STRENGTHENING THE MULTILATERAL TRADE SYSTEM FOR GREEN GROWTH AND DEVELOPMENT: BRAZIL AND SOUTH AFRICA WITHIN THE WTO

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ABSTRACT

International trade is frequently influenced by policies aimed at environmental protection and the sustainability of production processes. In this context, Brazil plays a significant role in multilateral discussions on the intersection between environmental issues and international trade. Similarly, South Africa has consistently emphasized the importance of balancing environmental commitments with economic growth. This article analyzes the positions and strategies of Brazil and South Africa within the World Trade Organization (WTO) and other international forums, exploring the broader implications of environmental policies on global trade dynamics. Both countries express concerns regarding unilateral environmental measures, such as the European Union's (EU's) Carbon Border Adjustment Mechanism (CBAM) and European Union Deforestation Regulation (EUDR), arguing these policies could disproportionately impact their economies by restricting market access and increasing export costs. Both advocate for a multilateral approach that considers the economic realities of developing countries and promotes fairer trade. However, their priorities differ in certain aspects. Brazil criticizes agricultural subsidies and opposes the EUDR, claiming the regulation unfairly harms its agricultural sector. Meanwhile, South Africa focuses its criticism on the CBAM's impact on its industrial exports and emphasizes the need for international support to adapt to new environmental standards.

Keywords: international trade; environmental policies; WTO; Brazil; South Africa.

SINOPSE

O comércio internacional frequentemente tem sido influenciado por políticas voltadas à proteção ambiental e à sustentabilidade dos processos produtivos. Nesse contexto, o Brasil desempenha um papel relevante nas discussões multilaterais sobre a interseção entre questões ambientais e comércio internacional. Na mesma linha, a África do Sul também tem reiterado a importância de equilibrar compromissos ambientais com o crescimento econômico. O objetivo deste artigo é analisar as posições e estratégias do Brasil e da África do Sul dentro da Organização Mundial do Comércio (OMC) e de outros fóruns internacionais, explorando as implicações mais amplas das políticas ambientais sobre as dinâmicas do comércio internacional. Tanto Brasil quanto África do Sul manifestam preocupações em relação a medidas ambientais unilaterais, como o Mecanismo de Ajuste Carbônico na Fronteira (Carbon Border Adjustment Mechanism – CBAM) e o Regulamento de Produtos Sem Desmatamento da União Europeia (European Union Deforestation Regulation – EUDR)

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da União Europeia (EU), argumentando que tais políticas podem impactar desproporcionalmente suas economias ao restringirem o acesso a mercados e aumentarem os custos de exportação. Ambos defendem uma abordagem multilateral, que leve em consideração a realidade econômica dos países em desenvolvimento e promova um comércio mais justo. No entanto, em alguns aspectos específicos os países se distinguem. Por exemplo, o Brasil critica os subsídios agrícolas e se opõe ao EUDR, alegando que a regulamentação prejudica o setor agrícola brasileiro, enquanto a África do Sul concentra suas críticas no impacto do CBAM sobre suas exportações industriais e enfatiza a necessidade de apoio internacional para adaptar-se aos novos padrões ambientais.

Palavras-chave: comércio internacional; políticas ambientais; OMC; Brasil; África do Sul.

JEL: F18; F13; Q58.

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1 INTRODUCTION

As global concerns about environmental protection grow, nations are implementing policies to achieve sustainability goals. This is reflected not only in their national plans, but in the trade policies that affect the dynamics of international trade. For instance, the European Union's (EU) unilateral policies, such as the European Union Deforestation Regulation (EUDR) and the Carbon Border Adjustment Mechanism (CBAM), affect trade due to the stringent and inflexible UE standards that foreign companies must adopt to maintain access to the European market. In the environmental context, the measures are non-negotiable and require full compliance from all trading partners; and reflect the indivisibility of the EU's standards (Bradford, 2020).

Similarly, the Inflation Reduction Act (IRA), passed in the United States in 2022, is a comprehensive legislation aimed at reducing inflation through investments in clean energy, healthcare, and cost control for medications. A key focus of the IRA is the promotion of sustainable technologies and energy, with tax incentives for the production and use of clean energy. The IRA affects international trade by subsidizing domestic renewable energy industries and electric vehicles, thereby creating a competitive advantage for American companies in these sectors. This market distortion may lead to disguised protectionism and could trigger trade disputes with exporting countries.

Environmental measures often differ between developed countries (DCs) and developing and climate-vulnerable countries (DCCs), particularly impacting the latter when exporting to the DCs, as these measures are often perceived as barriers to trade. Brazil has been a key player in multilateral discussions on the intersection of environmental issues and international trade, particularly within the World Trade Organization (WTO) framework. The country actively engages in the Committee on Trade and Environment (CTE) and in related committees such as Agriculture, Sanitary and Phytosanitary Measures (SPS) and Technical Barriers to Trade (TBT). Brazil has consistently emphasized the need to balance environmental commitments with economic growth, especially for DCCs. Its proactive stance in these discussions, highlighted by participation in the Trade and Environmental Sustainability Structured Discussions (TESSD), reflects Brazil's commitment to shaping a global trading system that protects the environment and supports sustainable development.

Along the same lines, South Africa has also consistently reiterated the importance of balancing environmental commitments with economic growth, particularly in the context of DCCs. Through its participation in WTO discussions, South Africa has expressed concerns about the growing trend of using unilateral trade measures to achieve environmental and climate objectives, which often have extraterritorial impacts. The Southern African Customs Union (SACU), of which South Africa is a member, has highlighted the risks that such measures pose to the exports of DCCs and least developed countries (LDCs), potentially undermining their competitiveness in global markets.

The objective of this article is to analyze the positions and strategies of Brazil and South Africa within the WTO and other international forums, to explore the broader implications of environmental policies on global trade dynamics and sustainable development efforts.

The article is organized into six sections, the first being this introduction. The second section explores the challenges that environmental policies present to fair competition in DCCs, focusing on how subsidies and technical barriers contribute to trade distortions, particularly in the agricultural sector. The third section delves into Brazil's stance on greening trade within the WTO, emphasizing its efforts to balance environmental commitments with economic growth. The fourth section examines South Africa's position on similar issues, particularly its concerns about the impact of unilateral trade measures on Africa's competitiveness. The fifth section compares the convergent and divergent positions of Brazil and South Africa within the WTO. The final section concludes with closing remarks.

2 ENVIRONMENTAL TRADE POLICIES AND THE CHALLENGE OF FAIR COMPETITION IN DEVELOPING COUNTRIES

Concerns about environmental protection have manifested in various forms. At the national level, countries have implemented policies to achieve environmental goals, such as the EU's Green Deal, which aims to achieve climate neutrality within the bloc by 2050 (European Commission, [s.d.]), and Brazil's Ecological Transformation Plan, which seeks to restructure economic, technological, and cultural paradigms to promote sustainability (Brasil, 2024).

Under WTO rules, members have adopted trade-related measures to protect the environment, subject to specific conditions (WTO, [s.d.]a). Notifications issued under WTO Agreements[7] reflect the main policies and regulations that may impact international trade. These policies differ significantly between DCs and DCCs and are sometimes viewed as trade barriers by partners raising environmental concerns.

Using environment-related notifications for analysis,[8] we found that most policies and regulations focus on the agricultural, manufacturing, and chemical sectors. When the data is broken down by development level, the type of policy varies across sectors and trade regulations (table 1). In DCs, most policies involve subsidies and direct payments to promote agriculture as well as alternative and renewable energy, the latter being a focus in these countries' national environmental policies. Additionally, there are policies related to technical specifications in the chemicals sector, addressing

7. Agreement on Agriculture, Agreement on the Application of Sanitary and Phytosanitary Measures, Agreement on Technical Barriers to Trade, and Agreement on Subsidies and Countervailing Measures are some examples.

8. Available at: https://edb.wto.org/.

safety for consumers and the environment, as well as in the forestry sector, focusing on legal trade and environmental certification. DCCs primarily notified policies concerning technical specifications and import licenses for sectors that require stricter safety standards, such as chemicals and manufacturing. These policies are more directly tied to trade control, through import licenses, and do not necessarily address key sectors to development in these countries, such as the agricultural sector.

