewee Members have taken steps for the development of the 'environment' as a sector of industry and the views expressed by Reviewing Members thereupon. By pointing to the range and the volume of environmental references and sectorial treatment of the environment, this data will help us identify ways in which the coverage of environmental issues in the TPRM can be made more comprehensive and exhaustive.

In terms of the conceptual framework of the TPRM, the data extracted from this examination will help pin down our findings relating to the design of the TPRM system and its functional utility as a tool for enhancing transparency and fostering coherence. Moreover, it will also help us appreciate the inter-play of the structural and processual elements of the TPRM, the role ascribed to each of the actors participating in the TPRM, the contents and structure of the TPR Documents (including, the inter-relationship between them). Particularly, the data extracted from this scrutiny will provide us insights into: (i) the coverage, placement and treatment of Environmental references and measures relating to the governance of environment as an industry sector, in the Secretariat Reports and Member-Reports; and (ii) the number, nature and types of questions asked by Reviewing Members to the Reviewee Members on the adoption and implementation of environmental references as well as governance measures pertaining to environment as a sector.

Cumulatively, these two factors point to: (i) the manner of information-gathering and reporting that form the first processual elements of TPRM, and (ii) the informational needs of Reviewing Members which the TPRM, in its current form, is failing to address. From the perspective of systemic and systematic expansion of coverage of environment, this will help us test our hypothesis on (i) gaps in the design and the working of the TPRM which need to be bridged in order to enhance transparency and facilitate information-sharing in the context of environmental references; and (ii) opportunities for fostering coherence in policy-making in the context of 'environment' as a sector. This, in turn, will help the points at which the design of the TPRM can be tweaked to enhance its objectives of enhancing transparency and fostering coherence. Lastly, it will help us situate our recommendations within the design of the TPRM system and starting point for developing the same.

4.3 COVERAGE OF THE ENVIRONMENT IN THE SECRETARIAT REPORTS

As explained in section 3 above, the contents of the Secretariat Reports, are split across four chapters, namely: (i) Chapter 1 titled '*Economic Environment*', (ii) Chapter 2 titled

‘*Trade and Investment Regimes*’, (iii) Chapter 3 titled ‘*Trade Policies and Practices by Measure*’, and Chapter 4 titled ‘*Trade Policies by Sector*’. While the nature of the environmental references varies with respect to each of the four chapters, these references can be classified into certain broad categories.

From the in-depth analysis of the texts of the 15 Secretariat Reports considered by us, we have observed that environmental references can be classified into seven categories: namely: (1) General references to environmental goals; (2) Current state of affairs/sector (3) Description of rules governing the sector; (4) Description of policy/legislation without measures; (5) Description of policy/legislation with measures; (6) Reference to International Treaties/Conventions that the concerned Member is a signatory to; and (7) Others, that fall beyond what has been mentioned above.

As stated above in section 4.2.1, we have assigned a binary value of 0 or 1 to each of these 7 categories, with 0 indicating that these references are weak or general and 1 indicating that the environmental reference is strong and more specific. Out of the 7 categories covered, 2 (the description of policy/legislation without measures and the description of policy/legislation with measures) have been assigned the value of 1. These references relate to specific environmental issues/policies/measures Members have or are taking, and/or the impact such measures. The remaining five categories have been assigned the value of 0, as they are generic references that describe a country’s overarching environmental framework, current state of affairs (e.g., statistics on import and export relevant to green trade), or references to membership of MEAs.

Categories of Environmental references observed	Value assigned	Examples
a. General references to environmental goals (GR0)	0	TPR of Brazil 2022: Brazil's economic strategy includes addressing challenges related to gender and diversity, environmental sustainability and climate change, and innovation and digital transformation. TPR of EU 2023: During the review period, the European Union embarked on a new development strategy under the European Green Deal (2019) with the aim of becoming a carbon-neutral economy by 2050.
b. Current state of affairs/sector	0	TPR of China 2021: Until 2017, China was the leading importer of plastic waste (totalling USD 3,263 million), but since then it has reduced its imports to USD 49 million in 2018, USD 0.5 million in 2019, and USD 0.1 million in 2020. TPR of US 2022: The US Administration has also stated that it is seeking to use trade policy tools with African partners to promote investment, equitable and inclusive development, and sustainable trade.
c. Description of rules governing the sector;	0	TPR of Solomon Islands 2016: The objectives of the Government's policy for the agricultural sector include the

		<p>protection of the environment and successfully combating the adverse effects of climate change.</p> <p>TPR of Uganda 2019: The Ministry of Energy and Mineral Development (MEMD) is mandated to establish, promote the development, strategically manage and safeguard the rational and sustainable exploitation and utilization of energy and mineral resources for social and economic development.</p>
d. Description of policy/legislation without measures	1	<p>TPR of USA 2022: In April 2021, the administration announced a new target for U.S. economy wide net GHG pollution: it should equal 50% to 52% of the 2005 level by 2030, and net zero emissions should be reached no later than 2050.</p> <p>TPR of China 2021: In December 2017, China launched the construction plan for the National Carbon Emission Right Trading Market (Power Generation Industry) to start building its National Carbon Emission Trading System.</p>
e. Description of policy/legislation with measures;	1	<p>TPR of Nepal 2018: No mining activities can lawfully occur in the absence of a mining licence issued by the Department of Mines and Geology (DMG) and environmental clearance from the Ministry for Forest and Environment.</p> <p>TPR of USA 2022: Exports of certain unprocessed logs from federal/state lands in western states and of all unprocessed western red cedar logs are prohibited as a result of conservation measures pursuant to the Endangered Species Act/National Forest Management Act and due to short supply controls of the War and Defense Export Regulation statutes, respectively (16 U.S.C. 620 and 50 U.S.C. App. 2406).</p>
f. Reference to International Treaties/ Conventions that the Member is a signatory to	0	<p>TPR of Fiji 2023: Fiji is a member of the Codex Alimentarius Commission, the World Organisation for Animal Health (WOAH, formerly OIE), and the International Plant Protection Convention (IPPC).</p> <p>TPR of Dominican Republic 2023: The trade in and export of metal waste, scrap metal and other copper or aluminium waste and their alloys are regulated in the Dominican Republic to protect the environment, in accordance with the Basel Convention.</p>
g. Others, that fall beyond what has been mentioned above.	0	<p>TPR of India 2020: The Food Safety and Standard Authority of India (FSSAI) is in the process of reviewing the labelling regulation. In addition to the labelling requirements stipulated in the Regulations, specific labelling requirements apply to alcoholic beverages, food additives, health supplements, and organic food.</p> <p>TPR of Liberia 2023: The Intellectual Property Development Plan (IPDP) identified seven key sectors for the effective utilization of IP in Liberia. It includes environment as a sector – ways of mitigating climate change and incorporation of green economy.</p>

Table 1: Assigning Value to Categories of Environmental references in TPR

Further, the above references that have been assigned a value of 1 (description of policy with/without measure) across TPRs cover a wide variety of environmental issues, as set out in Dataset 2. These have been extracted below:

Environmental issue	Total
General environmental reference	108
Energy	95
Agriculture	90
Fisheries	47
Manufacturing	33
Forestry	29
Waste	22
Fossil Fuels	19
Wildlife	11
Transport	11
Mining	8
Ozone Depleting Substances	5
Tourism	3
Environmental Services	2
Environmental goods	1

Table 6: List of environmental issues covered within the TPRs

Below we explain some main observations about the inclusion of environmental references in TPRs of the 15 countries studied.

