
**Framework
Document**

Recommendations
from a global expert
working group

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Trade for an inclusive circular economy

A framework for collective action

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4



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Introduction

Unsustainable use of the earth's resources is a primary driver of the triple threat of pollution, biodiversity loss and climate change. The 100 billion tonnes of natural resources extracted and processed every year contribute to half of all carbon emissions and 90 per cent of all terrestrial biodiversity loss.¹ The current linear model of production and consumption is also a significant driver of social injustice, with the majority of resource consumption and wealth accumulation occurring in the Global North, but the highest levels of environmental impact and threats to human health being experienced in the Global South. There is an urgent need to move away from an extractive, polluting and unjust production–consumption system to one that decouples social and environmental prosperity from unsustainable resource use.

The circular economy offers a value-chain approach to tackling this problem. Rather than the current linear flow of materials through the global economy, in which they are extracted, processed, manufactured, used, and finally disposed of as waste, a circular economy uses a systemic approach to decouple economic prosperity from material use by maintaining a circular flow of resources through regenerating, retaining or adding to their value, while contributing to sustainable development. The circular economy not only encourages sustainable production and consumption, but could also contribute to tackling the 45 per cent of global emissions that cannot easily be mitigated through the shift to renewable energy and energy-efficiency measures,² and help halt and reverse land degradation and biodiversity loss.

No country can achieve a circular economy on its own. Rather, all are dependent on international trade to secure affordable and reliable access to a wide range of different materials, goods and services. This includes the trade in circularity-enabling goods (such as remanufacturing and recycling equipment), services (circular design skills, leasing or rental services, and repair services), relevant intellectual property rights, affordable second-hand goods, secondary raw materials³ and non-hazardous waste and scrap that can be recovered for use in primary production, and food and biomass (regeneratively produced, diverse or upcycled). The combination of all of these types of trade flows can be considered as 'circular trade'.

Circular trade has grown strongly in value over the past two decades. For example, the value of trade in second-hand goods, secondary raw materials and waste for recovery rose by more than 230 per cent (from \$94 billion to \$313 billion) between 2000 and 2019, with the global export value of trade in goods rising by around 195 per cent over the same period.⁴ The value of trade in maintenance and repair services increased from \$74 billion to \$108 billion between 2015 and 2019.⁵

¹ International Resource Panel (2019), *Global Resources Outlook 2019: Natural Resources for the Future We Want*, United Nations Environment Programme, <https://www.resourcepanel.org/reports/global-resources-outlook>.

² Ellen MacArthur Foundation (2019), *Completing the Picture: How the Circular Economy Tackles Climate Change*, <https://emf.thirdlight.com/link/w750u7vysuy1-5a5i6n/@/preview/1?o>.

³ Secondary raw materials are recycled materials that can be used in manufacturing processes instead of or alongside previously unused raw materials.

⁴ Comparison of total global trade growth with secondary materials and waste trade growth in 2000–19. Sources: Statista (2022), 'Trends in global export value of trade in goods from 1950 to 2020', <https://www.statista.com/statistics/264682/worldwide-export-volume-in-the-trade-since-1950> (accessed 15 Mar. 2022); Chatham House circulareconomy.earth (2022), 'Circular economy trade data explorer', <https://circulareconomy.earth/trade> (accessed 15 Mar. 2022), drawing on data from UN Comtrade (<https://comtrade.un.org>).

⁵ World Trade Organization (2020), 'WTO Stats portal', <https://timeseries.wto.org> (accessed 21 Feb. 2022).

Although circular trade is a key enabler of a global circular economy, a range of regulatory and technical challenges are inhibiting its advancement. These include a lack of mutually recognized definitions, classifications, interoperable standards, regulations and conformity procedures concerning circular economic activities or goods. Furthermore, as an emerging area of activity, the circular economy has itself only been embedded to a limited degree in bilateral, regional and plurilateral trade and economic cooperation agreements. This restricts the scope and potential for collaboration around transboundary issues such as illegal waste, supply-chain transparency and traceability, investment or the issues pertaining to mutual recognition, technical barriers to trade, and trade facilitation.