TABLE 1
Environment-related notifications by type of policy across different sectors and trade regulations
(In %)

Source of notification	Trade policy	Agriculture	Chemicals	Manufacturing	Energy	Others
Developed countries	Grants and direct payments	2.453	27	572	1.163	2.798
	Others	3.212	1.715	1.792	1.466	5.284
Developing countries	Technical regulation or specifications	1.259	1.108	2.22	139	721
	Import licences	396	1.082	448	92	1.7
	Others	3.841	1.784	1.92	525	4.345
Brazil	Technical regulation or specifications	313	307	104	3	20
	Conformity assessment procedures	2	6	46	2	6
	Others	60	14	12	5	59
South Africa	Technical regulation or specifications	8	2	19	0	9
	Non-monetary support	30	0	0	0	0
	Others	22	5	4	1	8

Source: WTO Environmental Database.
Authors' elaboration.

In sum, DCs tend to express their environmental objectives through subsidies in agriculture and energy, whereas DCCs concentrate on imposing and enforcing technical requirements in manufacturing, agriculture, and chemicals. This contrast suggests that developing economies rely mostly on border measures, while high-income economies draw on larger fiscal space to assist environmentally sensitive but less competitive sectors.

Subsidies with an environmental rationale can effectively advance sustainability goals. By directing resources to areas such as sustainable farming, chemical and hazardous-substance management, and renewable energy, governments encourage cleaner technologies and production methods. However, three questions arise. First, are these subsidies designed so they do not artificially erode other countries' competitiveness? Second, will clean technologies or financial resources be transferred to nations that cannot afford similar support? And third, once domestic environmental indicators improve due to subsidies, will stricter import regulations emerge as de facto barriers to trade?

The first concern is that direct payments, for example, can distort trade by giving certain producers an undue advantage in international markets. Aware of that risk, the WTO groups subsidies into "boxes" according to their effects on trade and output. The "Green Box" covers support measures deemed non-distorting or minimally distorting; these foster sustainable farming practices, natural-resource conservation, and biodiversity protection without encouraging unfair competition. However, when support exceeds 5% of the value of production, it may fall into the "Amber Box" and become open to challenge by other WTO members for distorting competition.[9] Therefore, rigorous monitoring is

9. Available at: https://edb.wto.org/.

needed even for environmentally oriented subsidies, especially in resource-intensive sectors, because such measures can undermine the comparative advantage of DCCs' exporters.

Clean, low-carbon technologies subsidized in advanced economies are relevant for developing regions – many of which rely heavily on agriculture – to cut greenhouse gas (GHG) emissions and become more climate-resilient. In 2019, Agriculture, Forestry and Other Land Use (AFOLU) (Land Use, Land-Use Change and Forestry – LULUCF) accounted for over half of total emissions in Africa, Latin America, and Southeast Asia. Yet, the sector's global share was only 22%, trailing Energy Systems (34%) and Industry (24%) (Lee and Romero, 2023). Despite most developing countries (excluding China) not being major global emitters, climate injustice remains stark. Roughly 35% of the world's population live in countries emitting more than 9 tCO_2-eq per capita (excluding CO_2-LULUCF), while 41% live in countries emitting less than 3 tCO_2-eq per capita. Many of the latter lack access to modern energy services. The top decile of households by per-capita emissions is responsible for 34-45% of global consumption-based GHGs, whereas the poorest half accounts for only 13-15% (Friedlingstein et al., 2023).

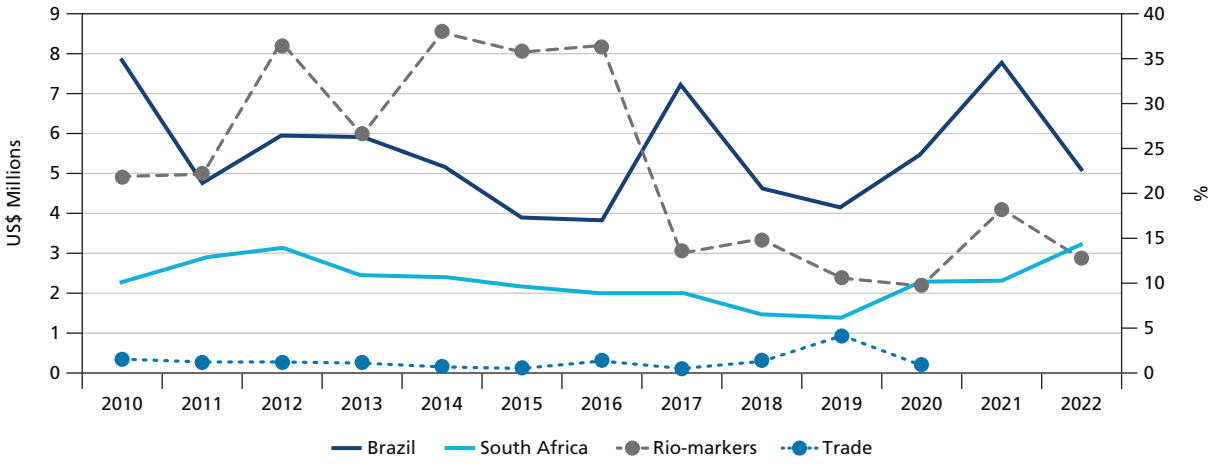
Market-access barriers framed as environmental measures add another layer of difficulty. As countries improve domestic indicators – either via subsidies or by importing products linked to environmental degradation – they may impose import requirements to level the playing field or to distance themselves from external environmental harm. Advanced economies typically enforce tighter regulations in resource-intensive sectors through voluntary sustainability standards and non-tariff measures, which can hinder exports from developing nations that face financial and institutional constraints. Two prominent unilateral EU regulations illustrate how developed-country trade policies can affect developing-country exports: the EUDR and the CBAM.

The EUDR requires firms to ensure that goods entering the EU market are not linked to deforestation. This directly affects Brazil's agricultural exports – soy and beef in particular – by imposing strict due-diligence requirements that raise costs and may restrict market access for producers unable to comply. Similarly, the CBAM applies a carbon price to imports of goods such as cement, steel, aluminum, and fertilizers, aligning it with the cost borne by EU producers under the Emissions Trading System. The mechanism targets South Africa's energy-intensive exports, notably steel, potentially reducing their competitiveness in the EU. Although the EUDR and CBAM support the EU's net-zero agenda, they often place additional burdens on DCCs without necessarily helping them meet their own sustainability targets. Instead, the rules underscore limited fiscal and technical capacity, raising compliance costs and constraining market access.

Accelerating global climate action therefore requires pairing such demands with instruments that help trading partners meet them. Adaptation and mitigation finance can foster low-carbon growth in DCCs and other vulnerable groups. By 2018, public and private climate-finance flows mobilized for developing countries still fell short of the United Nations Framework Convention on Climate Change (UNFCCC) and Paris Agreement target of US$ 100 billion per year by 2020 (Lee and Romero, 2023). Although global capital is sufficient, it is not being redirected at scale because investors underestimate climate risk and public finance is not fully aligned with mitigation and adaptation needs. Limited access to funding, infrastructure, and technical skills hampers low-emission technology uptake in developing economies, heightening economic vulnerability and indebtedness. Effective international cooperation – vital for ambitious climate goals – is likewise constrained by coordination challenges and misaligned financial flows (Lee and Romero, 2023).

Official Development Assistance (ODA) data show that, despite overall growth in financial support from developed countries, multilateral bodies, and development finance institutions to developing partners, funding targeted specifically to Brazil and South Africa has lagged. On average, Brazil received just 2% of total ODA flows, and South Africa about 1%. ODA also reveals a bias toward Rio-marker projects – conservation, climate adaptation, mitigation, and anti-desertification – and to trade-related initiatives aimed at boosting competitiveness and addressing trade barriers. Yet, as figure 1 indicates, the share of funding allocated to Rio-marker objectives has fallen since 2016, even as subsidies to developing countries in those areas have increased. Trade-support finance has never reached significant levels, despite its strategic role in developing-country growth.