4.4 Main observations

4.4.1 Frequency of environmental references related to level of development/volume of trade

The number of green trade references are concentrated in TPRs of developed and developing Members across Bands 1, 2 and 3 and scarce in TPRs of Least-developed Members located in Band 3. The highest number of environmental references can be

found in TPRMs of Members that are reviewed most frequently (they are in band 1 and occasionally, 2), whereas those Members that are less frequently reviewed tend to have fewer references to the environment. Indeed, Members such as USA, Japan, and Canada voluntarily include chapters on the environment, in their individual reports.

In validation of our hypothesis, the priorities and capacities of Members are also reflected in the enthusiasm with which environmental goals are pursued and the degree of sophistication in the environmental governance framework of the concerned Members. When compared to developed and developing countries in band 1, respectively, such as New Zealand (81 references) or China (93 references), the number of references in band 3 is significantly lower. For example, Mozambique has only 7 environmental references in its TPR, while 18 references were counted for the Solomon Islands. The percentage of environmental references assigned a value of 1 is roughly the same among the different bands. For example, out of 81 environmental references for New Zealand, 44 were assigned the value of 1, and out of 93 environmental references for China, 58 were assigned the value of 1. Out of 18 references for the Solomon Islands, 11 were assigned a value of 1, and out of 7 references for Mozambique, 5 were assigned a value of 1.

4.4.2 There is high variance of environmental references made in TPRs:

Dataset 1 (Annex I) contains a list of environmental references that has been included in the TPRs for each of the 15 Members analysed. This includes various types of references, classified into different sub-categories. Particularly, within the sub-category of ‘description of specific measures / policy with measures’ and ‘policy without measures’, there is high variance in the type of measure that is being notified.

A few examples from the Dataset have been extracted here:

1. TPR of USA 2022 - Exports of certain unprocessed logs from federal/state lands in western states and of all unprocessed western red cedar logs are prohibited.
2. TPR of USA 2022 - Additional declaration requirements have been imposed on importers with respect to the specification of the country where the wood was harvested and information on the species.
3. TPR of China 2021 - Measures regarding the promotion of clean energy included renewable electricity consumption quotas as a share of total power consumption in each province, and the implementation of a new environmental tax policy.
4. TPR of China 2021 – Implementation of a new environmental tax policy aimed at promoting environmental protection and reducing pollution.

In addition, based on findings set out in Dataset 2 (Annex 2), environmental measures reported in TPRs take on different forms. They can be general environmental provisions, subsidies, permit/certification requirements, bans, restrictions, tariffs, SPS,

TBT, concession, impact assessment measures, inspection measures, quantitative restrictions, or carbon trading.

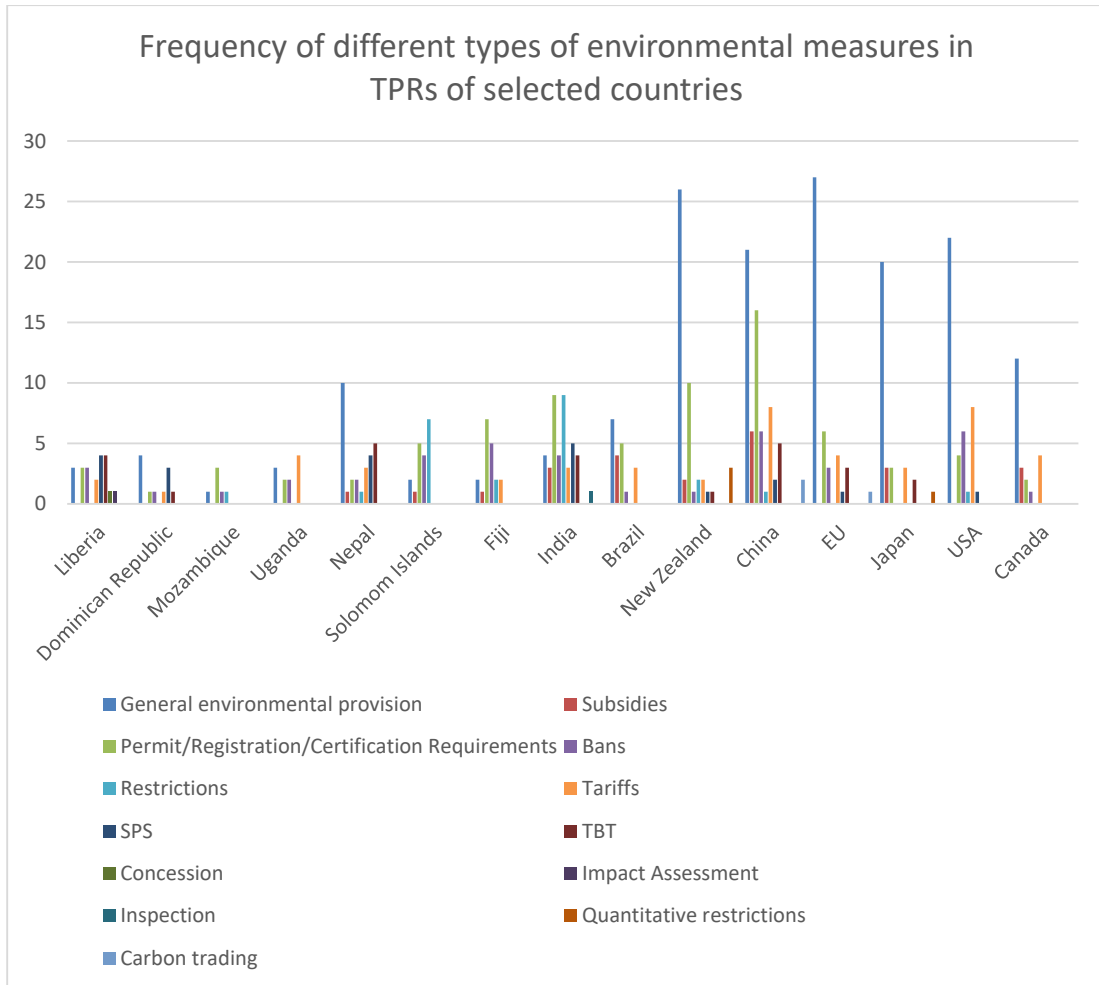


Figure 1: Frequency of different types of environmental measures in TPRs of the sample set of Members

Dataset 2 also reveals that these measures cover a wide range of environmental issues, such as forestry, agriculture, fossil fuels, broader environmental issues, etc.