Global inequities in power relations, digital trade capabilities, trade infrastructure, access to circular finance, and industrial and innovation capabilities mean that countries in the Global North are better positioned than those in the Global South to reap the benefits of circular trade. If an explicit goal to reduce inequality is not built into the global circular economy transition, then it is highly likely that these inequities will create a ‘circularity trade divide’, in which the gains accrued from circular trade are highly unevenly distributed between developed and least developed countries.⁶

This divide in circular trade is already evident in that around 45 per cent of the total global value of trade in secondary goods and materials, waste and scrap occurs solely between high-income countries, compared with only about 1 per cent between low-income countries and middle- to high-income countries.⁷ Additionally, countries in the Global South are often the final destination for internationally traded low-value or illegal waste. The lack of capacity in these countries to properly manage and treat such waste has led to greater environmental risks and social burdens.⁸ The circular trade divide, should it persist, will act as a significant barrier to a globally inclusive transition to a circular economy, and impede progress on the UN’s 2030 Agenda for Sustainable Development and Sustainable Development Goals (SDGs).

An alternative pathway for the circular transition should be pursued in which circular trade serves as an enabler of fair, inclusive and circular societies. Rather than the current fragmented and largely unilateral approach to transitioning to the circular economy, overcoming the barriers to circular trade requires a coordinated and collaborative global response to ensure that all countries and territories, in particular developing economies, benefit equally from the transition.

This paper sets out a framework for inclusive circular trade, intended to enable a more inclusive pathway for the circular economy transition. The framework was developed through the work of an alliance of organizations spanning Africa, Southeast Asia, Latin America and the Caribbean, and Europe.

⁶ Barrie, J., Anantharaman, M., Oyinlola, M. and Schröder, P. (2022), ‘The circularity divide: What is it? And how do we avoid it?’, *Resources, Conservation and Recycling*, 180 (106208), <https://doi.org/10.1016/j.resconrec.2022.106208>.

⁷ This was determined from analysis of statistics from United Nations (2016) ‘UN Comtrade database’, <https://comtrade.un.org/labs/data-explorer> (accessed 11 Feb. 2022). The results presented should only be considered indicative of the divide in value capture. It is highly likely that a good proportion of trade in secondary raw materials, waste and scrap is not captured in official trade statistics.

⁸ Cotta, B. (2020), ‘What goes around, comes around? Access and allocation problems in Global North–South waste trade’, *International Environmental Agreements: Politics, Law and Economics*, 20, pp. 255–296, <https://doi.org/10.1007/s10784-020-09479-3>.

Signatories

Below are the signatories of the framework for inclusive circular economy trade. The framework was drafted by a global expert working group of 10 co-authors, who are listed at the end of this paper.



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A framework for inclusive circular trade

Goal of the framework

International trade is a key enabler of a global and inclusive transition to a circular economy. However, current trade policy intended to promote coordination for more trade in circular goods, services and materials is being constrained by numerous barriers. An integrated and collaborative approach to overcoming these barriers is needed if the social, economic and environmental potential of circular trade is to be fully realized. This can only be achieved through commonly recognized outcomes and coordinated actions.