FIGURE 1
Climate finance received related to environmental actions (Rio markers) and trade



Source: Creditor Reporting System – OECD (2024). Available at: https://stats.oecd.org/Index.aspx?DataSetCode=crs1.
Authors' elaboration.
Obs.: Rio markers track funding for environmental sustainability, while trade markers track funding for trade capacity and competitiveness. Trade markers data are only available until 2020.

Generous subsidies by developed economies in sectors critical to developing exporters thus generate ripple effects that erode competitiveness without being matched by adequate finance. The situation calls for greater transparency in subsidy classification and stricter oversight within the WTO. This requires trade-policy reviews, better-targeted climate funds, technology transfer, and capacity-building to align with climate goals to establish fairer competitive conditions and enable developing and climate-vulnerable countries to participate fully in the emerging green economy.

3 BRAZIL'S POLICY STANCE ON GREENING TRADE: POLICY POSITIONS AND PROPOSALS, TRADE AGREEMENT APPROACHES AND STATEMENTS TO THE WTO

Brazil has been an important player in multilateral discussions concerning environmental issues and their relation to international trade, especially those conducted within the CTE of the WTO, but also in other committees that intersect with environmental matters, like Agriculture, SPS and TBT. Most recently, the country adhered to the TESSD, an initiative launched by some WTO members in 2020 intended to complement the work of the CTE and other relevant WTO bodies, envisaging a global trading system that protects and preserves the environment in accordance with sustainable

development.[10] This highlights Brazil´s desire to have a firm stance and a decisive role in multilateral discussions regarding environmental rules and norms that impact not only trade but socio-economic development perspectives.

Indeed, the idea of sustainable development has been present in several Brazilian statements and proposals since the 1990s. Based on an analysis of various documents submitted to the WTO, dating back to 1998, it is clear that Brazil has always emphasized the need to balance environmental commitments with economic growth, especially in DCCs, highlighting the challenges of integrating environmental policies into international trade rules. In 1998, for example, it submitted to the CTE a document presenting the *Industry Principles for Sustainable Development*, prepared by the National Industry Confederation (Confederação Nacional da Indústria – CNI), which "ranks the reconciliation of ecologically balanced economic and social growth as top priority in today's world" (Brasil, 1998). In the same year, Brazil highlighted the potential of ethanol as a sustainable energy alternative to fossil fuels, with a technology developed originally in Brazil and easily accessible for other countries. In this sense, Brazil argued for the removal of trade barriers that hinder ethanol trade, emphasizing its importance for the global transition to a low-carbon economy.

In subsequent manifestations at the CTE, Brazil expressed its concerns and proposals, such as following.

- Its support for liberalizing trade in agriculture as a means of promoting both economic development and environmental sustainability. The country argued that eliminating subsidies and market distortions could increase the efficiency of agricultural production and make it more environmentally sustainable (WT/CTE/W/109, 1999).[11]
- The need for the CTE to address the issue of export subsidies, proposing that the Secretariat prepare a factual paper on agricultural export subsidies, based on notifications, and make recommendations for the upcoming agricultural negotiations – given that the CTE's had been mandated to address the environmental benefits of removing trade restrictions and distortions, and that export subsidies had been recognized in the Committee on Agriculture as distortive and environmentally harmful (WT/CTE/M/19, 1998).[12]
- The submission of a paper jointly with other important agricultural producers (like the United States, Argentina, Australia, Canada, Indonesia, and Thailand) addressing the environmental costs of export subsidies to agriculture (WT/CTE/W/106, 1999).[13] This point was reaffirmed by another paper submitted by Brazil in the same year (WT/CTE/W/109, 1999).

10. A Ministerial Statement adopted in December 2021 sets out future work for the initiative in areas such as trade and climate change, trade in environmental goods and services, circular economy, and sustainable supply chains.

11. Available at: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=10766,6826,24281,35999,36738,42468,27102,49635,30190&CurrentCatalogueIdIndex=2&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True.

12. Avalaible at: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=10766,6826,24281,35999,36738,42468,27102,49635,30190&CurrentCatalogueIdIndex=4&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True.

13. Avalaible at: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=10766,6826,24281,35999,36738,42468,27102,49635,30190&CurrentCatalogueIdIndex=3&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True.

It is very clear that, throughout the years, Brazil's main concerns related to environmental policies and practices have centered on the risks they posed for agricultural exports. This is why these concerns also appear in some statements made by the country in the Committees on Agriculture, SPS and TBT. As a general rule, Brazil's representatives in the WTO have tried to foster the ideas and principles of sustainable development and climate change in two practical ways: i) to press for the advancement of WTO negotiations on Agriculture, especially to achieve a significant reduction in tariff levels and adopt clear and applicable limits to subsidies, mainly those granted by DCs, based on the evidence that these measures are not only trade-distortive but also environmentally harmful for the whole world; and ii) to contain the imposition of restrictive measures assigned to agriculture products based on (supposed legitimate) environmental concerns.

In recent years, this strategy has not changed, but with climate change and environmental concerns becoming a trending topic in national and international policymaking, alongside a rising tide of protectionism in countries central to the international trade system, Brazil has adopted a more proactive stance in trade and environment discussions – though it continued to be focused on the agricultural sector. In a joint Communication delivered to the CTE and to the Committee on Agriculture in 2021, Brazil (alongside Argentina, Chile, Paraguay, and Uruguay) presented *Principles and Values of the Region Regarding the Production of Food within the Framework of Sustainable Development* (Argentina, et al., 2021) which states that

> We recognize that climate change is a challenge for the whole of humanity. When adopting measures to reverse climate change, we must give top priority to safeguarding food security and ending hunger. (...) We highlight the importance, in accordance with the 2030 Agenda, of moving forward with effective means of implementation by, inter alia, providing adequate financing mechanisms, investments in new and innovative technology aimed at sustainably increasing productivity, and promoting technology transfer and technical training. (...) Countries that are primarily responsible, both historically and currently, for environmental degradation should provide adequate economic and technological tools that will enable developing countries to increase the sustainability of their production. (...) It is essential to recognize and respect the local circumstances of the different regions of the world and their specific productive, social and environmental circumstances. (...) Open trade plays a fundamental role in ensuring and strengthening global food security and compliance with the SDGs. We therefore insist on the need to move forward decisively with the WTO agricultural reform process.

In the Report of the CTE Meeting held on November 13, 14 and 16, 2023 (WT/CTE/M/79),[14] Brazil expressed concerns about the impact of Multilateral Environmental Agreements (MEAs) on international trade, warning that they could result in conflicts or create unnecessary trade barriers. Furthermore, Brazil criticized the EU's CBAM, considering that unilateral measures such as this may be inconsistent with WTO rules and harm international cooperation. The country advocates that environmental actions should be conducted through multilateral negotiations, rather than being imposed unilaterally.

Finally, in the same document, Brazil also highlighted the importance of initiatives such as the Global Biofuels Alliance (GBA), launched in 2023, to accelerate the global energy transition. The country proposed promoting biofuels as a viable solution to reduce carbon emissions and create economic opportunities for rural communities, especially in DCCs.

14. Available at: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=303152&CurrentCatalogueIdIndex=0&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True.

In June 2024, Brazil submitted another Communication, this time to the four committees and to the General Council, titled *Dialogue on Sustainable Agriculture in the Multilateral Trading System* (WT/GC/W/938; G/AG/W/248; WT/CTE/W/262; G/SPS/W/368; and G/TBT/W/816).[15] Although this document is restricted on the WTO website, other documents suggest it highlights the need to integrate sustainability into agriculture, balancing environmental objectives with productivity to meet the growing demand for food. The country criticizes trade distortions caused by subsidies in DCs and unilateral environmental measures, which harm agricultural trade in DCs. Furthermore, Brazil expresses caution regarding the reallocation of agricultural subsidies to sustainable practices if these practices have not been well adapted to local realities or have not been accompanied by adequate support. Brazil also suggests that these reallocated subsidies could mask problems such as productive inefficiency, becoming, in practice, unfair competitive advantages that could distort the international market. Instead of punitive measures, the country defends the strengthening of innovation and agricultural research as key means to achieve sustainability, without compromising competitiveness in the global market. Brazil also emphasizes the importance of adapting sustainability measures to the local conditions of each country, avoiding uniform approaches that disregard different climatic and geographic realities.