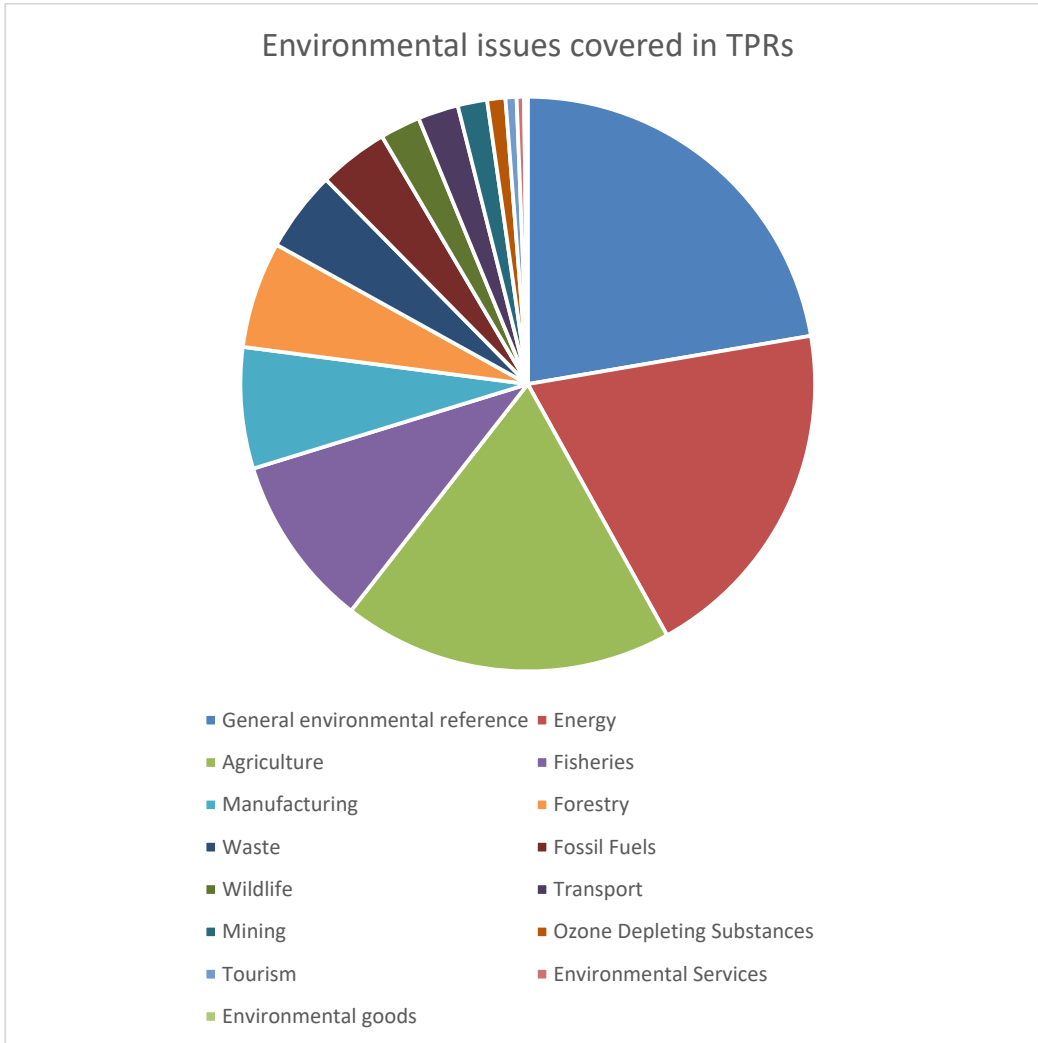


Figure 2: List of environmental issues covered within the TPRs

Additionally, as found in Dataset 2, which analyses the list of environmental issues covered for the references that have been assigned a value of 1 and its impact, most of these references can have implications for imports and exports. Some of them fall within the category of (NS), meaning ‘Not Specified’, indicating that the TPR does not indicate whether the measure affects imports, exports, or domestic production/trade.

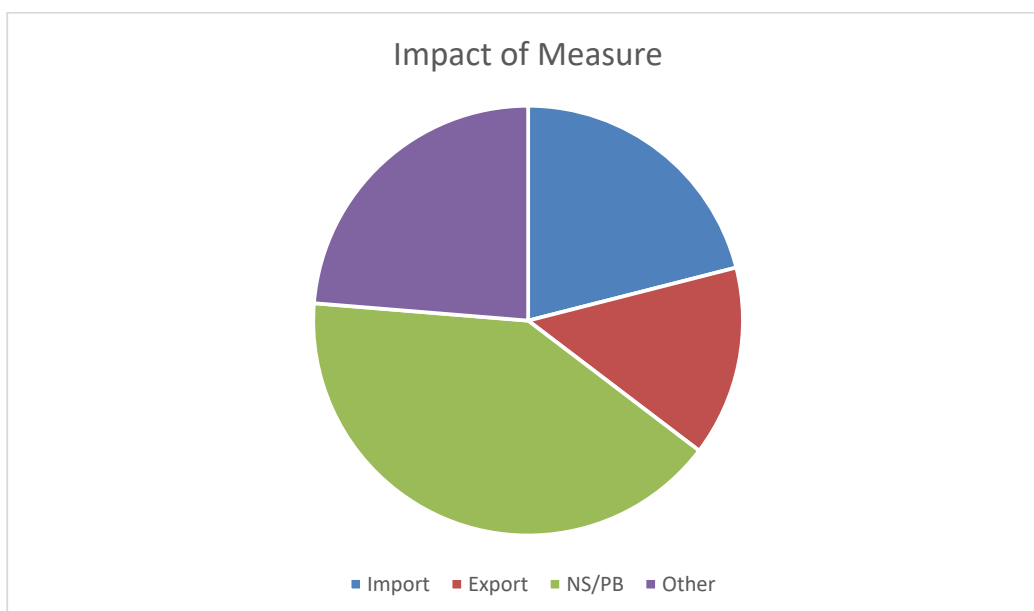


Figure 3: Impact of measures that have been assigned a value of 1

Given that environmental references are found in different categories of measures and refer to different environmental issues that tend to be reported in different sections of the TPR report, it is challenging to get an overview of green trade measures/environmental policies adopted by a Members through the existing structure of the TPR report.

4.4.3 Information about trade-related environmental measures is set out in different sections/chapters:

There are certain patterns to the distribution of the above-mentioned 7 categories of references in Secretariat Report. While the categories of references largely adhere to the rationale of each of the 4 chapters, some of them do not. There are a few categories of references, which cut across all chapters. For instance, category (d) of references defined as '*description of policy/legislation without measures*' and category (e) of references defined as '*description of policy/ legislation with measures*' can be found across different chapters. The table below depicts the concentration or localisation of these references under different chapters of the Secretariat Reports.

Categories of Environmental references observed	Value assigned	Chapter-wise concentration
a. General references to environmental goals;	0	Chapter 2
b. Current state of affairs/sector	0	'Current State of Affairs' - Chapter 'Current state of affairs in sectors' - Chapter 4

c. Description of rules governing the sector;	0	Chapter 4
d. Description of policy/ legislation without measures;	1	Chapters 2, 3 and 4
e. Description of policy/ legislation with measures;	1	Chapters 2, 3 and 4
f. Reference to International Treaties/ Conventions that the Member is a signatory to	0	Chapters 3 and 4
g. Others, that fall beyond what has been mentioned above.	0	Chapters 2, 3 and 4

Table 7: Environmental references in the Chapters of TPRs and value assignment

From Dataset 1 (Annex), it is seen that these environmental references are scattered across all four chapters. This conveys that environmental issues or policies are discussed or reported in all 4 chapters. In terms of concentration or localisation of references, we note that material references which have been assigned the value of 1 are concentrated in Chapters 3 and 4 of the Secretariat Reports. These references relate to category (d) of references defined as ‘*description of policy/legislation without measures*’ and category (e) of references defined as ‘*description of policy/ legislation with measures*’ can be found across different chapters. This is in conformity with the scheme of the Secretariat Report.