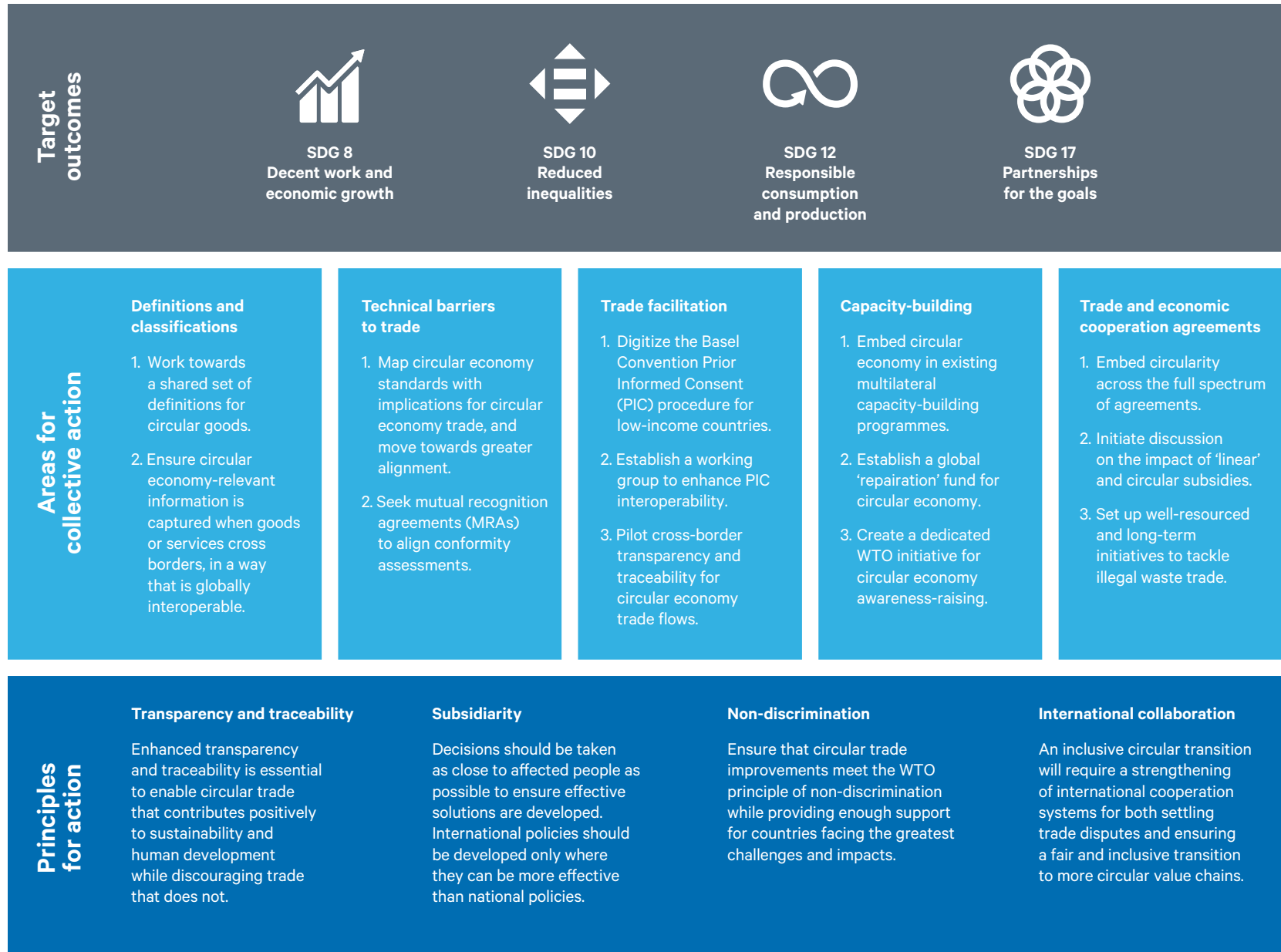
The framework for inclusive circular trade presented in this paper is an attempt to bridge trade, circular economy, sustainability and development policy areas. It is designed to help guide trade and trade-related circular economy and development policies, practices and agreements to ensure these all work towards a shared goal of an inclusive circular economy.

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The framework is not a final product. Rather, it is a carefully considered effort to guide progress and discussion on a complex topic that will evolve over time. It is hoped that the framework will provide a pathway forward in an area where collective action is needed.

It is not the purpose of the framework to solve the more intractable challenges limiting the potential of the circular economy to contribute to achieving necessary economic prosperity and human and environmental well-being. To be truly sustainable, policymakers in wealthy countries must critically explore the circumstances in which circular trade can help absolutely reduce consumption-related environmental impacts to within the planetary boundaries and provide sufficient development space for low- and middle-income countries to grow in order to provide essential goods and services to their citizens.