> Measures enacted for environmental reasons can be trade restrictive and unfair, transferring the onus of adjustments or the ensuing burden of protectionism upon others, enhancing asymmetries contrary to the rules and principles of the multilateral trading system. As highlighted by the Forum on Trade, Environment and the SDGs (TESS), the use of unilateral border measures, such as bans, restrictions, or additional duties which purport to "equalize" environmental transition costs, passing it on to exporting third countries, remain highly controversial in the multilateral trade setting. Affected exporting countries argue the high probability that such measures would not be considered compliant with the WTO agreements. Possible direct consequences are increased food insecurity, the erosion of socio-economic capacities of affected Members and the unwarranted deviation of valuable resources that could be allocated to financing sustainable transitions in a larger pool of countries.
>
> (...) Finally, instead of focusing on protectionist or otherwise punitive trade measures designed to discourage unsustainable practices, Members should be discussing trade measures that encourage sustainable practices. Little to no attention has been given thus far to bringing together, in innovative negotiating formats, Members that are interested in creating trade-incentives for products meeting certain parameters of agriculture sustainability or produced in accordance with them (WT/GC/W/938).

This demonstrates that Brazil's approach to environmental issues within the WTO has significantly broadened over time. It has evolved from specific concerns about distortions that could harm Brazilian agricultural exports to a more comprehensive approach, encompassing the impacts on LDCs, the adoption of more sustainable producing practices, financing the transition, food security etc.

The evolution of Brazil's approach to international trade, sustainability, and the environment over the last few decades can also be observed in its Trade Policy Reviews (TPRs) presented at the WTO. In the 1996 and 2000 TPRs, the focus was on economic stabilization and trade liberalization, with little attention paid to environmental issues. In 2004 and 2009, Brazil maintained this priority, with few indirect references to the environment. During the global financial crisis, the focus remained on ensuring economic resilience and adaptation to new global conditions, although the 2009 TPR included some indirect references to environmental issues in the context of Brazil's

15. These documents have restricted access at the WTO, as can be seen at: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?FullTextHash=1&MetaCollection=WTO&SymbolList=%22G%2fSPS%2fW%2f368%22+OR+%22G%2fSPS%2fW%2f368*%22&languageUIChanged=true.

trade policies. In the 2013 TPR, clearer mentions of sustainable agricultural practices began to emerge. From 2017 onwards, sustainability gained greater importance. Brazil started addressing sustainable agricultural practices, the conservation of natural resources, and the reduction of GHG emissions as integral parts of its trade policy. Alignment with the Sustainable Development Goals (SDGs) was also mentioned. Finally, in the 2022 TPR, sustainability and the environment became central to Brazil's trade policy. The country argues that it has not only aligned its trade policies with the SDGs but also actively participated in the WTO's TESSD. In these discussions, Brazil defends the importance of integrating environmental issues into international trade rules. The document also makes clear that the country sees international trade as a powerful tool to promote sustainability.

3.1 CBAM and EUDR

The EU has been the most active group in terms of advancing measures to tackle climate change, promote energy transition and foster the adoption of sustainable producing practices. However, some of these measures, consolidated in the European Green Deal, carry the potential to restrain trade flows, especially those from DCCs. This is particularly true for the CBAM and the EUDR, both of which entered into force in 2023. Yet in 2023, the Brazilian government expressed its concerns about the distortive nature of these regulations within the WTO. In the CTE meeting held on March 14 and 15, 2023, it stated that

> remains concerns about some aspects of the EU Green Deal, such as the CBAM, that involve unilateral trade measures resulting in unnecessary negative impacts on international trade and contrary to commitments made by Members in other fora. Historical responsibilities means that countries that industrialized first benefited from cheap more polluting energy sources should bear a larger brunt of the costs of emissions reduction. In both the UNFCCC and the Paris Agreement, the EU has agreed to take into account the principle of common but differentiated responsibilities and respective capabilities. We call upon the European Union to fulfil that commitment and avoid measures that attempt to impose specific standards and decarbonization strategies on other economies (WT/CTE/M/77).[16]

In the subsequent meeting, Brazil again drew attention to this issue, stating that "the CBAM is a highly questionable measure that seems to contravene WTO rules in both spirit and letter and to run counter to the core principles and concepts of the UNFCCC", and that "Brazil strongly disagrees with the view that climate change requires the WTO to accommodate or create accommodations for new trade barriers" (WT/CTE/M/79).[17] Article 3.5 of the UNFCCC states that climate change measures "should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade." This section affirms that environmental policies, even unilateral ones, must be non-discriminatory and proportional, connecting the international climate regime and the multilateral trading system. Thus, citing article 3.5 reinforces the legal and political critique of the CBAM and the EUDR, which risk overburdening developing nations. Such instruments may violate WTO rules and global climate governance by applying extraterritorial environmental standards and imposing trade costs on countries with lower GHG emissions. Therefore, citing article 3.5 as a normative basis would legitimize criticism from Brazil by exposing the conflict between global environmental aims and potentially protectionist regulatory actions.

16. Available at: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=295078,295038,295009,294896,294862,294798,294795,294786,294723,294548&CurrentCatalogueIdIndex=4&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRe.

17. Available at: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=303152&CurrentCatalogueIdIndex=0&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True.

In the meeting held in April 2024, Brazil expressed that the CBAM and the EUDR "are highly questionable and seem to run counter to the spirit and letter of WTO rules, and their negative trade effects will tend to siphon resources away from developing countries and ultimately undermine their means to pursue environmental objectives" (WT/CTE/M/80).[18] The country also had the opportunity to question these measures in the Q&A session related to the EU's TPR, conducted in 2023. Most of the questions made based on EU´s Report were related to CBAM or the deforestation regulation, their costs and impacts on DCCs, their conformity to WTO rules, the transparency and robustness of the procedures that will be adopted, and also if the EU had any plans to implement programs to transfer technology and/or offer financial support to promote a transition to more sustainable production methods in third countries.

To support this discussion, Espa, Francois and van Asselt (2022) argue that although the CBAM is presented as a legitimate measure to address carbon leakage, its current design raises concerns regarding potential violations of the principles of non-discrimination and the prohibition of export subsidies, as established under the General Agreement on Tariffs and Trade (GATT) and the Agreement on Subsidies and Countervailing Measures (ASCM). The study highlights that the legal validity of the mechanism will depend on its conformity with the exceptions set out in article XX of the GATT, which require strict adherence to criteria of proportionality and non-arbitrary application. Furthermore, the CBAM may conflict with article 3.5 of the UNFCCC, which states that climate measures should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

Concerning the CBAM, more specifically, Brazil's representatives have been expressing concerns that this measure may violate the principles of non-discrimination laid out in the GATT, as it introduces differential treatment between nations (mainly EU member states, members of the European Free Trade Association – EFTA, and countries outside the bloc).

Among the points raised by the Brazilian government's statements, the following stand out (IISD, 2024).

- The mechanism, which will integrate the Emissions Trading System (EU ETS), should be effectively equivalent to the one imposed on domestic production. The analysis of alleged equivalence should consider various aspects, including scope, emissions calculation method, certificate pricing, operator transferability, certificate validity period, compliance administrative burden, verification rigor, and penalties.
- All products covered by CBAM should, in fact, be equivalent to those subject to the ETS when produced in the EU.
- The emissions certification process by operators should be simple and efficient, and there should be no systematic recourse to the default value that constitutes *de facto* discrimination against imported goods in cases where the operator does not provide the necessary information to quantify their emissions.

18. Disponível em: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=307482,307238,307062,307057,306957,306880,306771,306804,306707,306364&CurrentCatalogueIdIndex=3&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRe.

There is also the argument of a possible violation of the principle of common but differentiated responsibilities in international environmental law, which determines that nations will have different roles in combating climate change depending on their individual conditions.