	Chapter 2	Chapter 3	Chapter 4
Members	All references (1)	All references (1)	All references (1)
Solomon Islands	1	5	5
Mozambique	1	4	1
Nepal		14	6
Uganda		11	1
Canada	2	12	14
India		22	5
China	4	31	23
Brazil	1	5	12
New Zealand	4	23	17
USA	4	15	22
Japan		10	20
Liberia		7	6
Dominican Republic	1	6	3
Fiji	1	7	6
EU	10	18	13

Table 8: Number of Environmental references in chapters 2,3 and 4 for covered WTO Members' TPR

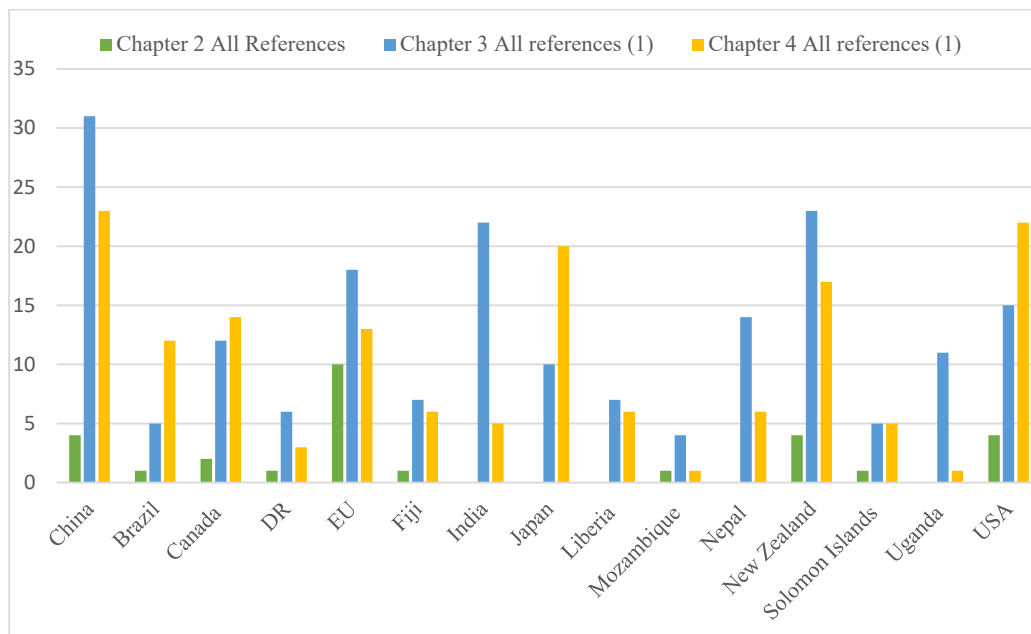


Figure 4: Number of Environmental references per WTO Member's references in each Chapter

5 RECOMMENDATIONS

5.1 ADVOCATING A MORE PRO-ACTIVE ROLE FOR THE SECRETARIAT

There are several ways to ensure a more comprehensive and consistent coverage of environmental references in the TPR, including green trade measures. Our recommendations are two-fold: (i) include a new section in the Secretariat's Report – either in Chapter 3 or 4 or both; and (ii) introduce questions the Secretariat can ask the Member under review relevant to the environment. These recommendations are geared towards expanding the coverage of environmental in TPRs, while fostering coherence. Each of these recommendations is described in more detail below.

While this report recommends including a specific *section* focused on the environment into the TPR, it must be noted that it does not recommend the inclusion of a specific *chapter* on the environment.

5.2 PROPOSAL TO INCLUDE A SECTION ON THE ENVIRONMENT IN THE SECRETARIAT'S REPORT

We have identified two areas where a section on the environment can be included as a part of Chapter 3 and/or Chapter 4 of the TPR. As explained above, Chapter 3 is organized around specific measures and policies that affect trade flows, whereas Chapter 4 is organized by specific issues, e.g., agriculture, energy, etc, and further organized into separate sub-sections related to an industry sector or economic activity.

Most references to the environment are found within these two chapters. Chapter 4 into separate sub-sections, each of which relates to a sector of industry or economic activity. Discrepancies in including references to environmental measures in countries TPRs can be addressed by inserting a section for Environmental references /the environment in Chapter 3 and/or Chapter 4. The following sections will explore the advantages and disadvantages of each of these options, as well as adopting both simultaneously.

With regards to Chapter 3, a new section entitled ‘*Green Trade Measures*’ could be created, following the chapter’s focus on trade measures. In this section, Members could identify environmental policies they have adopted that have implications for imports, exports, or production. By introducing environmental sections in Chapters 3 of the TPR, the TPR process can facilitate reporting on green trade measures, in line with the transparency function of the TPRM. However, adding a new section to Chapter 3 on green trade measures runs the risk of duplication and creating repetitiveness. Indeed, many ‘*Green Trade Measures*’ will fall under one or more existing categories of measures already covered in Chapter 3.

Another option is to add a section on the environment to Chapter 4, reflecting the potential for the development of environment as a sector of economic activity, and the need for effective trade-governance rules in order to ensure that diffusion of environmental goods and services across the world works on market-principles. Specifically, the proposed new section in Chapter 4 would transcend beyond the mere impact of green trade measures and would capture references to a Member’s environmental policy more generally, even if they don’t have an obvious trade impact and would not be covered by adding an environmental section to Chapter 3.

Given that adding a section on the environment to Chapter 3 will capture different types of environmental measures compared to Chapter 4, a third option is to add a section on the environment to both Chapters 3 and 4. This would ensure the most comprehensive coverage, although concerns related to repetition and duplication would need to be addressed. The subsection below will provide further detail and suggestions on including an environmental section in Chapter 4 – which appears more promising than Chapter 3 given its broader scope – and also includes additional suggestions on how an environmental section in Chapter 4 can be coupled with an environmental section in Chapter 3.

5.2.1 Options to Include a New Section in Chapter 4 of The Secretariat Report

Option 1: Include a section for “other environmental sectors”

One option for defining the scope and developing the contents of the new section is to add a section on the environment to the existing sectors set out in Chapter 4, which include energy, agriculture, fisheries, services, and forestry. This section can include the interlinkages of trade and the environment and can be referred to as ‘other

environmental sectors.’ The interaction between the proposed section and the existing thematic sections must be addressed. Indeed, some of the contents of the overarching environmental section will be covered in existing thematic sections on agriculture, forest and fisheries, mining, and energy. Our suggestion would be for environmental references relevant to the existing subthemes to be covered under these themes, and for the new environmental section to cover themes not covered in these existing sections (for example, wildlife, waste management, biodiversity, etc.).

Option 2: Create an overarching section for the environment

An alternative way to go about introducing an environmental section into Chapter 4 would be to introduce a broad-scope section for environmental sectors and introduce as sub-categories the existing environmental sectors (energy, agriculture, fisheries, services, and forestry) in addition to “other environmental sectors” or references to more specific sectors like waste management. The benefit of this approach is that all references to environmental sectors can be found under one sector in Chapter 4.