Figure 1. A framework for inclusive circular trade



Source: Authors' analysis.

Application of the framework

The framework seeks to encourage changes to the way trade and trade-related circular economy and development policies are designed, as well as the way existing trade and environmental regulations or conventions are evaluated. It will require new forms of coordination at multilateral, regional and bilateral levels.

The primary audiences for the framework are those responsible for effecting change: governments, policymakers and international forums focused on trade, circular economy and sustainability. A secondary audience is a wider community that has influence over policy design: businesses, academia and NGOs focused on environment, circular economy and international development.

The framework is valuable in various applications, including: (i) bilateral, regional, multilateral and/or plurilateral trade and economic agreements, negotiations and initiatives; (ii) multilateral environmental negotiations and discussions; (iii) development of national circular economy standards, policies, regulations or roadmaps, as well as trade policies related to the environment, international development and foreign investment; and (iv) use by private sector enterprises and NGOs.

Framework structure

As illustrated in Figure 1, the framework has three central elements: (i) target outcomes; (ii) principles for action; and (iii) areas for collective action. The **target outcomes**, shaped around SDGs 8, 10, 12 and 17, are the goals that collective actions and solutions should strive towards in efforts to align circular trade with an inclusive circular transition. The **principles for action** outline four principles that should underpin the actions. The **areas for collective action** identify strategic areas within the system of trade where targeted collective action could deliver significant gains towards target outcomes.

Target outcomes

The circular economy has gained increasing prominence within the global policy community as a way of addressing some of the world's most urgent sustainable development challenges, as captured in the 17 SDGs. It is core to the delivery of SDG 12 (responsible consumption and production) and also contributes to at least 11 of the other SDGs, among them SDGs 7 (affordable and clean energy), 8 (decent work and economic growth), 9 (industry, innovation and infrastructure), 11 (sustainable cities and communities), 13 (climate action), 14 (life below water) and 15 (life on land).⁹

⁹ UN General Assembly and UN Economic and Social Council (2018), 'Circular Economy for the SDGs: From Concept to Practice, General Assembly and ECOSOC Joint Meeting, Draft Concept and Programme for the joint meeting of the Economic and Financial (Second Committee) of the 73rd UN General Assembly and the UN Economic and Social Council', https://www.un.org/en/ga/second/73/jm_conceptnote.pdf; Ellen MacArthur Foundation (2021), 'Universal circular economy policy goals', <https://ellenmacarthurfoundation.org/universal-policy-goals/overview>.

Although the global transition to a circular economy will contribute to a wide range of SDGs, circular trade itself promises to align with and contribute to four of the SDGs (8, 10, 12 and 17) and as such these are the target outcomes for collective action.

SDG 12: Responsible consumption and production

Ensuring sustainable consumption and production patterns is central to the transition to a circular economy. Target 12.2 is to achieve the sustainable management and efficient use of natural resources by 2030. Circular trade will play an important role in achieving this target by enabling the movement of circular-enabling goods and services to support countries in the transition, as well as moving secondary goods, materials and waste to maximize economies of scale and efficiency in production. However, as already noted, if not undertaken in an inclusive and collaborative way, circular trade could have the effect of exacerbating social and environmental inequity. As such, targeting SDGs 8, 10 and 17 is also critical.

SDG 8: Decent work and economic growth

The expansion of circular trade offers many opportunities to realize decent work and economic growth. Trade in circular economy-enabling goods and services makes possible the development of local circular business models. For instance, having access to repair, recycling and remanufacturing equipment enables the creation of local 'reuse and repair' markets and jobs. Access to circular services such as digital software and expertise in product-service systems and real-time condition monitoring enables the implementation of local circular business models (such as product leasing). Trade in second-hand goods can also stimulate demand for local repair, refurbish and remanufacturing jobs. Trade in secondary raw materials (and waste intended for recovery) provides a low-cost feedstock for domestic industry, helping to boost competitiveness in global markets.