During the 106th meeting of the WTO's Agriculture Committee, Brazil, on behalf of all signatories, presented the joint letter signed on September 7, 2023, by 17 DCCs regarding the entry into force of the EUDR. Brazil participated in the articulation of the document, which also includes Argentina, Bolivia, Colombia, Ivory Coast, Ecuador, Ghana, Guatemala, Honduras, Indonesia, Malaysia, Mexico, Nigeria, Paraguay, Peru, Dominican Republic and Thailand.[19] Some excerpts from this letter are presented below.

> We wish to convey through this letter our deep concern regarding the recent entry into force of the European Union regulation on deforestation-free products (EUDR) (...) this legislation disregards local circumstances and capabilities, national legislation and certification mechanisms of developing producing countries, as well as their efforts to combat deforestation and commitments made in multilateral fora, including the principle of common but differentiated responsibilities. Furthermore, it establishes a unilateral risk assessment system that is inherently discriminatory and punitive, which may be inconsistent with WTO obligations.
>
> (...) The EU should work to correct its legislation, or, at the very least, seek to mitigate its most harmful impacts, through implementation guidelines that adequately value local sustainable practices in agricultural value chains, both those already applied and those in the development phase, and avoid commercial disruptions, including excessive administrative burden related to geolocation and traceability requirements, certification and customs control.

The inflexible approach adopted by the EU, implemented through its model of due diligence and traceability, ignores diverse local conditions and will inevitably impose immense costs on both exporting and importing countries, as well as producers and consumers. Although these costs are certain, we believe the legislation alone will not positively impact deforestation rates and may even produce other adverse effects, such as increased poverty, diversion of resources, and delays in achieving the SDGs.

Small producers are especially vulnerable to the EUDR and require special support. The EU should recognize the efforts made by DCCs to improve their livelihoods and sustainability practices, as well as the significant challenges these producers face, such as limited access to financing schemes, new technologies, training, and technical assistance. Small producers may end up excluded from international value chains, not because they have deforested their land, but due to their inability to comply with the strict requirements imposed by the EUDR.

Brazil also submitted a joint letter (G/AG/GEN/223)[20] calling on the EU to effectively engage in dialogue and cooperation, especially with the DCCs

> (…) to repair this legislation, or, at a minimum, aim to mitigate its more harmful impacts through implementation guidelines that adequately value the current, as well as developing, local sustainable practices in agricultural value chains, and avoid trade disruption, including the excessive administrative burden related to the geolocation and traceability requirements, certifications, and customs procedures.

19. Available at: https://www.gov.br/mre/pt-br/canais_atendimento/imprensa/notas-a-imprensa/carta-de-paises-em-desenvolvimento-a-autoridades-europeias-sobre-a-entrada-em-vigor-da-chamada-lei-antidesmatamento-da-uniao-europeia.

20. Available at: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=298427,298428,298401,298385,298380,298376,298284,298296,298329,298328&CurrentCatalogueIdIndex=6&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRe.

In November 2023, Brazil, jointly with Argentina, Colombia, Ecuador, Guatemala, Honduras, Mexico, Paraguay, and Peru, brought its concerns to the CTE. They submitted a Communication expressing concern about "this unilateral standard that imposes a trade measure that could generate higher costs or barriers to trade, especially for small businesses and producers in chains of great importance to our countries" (WT/CTE/GEN/33).[21] The document highlights several issues that are unclear or require supplementary regulations, such as the specific criteria and methodology for assigning deforestation risk ratings for each country, or how the EU plan to prevent costs incurred in implementing traceability and due diligence systems from being borne by producers in third countries. In this sense, the document presents a series of questions that should be responded to by the EU in a short time, considering that the regulation establishes an 18-month implementation period. There is no registry in the WTO of any responding document from the UE.

At the same meeting, Brazil co-sponsored the declaration by the Cairns Group – a coalition of 19 countries advocating for the liberalization of global agricultural trade – on sustainability in agriculture. In this declaration, these countries express concerns about environmental trade measures that unilaterally impose obligations. The joint position of the Cairns Group, which brings together DCs and DCCs, significantly reinforces the demand for respect for multilateral trade rules.

Over the last three years, Brazil has presented several questions to the EU within the scope of the Agriculture Committee, regarding the adequacy of the measures now consolidated in the EUDR to WTO regulations. The exercise of reviewing countries' commitments to the Committee constitutes an opportunity for political and technical dialogue on the agricultural and trade policies of the Organization's members.

In spite of all these statements, Brazil and other affected countries have not yet expressed a clear interest in bringing the CBAM or the EUDR to WTO dispute settlement.

3.2 Trade agreements

Brazil is part of a limited number of trade agreements, predominantly with other South American nations. These agreements were not negotiated by Brazil individually, but by Mercosur as a bloc, due to its customs union status, which precludes individual members from independently negotiating comprehensive trade deals. Among the trade agreements concluded by Mercosur, only the agreements with Chile and Singapore have preambles that clearly mention the environmental pillar and the principles of sustainable development. However, the agreement with Singapore does not include a specific chapter on the matter. The agreement with Colombia generally establishes the need to advance in economic and social development, without mentioning the environmental pillar (Salles and Carvalho, 2024).

Specifically, the 64th Additional Protocol of the Mercosur-Chile Agreement[22] states that trade must promote sustainable development, through environmental protection and conservation, and recognizes the environment as one of the three dimensions of sustainable development and mandates that it must be addressed in a balanced way with the social and economic dimensions. The Additional

21. Available at: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=301000,300906,300902,300918,300889,300894,300867,300806,300724,300698&CurrentCatalogueIdIndex=5&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRe.

22. The original agreement was signed in 1996. The 64th Additional Protocol was signed in 2018.

Protocol includes a chapter specifically devoted to environmental issues (chapter 17) that stands out for listing more directly and explicitly which multilateral environmental agreements must be applicable by members.

The Mercosur-EU Agreement, currently in an advanced stage of negotiations, also has provisions related to sustainable development within a dedicated chapter 7 titled Trade and Sustainable Development, which covers both labor and environmental disciplines. It contains specific articles on Multilateral Environmental Agreements; Trade and Climate Change; Trade and Biodiversity; Trade and Sustainable Forest Management; Trade and Sustainable Management of Fisheries and Aquaculture; Trade and Sustainable Development Subcommittee and Focal Points; and Dispute Settlement. The chapter lists an important set of multilateral environmental agreements that can be invoked under its auspices, while also regulating and detailing operational aspects of the implementation of each theme. The design of this agreement follows the pattern currently adopted by the EU in its trade negotiations, putting sustainable development and environmental concerns at center stage.

The absence of environmental and sustainable development provisions in many of Mercosur's earlier agreements, contrasted with their prominence in more recent ones, reflects the evolution of this issue in intra-regional discussions and in official documents and institutional instruments created throughout the bloc's existence. It must be noted that, since its foundation, Mercosur has included an environmental dimension of regional integration in its agenda. However, reflecting the intergovernmental logic the bloc adopts for both institutional and normative issues, member countries opted to maintain national sovereign control over environmental legislation and policies, leaving aside any initiative to standardize regional environmental law or create common environmental standards and policies, limiting efforts instead to harmonizing national environmental laws and policies. This principle was formally established by the Common Market Group in 1994, through Resolution No. 10/94, which sets out the basic guidelines for the development of an environmental policy for Mercosur.

Over time, the bloc incorporated several instruments to address environmental issues related to regional integration, such as (Salles and Carvalho, 2024):

The Mercosur Framework Agreement on the Environment (2001), that reaffirmed the principles set out in the 1992 Rio de Janeiro Declaration on Environment and Development, committing to act in accordance with them within the framework of the Treaty of Asunción.

- The creation of Working Subgroup No. 6, that focuses on issues related to trade and the environment, such as non-tariff restrictions related to the environment and their treatment; competitiveness and environment, with the evaluation of the production process to guarantee equal conditions of environmental protection and competitiveness among member states and with third countries and regional groupings; international environmental management standards (ISO 14.000), by monitoring their elaboration, discussion, definition, and implementation, and analyzing the impacts of their application on the competitiveness of Mercosur products in the international market;
- The meeting of ministers of the Environment and Climate Change (Ministério do Meio Ambiente e Mudança do Clima – MMA), created by Common Market Council (CMC) Decision No. 19/03, with the purpose of proposing measures for coordinating policies to promote environmental management and sustainable development in the region, as well as cooperation actions and articulation on environmental matters.