Option 3: Include a section focused on “environment as a sector of economic activity”

Another option would be to include a narrower environmental section, focused solely on the environment as a sector of industry or economic activity, with a focus on environmental goods and services. Creating such a section would help foster coherence in policymaking with regards to environmental goods, services and technologies. However, this option is premised on a narrower understanding of the environment as a sector of economic activity, around which great ambiguity exists. Indeed, discussions to reduce tariffs on environmental goods within the WTO stalled in 2016, in part because Members were unable to agree on how to define an environmental good.

5.2.2 The scope of an environmental section under Chapter 4 of the TPRs

For purposes of the proposed new section in the TPRM Secretariat’s Report, it is imperative to delineate the scope of what should be covered in the environmental section. Based on research carried out in this Report, these should include, for options 1 and 2:

- General references to environmental goals;
- Current state of affairs/sector;
- Description of rules governing the sector;
- Description of policy/ legislation without measures;
- Description of policy/legislation with measures;
- Reference to International Treaties/ Conventions that the concerned Member is a signatory to; and
- Others, that fall beyond what has been mentioned above.

For option 3, it would all these instruments too, to the extent that they are relevant to the environment as a sector of economic activity.

5.2.3 Accompany a new environmental section in Chapter 4 with an additional section in Chapter 3 of the Secretariat Report

Given that chapter 4 does not focus on measures, one option would be to complement an environmental section in chapter 4 with an environmental section in chapter 3 of the Secretariat's Report, which focuses on trade policies and practices by measure. A section within this Chapter can be added on 'trade-related environmental measures. It could be termed as 'trade-related environment measures' or could also be referred to as 'sustainable development' or even 'Green Trade Measures'. The basis for creating this new section would find its legitimacy in the very founding documents of the WTO, given that the concept of sustainable development and protecting the environment is vested in the Marrakesh Agreement.

As highlighted earlier, the key concern with this approach would be overlap with other sections. Indeed, research done on the basis of the WTO Environmental Database highlights that about a quarter of EDB entries by measure are considered quantitative restrictions, and about 20 percent cover regulatory measures, including mandatory technical regulations, specifications or voluntary standards, risk assessments etc. Yet even if it would result in some duplication, there might still be value to adding a separate section on environmental measures, given that it enables Members to easily get an overview of the types of trade-related environmental measures a country has adopted.

5.3 ENVIRONMENTAL QUESTIONNAIRE

Adding sections on the environment must go hand-in-hand with adopting a questionnaire regarding Member's environmental measures/sectors that the TPR Secretariat can ask Members.

Based on our review of the TPR Documents of the 15 Members and drawing inspiration from the Members' Q/A, we have developed a few sample questions which may be used by the Secretariat to develop further nuanced and context-specific questions relevant to the environment for Reviewee Members. The relevance of the Members' Q/A is that the kind, nature and object of the question of Reviewee Members by Reviewing Members points at the specific informational needs that are not adequately addressed by the TPRM. For instance, in the recent TPR cycles for EU and USA, Members have extensively questioned both EU and USA about their decarbonization initiatives, and the implications that such measures would pose to other players in the multilateral trading system of these two Members.

In light of this rationale and considering the options proposed to introduce environmental/green trade sections into the TPR, we propose the following list of questions:

Questions relevant to including an environmental section in Chapter 3:

(1) General References to Environmental Goals:

- a. What environmental policies/measures have you already employed/ or seek to employ to achieve such objective?
- b. What are the primary environmental objectives that your environmental policies/strategies seek to achieve?
- c. What is the focus of your Nationally Determined Contributions (NDCs)?
- d. How do these objectives align with broader sustainable development objectives?
- e. How do these objectives align with existing WTO principles?

(2) Current State of Affairs/Sector:

- a. Could you provide an overview of the current state of your environmental sector? What overarching environmental laws and policies/roadmaps do you have in place?

(3) Description of Rules Governing the Sector:

- a. What specific rules or regulations impact exports or imports of environmental goods or services?
- b. What rules impact the implementation of environmental policies? Particularly, specific the rules and regulations that impact other Members.

(4) Description of Policy/Legislation without Measures:

- a. Please specify the environmental policies you have employed in light of your policies to achieve environmental objectives.

(5) Description of Policy/Legislation with Measures:

- a. Please describe your overarching legal environmental policy framework. What laws do you have in place that govern the direction of your environmental policies? Are these laws legally binding?
- b. Please clarify the scope of application, particularly whether they affect the imports or exports, or both; who are they applicable to, etc.
- c. How have these measures been implemented, and what specific objectives do they seek to achieve?
- d. If these are environmental objectives, have you carried out impact assessment for your measures?

(6) Reference to International Treaties/Conventions:

- a. Which international treaties or conventions related to the environment are you a signatory to/ have ratified?

- b. Could you specify the actions taken in light of such Treaties/ Conventions?

(7) Others (Beyond Mentioned Above):

- a. What are some Regional Trade Agreements (RTAs) or investment agreements that you have entered into that contain environmental provisions?

Questions relevant to including a general environmental section in Chapter 4:

(1) Energy

- a. Could you provide information on the domestic policies and international agreements/ conventions/ treaties, if any, determining your obligations with respect to this sector?
- b. Could you provide examples of measures, if any, in place that promote the usage of renewable energy? Could you provide a list of measures, if any, that affect imports or exports? [Rationale: Members may utilize different methods to transition to renewable energy and these may or may not have impact on trade. Having some information in this regard would facilitate information sharing]
- c. Could you provide a list of environmental policies employed under to achieve such objective?

(2) Agriculture

- a. Could you please provide a list of environmental policies and measures adopted under this sector? Could you provide a list of such measures, if any, that affect imports or exports?
- b. Could you provide examples, if any, of policies/ measures or actions taken to promote sustainable agriculture?

(3) Fisheries

- a. Could you please a list of fishery management policies/measures adopted, if any instituted under this sector? Could you provide a list of such measures, if any, that affect imports or exports?
- b. Could you provide examples, if any, of measures/policies taken to promote sustainable fishing?
- c. Could you provide examples, if any, of measures/ policies taken to reduce/eliminate illegal fishing or harmful fishing subsidies?

(4) Forestry

- a. Could you please provide a list of green trade measures you have engaged in, relevant to this sector? Could you provide a list of such measures, if any, that affect imports or exports?

- b. Could you provide examples, if any, of measures taken to promote sustainable forestry or sustainable forest management? Could you provide examples, if any, of measures/policies taken to reduce deforestation?

(5) Manufacturing

- a. Could you provide a list of measures taken, if any, that promote sustainable/ environmentally friendly manufacturing practices? Could you provide a list of such measures, if any, that affect imports or exports?

(6) Transport

- a. Could you please provide a list of environmental policies and measures, relevant to this sector? Could you provide a list of such measures, if any, that affect imports or exports?
- b. Could you provide a list of measures taken, if any, that promote environmentally friendly transportation?

(7) Mining

- a. Could you please provide a list of environmental policies/green trade measures you have engaged in, relevant to this sector? Could you provide a list of such measures, if any, that affect imports or exports?
- b. Could you provide a list of measures taken, if any, that promote environmentally friendly mining practices?