Trade in circular economy-enabling goods and services makes possible the development of local circular business models.

However, circular trade can, if not properly regulated, also incentivize the creation of dangerous and low-paid work, such as informal recycling and repair hubs, exposing workers to toxic substances and other hazards. Additionally, circular trade may not be advantageous in all circumstances. For example, trade in inefficient second-hand goods (such as old electronics or diesel cars) may lock the importing country into a more inefficient and costly mode of consumption. Collective action on circular trade should therefore seek to maximize the opportunities for decent work and economic growth while mitigating against the risk of worker exploitation and environmental harm.

SDG 10: Reduced inequalities

The current linear system of trade results in value accumulation in the Global North, and undue negative environmental impacts in the Global South. This inequity compromises the achievement of SDG 10, and is likely to remain wide unless concerted action is taken to support low-income countries in improving their trade facilitation measures and their capacity to capture value from circular trade opportunities.

In addition to this value divide, the transition to a circular economy will also bring about the restructuring of established linear global value chains and thus changes in trade patterns. Any change in trade patterns, circular or not, results in winners and losers, with implications for inclusivity. First, countries that depend on exports of certain raw materials may experience a reduction in demand as trading partners increasingly replace raw with secondary materials. Second, as products are increasingly designed to be circular (more durable, repairable and recyclable), it becomes more economically attractive to reuse, repair and recycle them in the domestic market. This reduces access to affordable second-hand goods in secondary markets.¹⁰ Such changes in trade flows would have particular impacts for citizens and workers in low- and lower-middle-income countries. It is therefore necessary to consider the unintended effects of altered trade flows driven by the circular economy transition, and collectively mitigate the associated impacts in an inclusive way.

SDG 17: Partnerships for the goals

The highly interconnected nature of global value chains makes it necessary to develop a coordinated and collaborative approach to overcoming barriers to circular trade and mitigating potential unintended negative effects of altering trade flows. This requires better multilateral engagement and partnerships. SDG 17 aims to strengthen the means of implementation and revitalize the global partnership for sustainable development. It is a vision for improved and more equitable trade, as well as coordinated investment initiatives to promote sustainable development across borders. Actions that strengthen SDG 17 will also directly and indirectly enable action towards SDGs 8, 10 and 12. While multilateral collaboration is essential to the circular transition, this will not happen overnight, and as such individual countries must also consider what they can do to foster an inclusive circular transition in the absence of strong multilateral action.

Principles for action

Collective actions developed to overcome circular trade barriers and contribute to SDGs 8, 10, 12 and 17 need to be underpinned by four principles: (i) transparency and traceability; (ii) subsidiarity; (iii) non-discrimination; and (iv) international collaboration.

¹⁰ Barrie, J. and Schröder, P. (2021), 'Circular Economy and International Trade: a Systematic Literature Review', *Circular Economy and Sustainability*, <https://doi.org/10.1007/s43615-021-00126-w>.

Transparency and traceability

A key barrier to growth in circular trade is the lack of transparency and traceability in supply chains. Poor transparency and traceability creates opportunities for trade in illegal or hazardous waste, for example through misclassification of traded goods (such as classifying broken or obsolete electronic equipment as fit for reuse). Enhanced supply-chain transparency and traceability will help to increase the efficiency and robustness of border checks by enabling streamlined and efficient verification of the provenance of goods. It can also reduce transaction costs for importers or exporters of goods in circular trade flows (such as functioning second-hand electronic devices) that contribute positively to sustainability and human development.