- The Intra-Mercosur Investment Facilitation Cooperation Protocol, approved by CMC Decision No. 03/17, that establishes provisions for Corporate Social Responsibility (article 14) regarding the relationship between Investments and the Environment (article 16).
- The Mercosur Public Procurement Protocol, approved by CMC Decision No. 37/17 (not yet internalized in Brazil), which established as a general principle that "the public procurement processes for goods and services will aim to promote the sustainable development of the States Parties".
- The Ad Hoc Group on Trade and Sustainable Development (Grupo Ad Hoc sobre Comércio e Desenvolvimento Suntentável – GAHCDS), created through Common Market Group (Grupo Mercado Comum – GMC) Resolution No. 41/22, "because Mercosur, in its external relationship, is negotiating specific chapters on this matter", as highlighted in its preamble.

These instruments, though, have limited scope and are not coercive obligations. In practical terms, they have little influence on the negotiations of trade agreements, including the ones possibly undertaken on a multilateral basis. They also have little effect on intra-regional trade, thus not transforming into effective regional public policy.

4 SOUTH AFRICA'S POSITIONS AT THE WTO

Across its various submissions to the WTO, South Africa has consistently reiterated the importance of balancing environmental commitments with economic growth, especially in DCCs. On February 2, 2024, the CTE released the report from its meeting held on November 13, 14, and 16, 2023 (WTO/AIR/CTE/22; WTO/AIR/CTE/22/Rev.1), which addresses environmental and climate issues, technology, protectionist measures, and the concerns of emerging countries regarding environmental measures. South Africa is among the emerging countries mentioned in the report, and the following points stand out.

- The representative of South Africa, on behalf of the African Group,[23] expressed concern about the growing trend of using unilateral trade measures to achieve environmental and climate objectives, some of which go beyond national borders and have extraterritorial reach. These unilateral measures cover a wide range of goods traded globally and will have far-reaching impacts on the exports of DCCs and LDCs, with a negative impact on Africa's competitiveness (African Group, 2023).
- Several DCCs, including the African Group, India, and Latin American countries highlighted that the consequences associated with the full operation of policies such as CBAM and due diligences, as well as other measures implementing the European Green Deal, appear to distort traditional trade flows and supply chains, undermining members' rights to implement appropriate decarbonization policies and reducing global prosperity, especially in DCCs.

23. Countries that are part of the African Group: Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cabo Verde, Cameroon, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Eswatini, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, South Sudan, Sudan, Togo, Tunisia, Uganda, United Republic of Tanzania, Zambia, Zimbabwe.

- It is also noteworthy that on September 9, 2023, the Prime Minister of India, Shri Narendra Modi, announced the launch of the GBA during the Group of Twenty (G20) Leaders' Meeting held under India's G20 Presidency in New Delhi. India, Brazil, and the United States are the founding members of the Alliance. To date, a total of 22 countries and 12 international organizations have joined the initiative. Among the members is South Africa, which is also part of the G20, reinforcing the Alliance's global and inclusive nature. This alliance aims to accelerate the global adoption of biofuels by facilitating technological advancements, increasing the use of sustainable biofuels, and shaping the establishment of standards and certification.
- The African Group presented a number of key issues in the context of technology transfer and climate change that the CTE could address and discuss. These include how to facilitate and promote the development and transfer of environmentally sound technology (EST), including financial commitments to ensure access to such technology and investments in environmental projects; and the creation of a Trade and Environment Fund with objectives such as facilitating the transfer of EST at reasonable prices and financing the incremental costs of licensing and/or other mechanisms (WT/CTE/30).[24] They also pointed out that, beyond trade, unilateral measures could have implications for investment, industrial development, and job creation. There will also be implications for millions of small farmers who produce agricultural products, as they will face the challenge of assuring buyers that they have produced goods legally.
- South Africa, along with India, emphasized the importance of concrete solutions for climate finance and technology transfer in a document titled "Concerns about the Emerging Trend of Using Environmental Measures as Non-Tariff Protectionist Measures" (JOB/TE/78/Rev.1).[25] According to these countries, there are two ways to analyze the trade-environment relationship: either address climate change mitigation and adaptation issues using available WTO trade instruments, or promote trade itself as an objective through environmental themes, regardless of whether the real challenges are effectively addressed.

This document also contains a roadmap for future work on trade and technology transfer for DCCs, which includes: i) a financial mechanism to promote the transfer of ESTs, finance research and development, and provide technical assistance; ii) a database for ESTs to ensure appropriate synergies with other existing platforms; iii) streamlining licensing practices, such as including a mechanism under the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) to promote the licensing of open and adaptive technologies for results obtained from climate change research and publicly funded ESTs; and iv) allowing DCCs to use TRIPS flexibilities, such as exemption from patentability on a case-by-case basis, for inventions whose exploitation is vital for the diffusion of ESTs needed for climate change adaptation and/or mitigation.

The African Group presented a study commissioned by the African Foundation on July 13, 2023,[26] which measured the potential impact of CBAM based on different carbon price scenarios. The results

24. See also: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=303152,301992,295901,295643,293610,292505,107189,49523&CurrentCatalogueIdIndex=1&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True.

25. Available at: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=%40Symbol%3dJOB%2fTE%2f78%2fRev.1&Language=SPANISH&Context=FomerScriptedSearch&languageUIChanged=true.

26. Available at: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=303152,301992,295901,295643,293610,292505,107189,49523&CurrentCatalogueIdIndex=2&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True.

show that even in the mildest scenario with the most limited impact, Africa would be negatively affected by CBAM, with exports to the EU decreasing by a total of 4%. The African Group would be more severely affected than any other major economy analyzed. They also highlighted that even at €40 per tonne, CBAM would substantially increase EU import tariff revenues but would have little impact on overall CO2 emissions. With a higher carbon price and more extensive product coverage, Africa's exports to the EU would decrease by 5.75%. Mozambique, where cast aluminum is an important export product, would be one of the most affected African countries. According to the Center for Global Development, CBAM duties on its aluminum exports could reduce its GDP by 1.5%. This places a hugely disproportionate responsibility on a continent that is among the least responsible for GHG emissions but among the most affected by climate change.

Another point highlighted in the document is that environmental concerns also run the risk of being used as a justification for the implementation of TBT, further limiting market access for DCCs, including LDCs. Furthermore, attempts to recategorize agricultural subsidies in the context of agricultural reform negotiations only perpetuate imbalances in global agricultural trade. They state that any environmental tariff and non-tariff barriers should be subject to multilateral discussions and agreements, rather than unilateral, arbitrary, or discriminatory environmental measures.

They also consider that the principle of Common but Differentiated Responsibilities and Respective Capabilities recognizes that each country must assume responsibilities and acknowledges the different capacities and different responsibilities of each country in addressing climate change. It further states that DCs should assume primary responsibilities, as they have contributed to the largest proportion of historical and current GHG emissions. Countries can only mitigate after the necessary adaptation; therefore, adequate financing for adaptation must be provided. In this regard, the African Group, in a document dated July 3, 2023, proposes that discussions on the role of WTO rules on climate-resilient technologies in the context of climate change mitigation and adaptation begin as soon as possible in the CTE.[27]

Also noteworthy are the WTO TPRs, which discuss various trade policies with the aim of understanding the trade mechanisms of different countries. Documents WT/TPR/M/447 and WT/TPR/M/447/Add.1[28] bring up numerous discussions involving South Africa. Argentina raised a question to SACU to better understand how its members are planning and implementing programs to encourage the production of more sustainable goods. SACU's response indicated that an agreement was reached on an industrial development strategy aimed at positioning the region as a hub for innovation and production on the continent, with an emphasis on the following priority sectors: agro-processing (e.g., leather and leather products, meat and meat-based products, fruits and vegetables), textiles and clothing; pharmaceuticals, cosmetics, and essential oils. Fertilizers, agrochemicals, and seed production were added as another priority to address the existential challenges the region faces regarding food security.