Questions relevant to including a section in the chapter focused on the environment as an industry sector

(1) Environmental Goods and Services

- a. Do you have a definition of environmental goods and services?
- b. Could you provide examples, if any, of policies/ agreements/voluntary efforts (e.g., labelling schemes) to facilitate trade in environmental goods and services? Please also provide information on what you would consider as environmental goods and services. [Rationale: Members may define environmental goods and services differently, having some information in this regard would facilitate information sharing and foster discussions and coherence regarding the same]
- c. Could you provide information of measures such as tax incentives and green subsidies on environmentally friendly items?
- d. Are there any existing regional agreements of FTAs where the regulation of environmental goods and services has been contemplated? If yes, could you provide examples?

[Rationale: These questions facilitate information sharing amongst Members, with regard to existing measures or agreements that contemplate the regulation of environmental goods and services]

(2) Waste

- a. Are you a signatory to the Basel Convention, and do you implement the rules when engaging in trade in waste products?
- b. What approach have you adopted to ensure that hazardous and non-recyclable waste is not traded?
- c. Could you provide examples of measures, if any, to regulate the transport/ trade of waste from your region to another (Member) or from another region to yours?
- d. Do these measures operate in conjunction with domestic measures to regulate waste? Could you provide examples of measures, if any that seek to regulate domestic waste and promote the circular economy?

[Rationale: These questions have a two-fold purpose: a) covering regulation of ‘waste’ to better facilitate its coverage within environmental goods in lieu of promoting circular economy and (b) covering the interest shown by Members in the Q/A of TPRs, as found in Annex 3]

(3) Fossil fuels

- a. Could you provide examples of measures, if any, in place that promotes the reduction in the use of fossil fuels and transition to other greener sources of energy?
- b. Could you provide a list of fossil-fuel subsidies you have in place and measures if any, to reduce/ eliminate such subsidies? Specially, have there been any trade tools employed to achieve such result?

[Rationale: These questions have a two-fold purpose: a) covering the elimination of fossil-fuel subsidies, based on discussions in line with ‘Friends of Fossil Fuel Subsidy Reform’ and the Trade and Environmental Sustainability Structured Discussions (TESSD) and covering such regulation within environment as a sector; and (b) covering the interest shown by Members in the Q/A of TPRs, as found in Annex 3]

(4) Ozone-depleting substances / Substance-related issues⁵⁵

- a. Could you provide information on policies that seek to reduce emissions?
- b. Could you provide a list, if any, of the trade tools employed to achieve such emission reduction?

⁵⁵ A broader focus on the issue of substances (gases) regulation would ensure that interest of Members, particularly on the control of greenhouse gas emissions would be met. This is in light of the increased usage of trade tools to achieve the goals of the Paris Agreement.

- c. Do you have a carbon pricing system in place, either for your domestic market or for your international market or both? If yes, could you provide details? If not, could you provide information as to whether this is contemplated in the future?

(5) Tourism

- a. Could you provide examples of measures, if any, taken to ensure that the tourism sector develops sustainably?
- b. Could you provide examples of measures, if any, taken for the development of environmentally friendly tourism services?

[Rationale: These questions have a two-fold purpose: a) covering the growth of environmental services as a sector and (b) covering the interest shown by Members in the Q/A of TPRs, as found in Annex 3]

(6) Wildlife

- a. Could you provide a list of measures enacted to protect wildlife that impact the import or export of the same?
- b. What international standards have been considered while regulating wildlife in your region? What Conventions/ Treaties are applicable? What are regulations, if any, that impact the trade of such wildlife?

[Rationale: These questions have a two-fold purpose: a) covering the regulation of wildlife as an ‘environmental good’ and facilitating information sharing not only of measures that regulate trade but also rules and standards that impact trade and (b) covering the interest shown by Members in the Q/A of TPRs, as found in Annex 3]

It must be noted that these are general guidelines for questions, but ultimately, the questions asked by the Secretariat must be tailored to the countries under review.

6 Conclusion

In conclusion, this Report recognises the imperative of enhancing the coverage of environmental references, including green trade measures, and facilitating information sharing amongst the WTO Members during the TPRM. This is primarily supported by the proliferation of environmental trade measures that seek to address Member’s environmental objectives, including under the Paris Agreement, thus creating an interest to enhance transparency in this area. As documented by the WTO, the proliferation of Multilateral Environmental Agreements (MEAs) has also added to this transition. Members also noted the need to include enhanced environmental coverage during the 7th Appraisal.

Through a meticulous analysis of data extracted from the representative sample set of Members, this report has revealed the lack of consistency and variance with regards to environmental references in TPRs. Therefore, to facilitate transparency, it has suggested ways in which environmental references can be made more systematically

and comprehensively. The recommendations in this Report offer a structured solution to address these issues. In particular, this Report has explored adding a specific environment section to Chapters 3 and 4 of the TPR, addressing the strengths and weaknesses of doing so. It has further identified an accompanying list of questions relevant to the environment that the TPR Secretariat could ask Members during their TPR Review.

While there is widespread recognition of the importance of greening the TPR, the devil is in the details. Indeed, as set out in this report, both adding a section on the environment to Chapter 3 and Chapter 4 of the Secretariat's Report creates challenges. In the context of Chapter 3, a key challenge is avoiding overlap, given that the Chapter is organized by type of measure – not measure by subject area – whereas with regards to Chapter 4, a key challenge concerns organization of the environmental section vis-à-vis the existing sections. A related question concerns delineating the sections and identifying the types of environmental references that would fall within the different sections.

In sum, while this Report has sought to contribute to the ongoing discussions on greening the TPR, the analysis in this Report, and suggestions and recommendations are not meant to be final or conclusive. Rather, they should be used as conversation starters to further develop and fine-tune a realistic approach to greening the TPR to ensure additional transparency for Member's environmental policies, including green trade measures.

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ANNEX 1/ DATASET 1

Collective Sheet

Members	Chapter 2		Chapter 3		Chapter 4	
	All references (0)	All references (1)	All references (0)	All references (1)	All references (0)	All references (1)
Solomon Islands	2	1		5	5	5
Mozambique		1		4	1	1
Nepal	2		2	14	14	6
Uganda			1	11	15	1
Canada	3	2		12	29	14
India	1		2	22	13	5
China	7	4	4	31	24	23
Brazil	4	1	6	5	36	12
New Zealand	5	4	9	23	23	17
USA	6	4	8	15	32	22
Japan	1		1	10	3	20
Liberia	2		2	7	12	6
Dominican Republic	2	1	1	6	4	3
Fiji	5	1	1	7	6	6
EU	4	10	9	18	7	13

Chapter 2

Members	Chapter 2				
	General references to environmental goals (GR0)	General reference to current state of affairs (CS0)	Description of policy without measures (PWM1)	Description of specific measures / policy with measures (M1)	Others (O0)
Solomon Islands			1		2
Mozambique			1		
Nepal					2
Uganda					
Canada	3		2		
India					1
China	4*	3*	3	1*	
Brazil	1	3	1		

New Zealand	4		4		1
USA	3	3	2	2	
Japan	1				
Liberia	1	1			
Dominican Republic	1	1	1		
Fiji	5		1		
EU	4*		8*	2	