Subsidiarity

The transition to a circular economy will play out at multiple geographical and political levels, and in many cases the choice of action is dependent on local context. As such, a key principle for the governance of circular trade is to maintain an appropriate level of subsidiarity. Subsidiarity recognizes that action will need to occur at different levels of jurisdiction, according to the nature of the circular trade issue being resolved. It places priority on the lowest possible level of jurisdiction needed to ensure that effective solutions are developed. Decisions should therefore be taken as close as possible to the people who will be affected by them. International policies should only be developed where they promise to be more effective than national policies in achieving economies of scope and scale. Subsidiarity does not extend to cases where low production standards violate human rights or result in transboundary environmental harm.

In the case of waste, for example, the Basel Convention offers a common reference point, but in practice the classifications of hazardous waste, non-hazardous waste, and non-waste goods destined for reuse, repair and refurbishment may differ significantly from country to country – a situation that directly affects cross-border shipment. This patchwork of regulatory requirements, along with the system's complexity, may deter investment in high-quality repair, refurbishment and recycling infrastructure, and favours illicit trade.¹¹

Non-discrimination

The WTO principle of trade without discrimination outlines that: (i) countries cannot normally discriminate between their trading partners (most-favoured-nation – MFN); and (ii) imported and locally produced goods should be treated equally, at least after the former have entered the market (national treatment).¹² Non-discrimination of circular trade flows ensures that materials can be shipped to regions that have the necessary economies of scale, specialized infrastructure and trained workforce to make circular processes (repair, remanufacturing, recycling) economically viable. Overall, WTO jurisprudence has consistently reaffirmed that good-faith

¹¹ Bellman, C. (2021), *The Circular Economy and International Trade: Options for the World Trade Organization*, International Chamber of Commerce, https://icc.se/wp-content/uploads/2021/12/20211214_Circular-Economy.pdf.
¹² World Trade Organization (2022), 'Principles of the trading system', https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm.

environmental policies are consistent with WTO obligations as long as they are applied in a manner that does not constitute disguised trade protectionism or an unjustifiable discrimination between countries where the same condition prevails.

To promote domestic circularity, WTO members can use many different measures to disincentivize imports of unsustainable or polluting goods while also aligning with the principle of non-discrimination. Imports of circularity-enabling goods can be encouraged by lowering or eliminating customs duties (for example on repair, remanufacturing or recycling equipment). Conversely, tariffs on imports of environmentally damaging ‘linear’ goods can be raised (up to the tariff concession limit), and specific charges can also be introduced on such imports (such as customs or health inspection fees). There are also strict enforcement measures in line with multilateral environmental agreements (such as the Basel Convention).

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A core principle of this framework is therefore to ensure that any collective actions to make circular trade more inclusive remain committed to the WTO principle of trade without discrimination, while also guaranteeing that the countries that face the greatest challenges and impacts (economic, environmental and social) are provided with sufficient support and resources.

International collaboration

International cooperation to establish effective and fair governance mechanisms, together with policy coordination and interoperability at regional, national and local levels, will play an important role in shaping an inclusive circular transition. The best forms of cooperation avoid potential conflicts, and require open, effective and impartial dispute settlement and procedures that protect countries against coercion from others. The introduction and recent strengthening of the Basel Convention is an excellent example of such collaboration.

Areas for collective action

The framework for inclusive circular trade identifies five key strategic areas for collective action that have the potential to deliver significant gains to all. Opportunities for collective action identified under each area should be underpinned by the principles for action set out in the previous section, and should seek to contribute to SDGs 8, 10, 12 and 17.

The five key areas for collective action are: (i) definitions and classifications; (ii) technical barriers to trade; (iii) trade facilitation; (iv) capacity-building; and (v) trade and economic cooperation agreements.

Definitions and classifications

Shared or mutually recognized definitions and classifications for product circularity are essential for enabling efficient trade that supports the circular economy transition.