Another issue raised was related to the tariff regime of SACU countries, seeking to understand whether they intend to reduce the high tariffs in the agricultural sector. South Africa's response

27. Available at: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=303152,301992,295901,295643,293610,292505,107189,49523&CurrentCatalogueIdIndex=3&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True.

28. Available at: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=%20(@Symbol=WT/TPR/M/*%20and%20Add*)%20and%20((%20@Title=South%20Africa%20)%20or%20(@CountryConcerned=%22South%20Africa%22))&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true#.

was that industrial and agricultural policy objectives will guide the relaxation of the tariff regime. In addition, they highlighted the Agriculture and Agro-processing Master Plan (AAMP) and mentioned that chapter 6 of the country's Growth Plan refers to agriculture and rural development, and the AAMP contains sectoral and product-specific initiatives that aim to promote inclusive sectoral growth to ensure food security and improve productivity.[29]

Regarding the SPS agreement, as per actions taken in the Committee on SPS Measures up to August 2024, South Africa requested WTO consultations with the EU on a disagreement regarding certain aspects of the regime imposed by the EU on the import of South African citrus fruits. The request was circulated to WTO members on April 24, 2024. South Africa claims that the EU measure appears to be inconsistent with several provisions of the WTO Agreement on SPS.[30] This is the second dispute initiated by South Africa over EU import measures for citrus fruits.

In the Mercosur-SACU Preferential Trade Agreement, Brazil proposed to South Africa, on October 9, 2023, to update the health certificate for trade in poultry and poultry products. The International Health Certificate was prepared, shared and agreed upon between the authorities of both countries and is in full use, with several consignments having been successfully imported since 2017.

However, these are just two specific examples, while most of the actions taken within the committee pertain to issues involving agricultural products related to food safety, specifically fish, crustaceans, molluscs, and other aquatic invertebrates. It is worth noting that in the TBT Committee, the products under scrutiny are the same as those in the SPS Committee, with the barriers most often related to labeling.

5 COMMON CONCERNS SHARED BY BRAZIL AND SOUTH AFRICA

This section explores the similarities and differences in how Brazil and South Africa approach environmental and trade policies. It also analyzes how both nations navigate these challenges while balancing their economic interests and environmental responsibilities.

According to the African Development Bank (2022), Africa is the least climate-resilient global region, characterized by high vulnerability and insufficient preparedness for climate change. This vulnerability stems largely from its desert and semi-desert climate zones, low levels of socioeconomic development, and lack of technological capacity and financing for climate adaptation. Additionally, the scarcity of rivers and water bodies contributes to serious risks of shortages and a significant water deficit. Other environmental problems include air and water pollution, soil and water contamination from agricultural pesticides, acid rain, and widespread erosion. The threat of desertification is a constant concern for the African continent, including South Africa.

Brazil faces several environmental challenges similar to South Africa, such as water and air pollution, soil degradation, and soil and water contamination from pesticides. However, deforestation stands out as one of Brazil's most significant environmental problems. It is a primary cause of GHG emissions, biodiversity loss, and threats to rural livelihoods. Deforestation rates in Brazil,

29. See also: National Food and Nutrition Strategic Plan (NFNSP) 2018-2023 describes how South Africa will combat the silent crisis of malnutrition and reverse its growth in the next 15 years. It identifies the school nutrition programme as a key intervention for combating short term hunger amongst children.

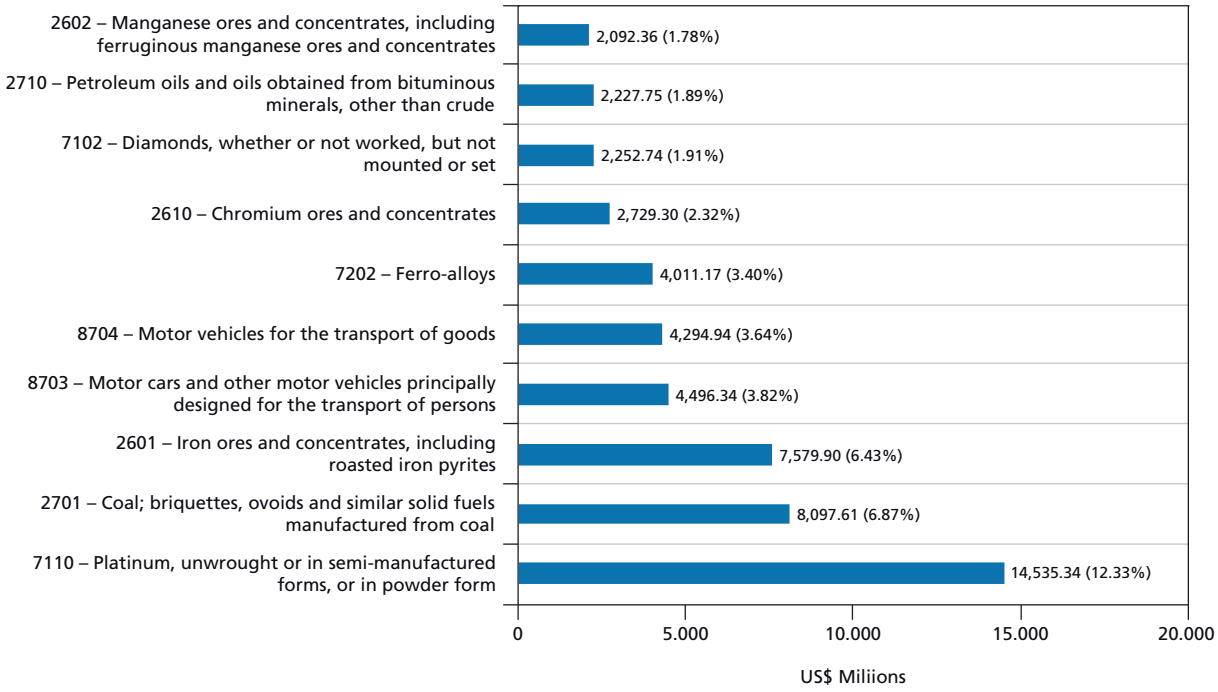
30. Available at: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=305793&CurrentCatalogueIdIndex=0&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True.

as monitored by the Satellite Monitoring Project for Deforestation in the Legal Amazon (Prodes), have shown significant fluctuations over time.[31] Periods of decline can be attributed to government programs like the Action Plan for the Prevention and Control of Deforestation in the Legal Amazon (Plano de Ação para Prevenção e Controle do Desmatamento na Amazônia Legal – PPCDAm) and the implementation of the New Forest Code. However, it is worth noting that between 1988 and 2022, Brazil deforested 306,369,950 hectares, with the Amazon and Cerrado biomes experiencing the most extensive losses.

International trade, particularly is the EU, is increasingly influenced by environmental concerns like deforestation and climate change mitigation, leading to the creation of new policies. The EUDR targets the production chains of seven products, namely: cocoa, cattle, coffee, palm oil, rubber, soybeans, and timber. The CBAM, designed to prevent carbon leakage, covers electricity generation and energy-intensive industries such as cement, steel, aluminum, oil refining, paper, glass, chemicals, and fertilizer production. Given the potential impact of these unilateral EU measures, it is important to look into the composition of Brazil and South Africa's export baskets.

Figure 2 shows the composition of South Africa's top ten exports, based on their average annual value in the period 2021-2023. The percentages indicate each product's share in the country's total exports during this period. It can be noted that South Africa's exports are primarily composed of extractive industry products such as platinum, coal, and iron ore. Although these products are not directly on the CBAM list, they are important raw materials for industries affected by this mechanism.