Chapter 3

Members	Chapter 3			
	References to Treaties/ Conventions that the Member is a signatory of (RT0)	Description of legislations/ policy without measures (PWM1)	Description of specific measures / policy with measures (M1)	Others (O0)
Solomon Islands		1	4	
Mozambique			4	
Nepal	2	5	9	
Uganda	1*	2	9*	
Canada		5	7	
India		8	14	2
China	2*	14*	17	2
Brazil	1	1	4	5
New Zealand	2	9*	14	7
USA		5	10	8
Japan	1*	4*	6	
Liberia		3	4	2
Dominican Republic	1*	4*	2	
Fiji	1		7	
EU	5*	10*	8*	4

Chapter 4

Members			Chapter 3
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	Description of sector/ current affairs (S0)	Description of rules governing the sector (R0)	References to Treaties/ Conventions that the Member is a signatory of (RT0)	Description of legislations/ policy without measures (PWM1)	Description of specific measures / policy with measures (M1)	Others (O0)
Solomon Islands	2	2*	2*	2*	3	1
Mozambique		1			1	
Nepal	9	5		1	5	
Uganda	8	7*		1		
Canada	10*	18*	1	3	11*	
India	2*	11*		2*	3*	
China	9*	14*	1*	8*	14*	
Brazil	17*	18*	1	6	6	
New Zealand	12*	9*	2*	1	16*	
USA	16*	12*	4*	11*	11*	
Japan	1	1	1*	10*	10	
Liberia	5*	6*	1	1	4	
Dominican Republic	2	1	1		3	
Fiji		4	2*	3*	3	
EU	3	3	1	10	3	

ANNEX 2/ DATASET 2

Environmental issues covered

Environmental issue	Total
General environmental reference	108
Energy	95
Agriculture	90
Fisheries	47
Manufacturing	33
Forestry	29
Waste	22
Fossil Fuels	19
Wildlife	11
Transport	11
Mining	8
Ozone Depleting Substances	5
Tourism	3
Environmental Services	2
Environmental goods	1

Impact of Measure

Impact of Measure	Total
Import	94
Export	64

NS/PB	183
Other	106

Types of Measures

Types of Measure	Total
General environmental provision	164
Subsidies	24
Permit/Registration/Certification	
Requirements	78
Bans	40
Restrictions	24
Tariffs	47
SPS	21
TBT	25
Concession	1
Impact Assessment	1
Inspection	1
Quantitative restrictions	4
Carbon trading	3

ANNEX 3 – RATIONALE FOR QUESTIONS

(1) Waste

Reviewee Member	Question posed and Answer provided
The European Union, 2023	<p>Page 20, Para 5.14 – Secretariat Report</p> <p>In the area of waste, in November 2021, the Commission adopted a proposal for a new regulation on Waste Shipment³⁰, which aims to ensure that the EU does not export its waste challenges to third countries and supports a clean and circular economy.</p> <p>Questions by China: 111. Please update the progress of legislation. How is waste transported and disposed of within the EU?</p> <p>Reply: The proposal for a new EU regulation on the shipment waste is currently discussed by the European Parliament and the Council of the European Union. The current Regulation (EC) No 1013/2006 on the shipment of waste is applicable at present. This Regulation applies both to shipments of waste within the EU and to shipments of waste exported from the EU or imported into the EU.</p>
China, 2021	<p>Page 12, Paragraph 17: The Secretariat Report notes that imports of "all solid waste products" have been prohibited as of 1 January 2021, but "[c]ertain recycling materials" may be still imported.</p> <p>Question by the USA: Can China explain the scientific basis that it used to determine which categories of "recycling materials" are acceptable for importation and which categories are not acceptable for importation? What is China's policy regarding expansion of the list of "recycling materials" that are acceptable for importation?" Can China explain why it discriminates between domestically sourced solid wastes and certain recycling materials, which are not prohibited, and imports of solid wastes and certain recycling materials, which are prohibited?</p> <p>Answer: According to the Law of the People's Republic of China on the Prevention and Control of Environmental Pollution by Solid Waste, raw materials derived from solid wastes which have been</p>

	<p>processed and treated comply with compulsory national product quality standards and pose no danger to public health and ecological safety, are not classified as solid wastes, and can be imported into China through normal product trade. Moreover, there is neither a list of "recycling materials" that are acceptable nor policy regarding expansion of the list.</p> <p>In accordance with the principles universally recognized by the international community, the proper disposal of domestically generated solid wastes is the responsibility and obligation of every country</p>
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(2) Fossil fuels

Reviewee Member	Question posed and Answer provided
The European Union, 2023	<p>Section 4.4, paragraph 4.114 of the Secretariat Report states that "In 2021, the European Commission published the Fit-for-55 package, aiming to ensure EU policies align with the climate-related goals of the European Green Deal and the Climate Law, which includes an intermediate target of 55% GHG emission reduction by 2030 and becoming climate-neutral by 2050. The package contains the Fit-for-55 communication as well as 16 energy- and climate-related legislative proposals that are currently in various stages of discussion. The proposals relating to energy primarily focus on emission reductions through multiple channels such as, inter alia, phasing out coal, accelerating the roll-out of renewables, increasing energy efficiency, and decarbonizing gas across various industries".</p> <p>Question by New Zealand:</p> <p>How does the EU intend to rationalise any inefficient fossil-fuel subsidies that encourage wasteful consumption in line with the United Nations' Sustainable Development Goal 12(c) and the G20 commitment so as to contribute to the reduction of greenhouse gas emissions and avoid disadvantaging renewable energy uptake?</p> <p>Reply: The European Green Deal Communication¹ set out the objective that fossil fuel subsidies should end. The European Climate Law specified that in light of the objective of achieving climate neutrality by 2050 and in view of the international commitments under the Paris Agreement, continued efforts are necessary to ensure</p>

	<p>the phasing out of energy subsidies which are incompatible with that objective, in particular for fossil fuels, without impacting efforts to reduce energy poverty. The Commission put forward its proposal to revise the Energy Taxation Directive as part of these efforts.</p>
India, 2021	<p>Page 81 (para. 3.146 and Table 3.2.5) Para. 3.146 of the Secretariat's report notes that "India's explicit subsidies continue to be targeted mainly at supporting the agricultural sector, ensuring food security and reducing poverty".</p> <p>Question by New Zealand: Noting India's goal of reducing poverty and helping households shift to cleaner fuels, could India share its experiences on its targeted fossil fuel subsidies schemes for natural gas, kerosene, and petroleum which support this goal?</p> <p>Reply: Liquid Petroleum Gas (LPG): In order to promote the uptake of clean cooking, sustainable environment (protecting wood and water) and good health (smoke-less cooking experience), India launched PM UY (Ujjawala Yojana) to provide deposit-free LPG connection to rural poor women. This has helped in moving towards stated objectives.</p>

(3) Ozone-depleting substances / Substance-related issues

Reviewee Member	Question posed and Answer provided
China, 2021	<p>Question by Pakistan: Pakistan appreciates if China can provide further details and specify its carbon emission trading market system: its functioning and how China sees it fit into its objective to address climate change.</p> <p>Reply: In December 2020, China released Measures for the Administration of Carbon Emissions Trading (for Trial Implementation) and Implementation Plan for the 2019-2020 national carbon emission trading quota setting and allocation (power generation industry). The Plan provided a list of key emission units that were included in the quota management of the power generation industry and clarified the specific requirements for quota allocation and fulfilment. In addition, it officially started the first quota fulfilment cycle of the carbon market in China.</p>