Action: Work towards a shared set of definitions for circular goods

There remains an absence of, or divergence in the interpretation of, definitions and classification of goods in terms of circularity. For example, many countries interpret remanufactured goods as being equivalent to used goods. Remanufacturing is also hampered by the difficulty of moving broken or end-of-first-use goods across borders: despite these remanufacturing ‘cores’ being destined for a new life, they are often legally classified as waste. As a result, remanufactured goods (and cores) tend to be viewed as ‘inferior’ to new ‘like’ goods and as such are subject to higher import tariffs, or to non-tariff trade restrictions such as import prohibitions, core export prohibitions and/or complicated bureaucratic processes.¹³ Despite the divergence in interpretations, established definitions for remanufacturing processes do exist. Examples include the British Standards for manufacture, assembly, disassembly and end-of-life processing; or more specific standards such as the ISO standard for remanufacturing for earth-moving machinery).

A clear area for action is to conduct a ‘stocktaking’ exercise among willing WTO members and industry of best practices, existing definitions and classification of products as regards circularity, and to identify potential gaps and opportunities for wider uptake of shared definitions and classifications.¹⁴

Such an initiative should also specifically seek to establish clarity on the definitions that differentiate true ‘waste’ from products that have life left in them, and pave the way to agreeing international standards for remanufactured products and cores.

Action: Ensure circular economy-relevant information is captured when goods or services cross borders, in a way that is globally interoperable

Divergence in definitions is compounded by limited incorporation of different circular trade flows into the Harmonized System (HS). The HS is a standardized numerical method of classifying traded products, and is used by customs authorities to identify products when assessing duties and taxes and for gathering statistics. One particular limitation of the six-digit HS, used internationally, is that it does not always allow customs officials to easily distinguish between primary and secondary material, or between used, recycled and new products. This is in part due to a classification process based on physical characteristics that can be seen or tested by customs officials, rather than their production method or intended use. Thus, essential information for the functioning of circular value chains, such as whether goods are repairable, or destined for disposal or for recovery, is often lost in transit. This means that the same code can be applied equally to waste,

¹³ Kojima, M, (2017), ‘Remanufacturing and Trade Regulation’, *Procedia CIRP*, 61, pp. 641–644, <https://doi.org/10.1016/j.procir.2016.11.251>.

¹⁴ As proposed by participants of the 2017 International Resource Panel and the European Commission workshop ‘Promoting Remanufacturing, Refurbishment, Repair, and Direct Reuse’. Source: European Commission (2017), ‘Workshop Report, Promoting Remanufacturing, Refurbishment, Repair, and Direct Reuse, As a contribution to the G7 Alliance on Resource Efficiency 7–8 February 2017 Brussels, Belgium’, https://ec.europa.eu/environment/international_issues/pdf/7_8_february_2017/workshop_report_Brussels_7_8_02_2017.pdf.

residue, scrap materials and primary resources. The constrained capacity (of skills, technologies and/or time) of customs officials to make this distinction, particularly in low-income countries, further reinforces the problem.

Recent amendments to the HS have attempted to address some of these challenges. The HS 2022 amendments, for example, include an additional heading and set of codes for different types of e-waste, and there are ongoing discussions to help implement amendments for plastics as part of HS 2027. Since this is a relatively slow and iterative process, interim solutions should be sought, to complement the HS work, that address the known challenges.

To overcome the issues outlined – as recognized and discussed within the Committee on Trade and Environment (CTE), Trade and Environmental Sustainability Structured Discussions (TESSD) and the Informal Dialogue on Plastics Pollution and Environmentally Sustainable Plastics Trade (IDP) – in a coordinated way, it is recommended that a **working group, including relevant stakeholders such as the World Customs Organization (WCO) and national border and environmental agencies, is established to identify practical solutions to better capture and communicate circular-relevant information on goods at international borders in a way that is globally interoperable and compatible with the HS system.**

Technical barriers to trade

Technical standards (which are voluntary), regulations (which are mandatory) and conformity assessment procedures (CAPs) for products and/or their production or disposal methods have a critical role in enabling or inhibiting circular trade flows. For instance, they help ensure that traded products put on the market meet certain minimum criteria (such as product safety or environmental compliance). However, these measures can also – intentionally or unintentionally – inhibit circular trade flows (e.g. through the introduction of overly restrictive conformity inspections on remanufactured goods).