FIGURE 2
South Africa's Top 10 Export Products (2021-2023): average annual export value and share of total exports

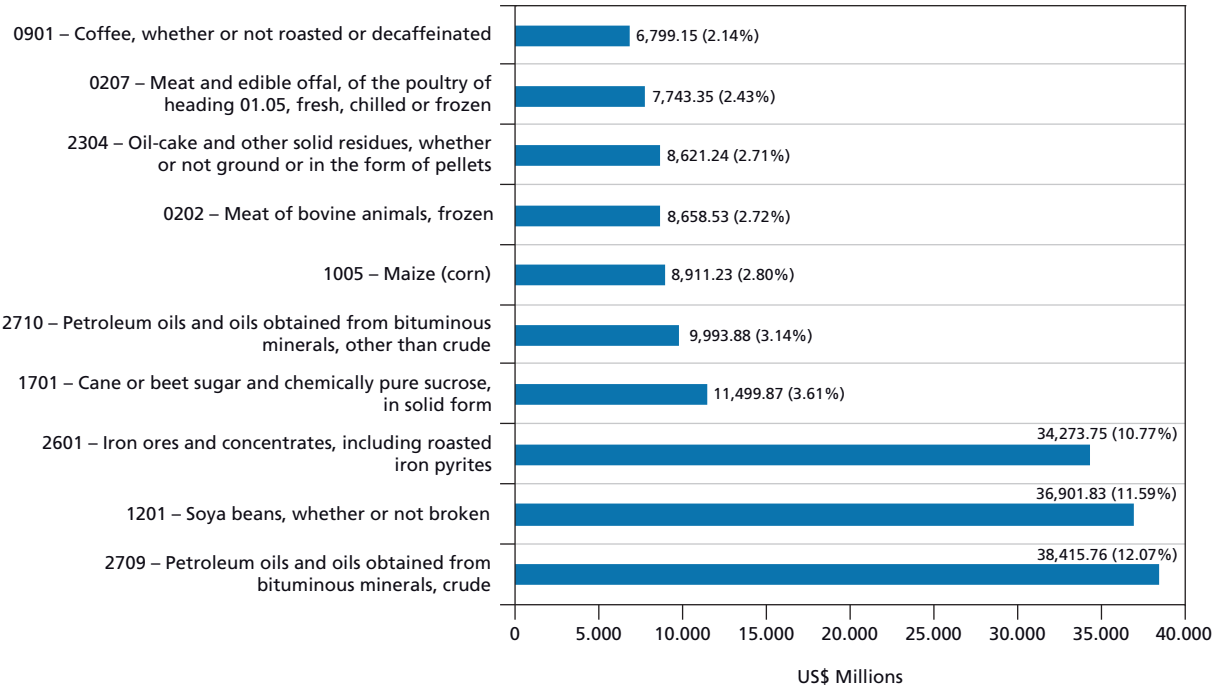


Source: Wits (2024). Available at: http://wits.worldbank.org/WITS/WITS/AdvanceQuery/RawTradeData/QueryDefinition.aspx?Page=RawTradeData. Authors' elaboration.

31. Available at: https://terrabrasilis.dpi.inpe.br/app/map/deforestation?hl=pt-br.

Figure 3 illustrates the composition of Brazil's export basket. The extractive industry plays a significant role, with petroleum oils and iron ores ranking first and third, respectively. Like South Africa, these products are not directly covered by CBAM but are important inputs for affected sectors. Ranked second, soybeans, an agricultural commodity, are directly covered by the EUDR.

FIGURE 3
Brazil's Top 10 Export Products (2021-2023): average annual export value and share of total exports



Source: Wits (2024). Available at: http://wits.worldbank.org/WITS/WITS/AdvanceQuery/RawTradeData/QueryDefinition.aspx?Page=RawTradeData. Authors' elaboration.

For Brazil, the situation is more critical, as its primary exported products, or the raw materials utilized in their production, are subject to the provisions of these two regulations. Both Brazil and South Africa are engaging with international trade organizations to question these regulations, which they view as unilateral trade measures applied by the EU, sometimes referring to them as trade protectionism disguised as environmental measures. These unilateral measures cover a wide range of globally traded goods and will have far-reaching impacts on the exports of DCCs and LDCs.

South Africa emphasizes the importance of a financial mechanism to promote the transfer of ESTs, finance research and development, and provide technical assistance. In this context, Brazil stated that technology is a key driver for a more sustainable future, noting that technology transfer is the common link between the multilateral trading system and multilateral environmental agreements. Brazil also underscores that the adoption of low-emission technologies is lagging in most DCCs, partly due to limited technology transfer. It further points out that while many countries want the WTO to respond more effectively to the challenges posed by climate change, few recognize that the organization already has tools that can contribute to this goal. The full implementation of articles 7 and 66.2 of the TRIPS Agreement, along with a sufficient flow of low-emission technology transfer to DCCs, represents the WTO's potential contribution to a just transition. Brazil also stresses the urgent need

for this discussion within the WTO, as green protectionism poses a threat to the integrity of both trade and environmental frameworks.

Furthermore, Brazil points out that the issues raised by India and South Africa (JOB/TE/78/Rev.1)[32] reflect the concerns of several WTO members, already discussed in various committees and bodies, including the Agriculture Committee, the TBT Committee, and the General Council. Trade is a fundamental force in global efforts to combat climate change, pollution, and biodiversity loss. However, this also means that when policies are not aligned with trade and environmental laws, they can distort markets and create opportunities for protectionism. Brazil emphasizes that genuine climate ambition and leadership require countries to bear more costs and responsibilities themselves, rather than imposing them on others. Brazil disagrees with the notion that addressing climate change necessitates the WTO accommodating new trade barriers. Instead, the solution lies in more trade, not less, through a more open and less distorted international trading system that fosters economic growth and creates more opportunities for all.

In summary, regarding the convergences between Brazil and South Africa, both countries share concerns about the unilateral policies adopted by DCs, such as the CBAM and the EUDR. They view these measures as potentially harming their economies, particularly in sectors like agriculture and commodity exports. Furthermore, Brazil and South Africa converge in their criticism of the insufficient support for transitioning to more sustainable practices, emphasizing the need for increased international financing and technology transfer to help DCCs comply with global environmental regulations. This common stance reinforces the call for a multilateral approach that considers the economic realities of DCCs and avoids the imposition of standards that create disadvantages in international trade.

Despite these convergences, there are some distinct points in each country's specific approach to environmental and trade policies. Brazil, for example, has focused on defending its agricultural subsidies and criticizing measures such as the EUDR that directly impact its agricultural exports. In contrast, South Africa tends to focus its criticisms more toward the CBAM and its implications for industrial exports. Additionally, South Africa demonstrates a greater concern with the ability to adapt and comply with new regulations, emphasizing the need for support in making internal adjustments, whereas Brazil emphasizes the issue of sovereignty and the right to develop its environmental and trade policies according to national priorities.

6 CONCLUDING REMARKS

This article provided an overview of Brazil and South Africa's environmental and trade policies, focusing on their current challenges within the global regulatory landscape. It outlined how both countries have evolved their policies in response to international pressures and the need to balance economic growth with environmental sustainability. It highlighted the influence of international agreements, such as the Paris Agreement, and regional commitments on shaping these strategies, revealing the complexities that developing nations face in balancing economic and environmental priorities.

32. Available at: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=%40Symbol%3dJOB%2fTE%2f78%2fRev.1&Language=SPANISH&Context=FomerScriptedSearch&languageUIChanged=true.

Both Brazil and South Africa express concerns about unilateral environmental measures, such as the EU's CBAM and EUDR, arguing that these could disproportionately impact their economies by restricting market access and increasing costs. They advocate for a multilateral approach that considers the economic realities of DCCs and promotes fair trade. However, their specific priorities differ: Brazil criticizes agricultural subsidies and opposes the EUDR as unfair to its agricultural sector, while South Africa focuses on the CBAM's impact on its industrial exports and emphasizes the need for international support to adapt to new environmental standards.

Brazil and South Africa can use diplomatic and regulatory steps to lessen the effects of the EU's unilateral environmental policies and safeguard their commercial interests. Within the WTO, these nations may propose mechanisms for evaluating the regulatory impact of environmental measures with extraterritorial effects, as well as specific regulations for carbon border adjustments that include protections for developing nations. They might also support changing the rules governing environmental subsidies to differentiate between trade-distorting subsidies and incentives that promote the green transition. Alternatives to a multilateral response include forging closer ties within organizations like the G20 and BRICS and negotiating bilateral agreements with the EU.

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