<p>New Zealand, 2022</p>	<p>Question by Canada:</p> <p>1. Could New Zealand provide more information on their key strategies, policies, and other tools being employed to achieve net-zero carbon emissions targets?</p> <p>Response:</p> <p>The Climate Change Response Act 2002 (the CCRA), as amended by the 2019 Climate Change Response (Zero Carbon) Amendment Act), provides the overarching framework by which New Zealand aims to develop and implement clear and stable climate change policies, and sets the domestic emissions reduction target for 2050. The 2050 target requires that:</p> <ul style="list-style-type: none"> • net emissions of greenhouse gases, other than biogenic methane, are reduced to zero by 2050 • emissions of biogenic methane (i.e. methane from the agriculture and waste sectors) are 10% lower than 2017 levels by 2030, and 24-47% lower by 2050. The CCRA requires emissions budgets to be set, and emissions reduction plans to be published, to put New Zealand on track to meet its 2050 net zero target. An emissions budget is a quantity of emissions that is allowed during a particular period. From 2022 onwards, three multi-year emissions budgets are required to be in place at any time, providing a pathway to the 2050 target. This approach to emissions budgets provides certainty by signaling the reductions required and sets the groundwork for deeper reductions over the longer term.[...]
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(4) Tourism

<p>Reviewee Member</p>	<p>Question posed and Answer provided</p>
<p>Dominican Republic, 2023</p>	<p>Page 141, Para 4.215 – Secretariat Report</p> <p>In addition to the lack of diversity in its tourism offering, the sector is facing other obstacles, such as the need to improve transport infrastructure and the lack of productive linkages with national industry. To mitigate these difficulties, the Government is proposing to promote health and wellness tourism; provide technical assistance</p>

	<p>to air transport; improve airport infrastructure; and attract tourism to protected areas in order to promote sustainable and socially inclusive tourism. There are also 26 tourism clusters, which are business clusters that seek to pursue initiatives that diversify the country's tourism offering.</p> <p>Question by China: 8. How does the Dominican Republic prevent the environmental damage and overexploitation of natural resources that result from attracting tourists to protected areas?</p> <p>Reply: The best way to protect natural resources, prevent environmental damage and overexploitation that is derived from the high tourist visitation in protected areas, is developing and regulating activities within protected areas, through the use of tools, such as Management Category and permitted uses according to zoning. It should be noted that the management category established in Law 202-04 obeys the objectives of conservation of the area, and is regulated through the management plans that each area must have to guarantee the sustainable use of the resource in accordance with the spirit of conservation of the area. The previous tools are used as guides for the implementation of activities of low impact that are based on the protection of natural resources, through the use responsible for the enabled spaces. Among the activities to highlight we can mention: hiking, camping, bird watching and recreational visits, which are carried out through the load capacity according to its zoning.</p>
Nepal, 2018	<p>Question by Thailand:</p> <p>Regarding the development related to tourism industry mentioned above, would Nepal welcome foreign investment to participate in the development? If so, what are the requirement and procedure?</p> <p>Answer: Nepal welcomes foreign investment in every sector of economic activities except for very few sectors specified in the Annex of the Foreign Investment and Technology Transfer Act, 1992. Foreign investors are allowed to hold 100% ownership in most cases. Moreover, such development would definitely render projects and bring more tourists into the Country, which could have impacts on nature and society. In this case, would Nepal have any plans or regulations to ensure the balanced, healthy and sustainable</p>

	<p>developments between environmental protection and promoting economic growth that might have a negative effect from tourism? After receiving permission for opening new industry from the Department of Tourism, the investor applies to the Department of Industry (DoI) for further registration approval. The DoI provides foreign investment approval to projects below NPR 2 billion. Otherwise, it forwards the proposal to Industrial Investment Promotion Board chaired by the Minister of Industry, Commerce and Supplies for approval to projects with investment above NPR 2 billion. For larger projects, investors can directly apply to the Investment Board, Nepal for investment facilitation. There are several policy provisions that focus on tourism promotion and sustainable environment management. Some of them are:</p> <ul style="list-style-type: none"> - The Constitution of Nepal has provisioned for a policy arrangement that focuses on the development of environment-friendly tourism industry. - According to the Tourism Policy, 2009, during the development and construction of tourism infrastructure, sustainable use of resources should be ensured. - There is a legal provision to conduct Environmental Impact Assessment while constructing any infrastructure, including tourism-related. - The Government has arranged special tax incentives for environmental protection.
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(5) Wildlife

Reviewee Member	Question posed and Answer provided
India, 2021	<p>Page 55 (para. 3.54) of the Secretariat Report Page The Report notes, that India applies import prohibitions mainly on health and safety grounds, and these continue to apply to products such as meat and offal from wild animals, tallow fat, animal rennet, and unprocessed ivory (the list of products is presented in Table 3.8).</p> <p>Question by Ukraine: Could India, please, explain the rationale for prohibiting the imports of poultry fat,</p>

	<p>margarine of animal origin?</p> <p>Reply: These products are "Prohibited" in terms of Principles of restrictions related to protection of human, animal or plant life and health.</p> <p>Would India also clarify whether same requirements (concerning prohibition) apply on domestic production?</p> <p>Reply: These prohibitions are to protect domestic health and safety. Certain products such as articles of apparel and clothing accessories of wild animals and other articles of furskin are covered under the Wildlife Protection Act, 1972*. Prohibitions, like ban on trading in ivory, as well as coral, musk, and other products from protected or endangered species, as declared under Wildlife Protection Act, 1972, are in place at the domestic level to protect human, animal, or plant life and health.</p> <p>*Prohibition on imports of certain products and the reasons thereof are:</p> <p>i. Import of Wild Animals (including their Parts and Products) as defined in the Wild Life (Protection) Act, 1972 is "Prohibited"</p>
China, 2021	<p>Page 20, Paragraph 4.49 of the Government Report: Question by the US: As a major consumer of wildlife and wildlife products, please explain how China is supporting wildlife protection, including how China is working to ensure that the wildlife products that China is importing and exporting are not illegally harvested or taken. In addition, what actions is China taking or planning to take to curb the demand for endangered totoaba bladder?</p> <p>Reply: The Chinese market regulators always attach great importance to wildlife supervision, strengthen wildlife supervision and law enforcement in accordance with the law, fulfill the responsibilities of member units of the inter-ministerial joint conference system on combating illegal wildlife trade, and enhance law enforcement cooperation with wildlife protection authorities. We will deploy local market regulators to strengthen the supervision and inspection of key food operation places such as catering service enterprises, shopping malls and supermarkets, agricultural trade markets and other places, and urge food dealers to strictly implement the responsibility as entity for food safety, carry out the purchase inspection requirements of food and edible agricultural products, and implement the relevant regulations prohibiting the trade of wildlife and their products. Procurement, operation, and use of wildlife meat and their products</p>

	are strictly prohibited, and catering service enterprises are not allowed to engage in wildlife-based food.
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