Action: Map circular economy standards with implications for circular economy trade, and move towards greater alignment

Circularity-related standards and regulations are growing in use, and apply at multiple levels. They concern products and materials (recycled content, durability and information requirements such as digital passports), industrial processes and production (cleaner production, sharing and use of by-products, and industrial symbiosis), consumer information (labelling) and recovery routes (such as quality standards for secondary raw materials). Recently, there has been a significant increase in unilateral circular economy-related standards and regulations, creating a complex patchwork of requirements for companies operating across several markets.

The range of standards that have been established, or are in the process of being established, includes standards on the organization and management of the circular economy – among them the UK's BS 8001, the French XP X30-901 and the ISO/TC 323.¹⁵ There are also more specific technical standards for recycling

¹⁵ ISO/TC 323 was under development at the time of publication of this paper.

(e.g. e-stewards, R2 Standards) and refurbishment and remanufacturing (e.g. FIRA/REMAN001: 2019, IEC TC 111 and BS 8887–220: 2010), as well as product-specific standards (e.g. on recycled material content and material efficiency).

The EU's work to develop standards and regulations under its Circular Economy Action Plan is perhaps the most far-reaching so far. Eight standards that provide general principles to consider when addressing material efficiency for energy-related products were published in 2020,¹⁶ and more initiatives are in the pipeline. For example, the Ecodesign for Sustainable Products Regulation will formally require a range of products sold on the EU market to be more circular. These measures will likely have a significant impact in terms of barriers to non-EU producers participating in circular trade if they are unable to comply with the eventual regulation.

The main challenge in the development of national circular economy standards and regulations relates to differences across jurisdictions, regulatory heterogeneity and sometimes contradictory requirements. These generate additional costs for companies and disincentivize investment in circular solutions. Given a proliferation of circularity-related regulations and standards, it is necessary to foster greater transparency, cooperation and collaboration between countries to mitigate unintended consequences and maximize the benefits to all parties.

The WTO notification system is a valuable process for encouraging transparency and coordination over circular trade-related measures and legislation. Between 2009 and 2017, member notifications identified 370 measures concerning activities related to the circular economy.¹⁷ These measures are not classed under a specific category within the WTO notification system, which makes it harder for countries to track and understand developments. **As such, including 'circular economy-related policies' as an environmental category within the WTO notification system could help resolve this issue. Alongside this, support for capacity-building is needed to help countries report more frequently and accurately on such policy developments.**

Building on the value provided from the WTO notification system, **a prioritization and knowledge-sharing exercise between willing countries, hosted by the likes of TESSD, the Global Alliance on Circular Economy and Resource Efficiency (GACERE) or the regional circular economy coalitions, would also help identify the evolving areas (or lack thereof) of regulations and standards most critical for circular trade, and where opportunities exist for mutual recognition or cooperation towards common standards** (for example on Extended Producer Responsibility), as well as the relevant bodies that can be used to help align on global standards. This exercise could also assess, compile and promote best-practice circularity standards and regulations.

In March 2022 the resumed fifth session of the UN Environment Assembly (UNEA-5.2) adopted a resolution to launch negotiations on a legally binding international instrument on plastic pollution (a Global Plastics Treaty). This

¹⁶ International Electrotechnical Commission (2020), 'European standards for a circular economy', <https://www.iec.ch/blog/european-standards-circular-economy>.

¹⁷ World Trade Organization (2020), 'Trade policies for a circular economy: What can we learn from WTO experience?', https://www.wto.org/english/res_e/reser_e/ersd202010_e.htm.

resolution offers an opportunity to build consensus on national and international cooperation on legislative and standardization measures to reduce plastic pollution. **Adoption of the draft resolution by the Africa Group on ‘Enhancing circular economy as a contribution to achieving sustainable consumption and production’**,¹⁸ also at UNEA-5.2, will further build on UNEP/EA.4/L.2 (Innovative pathways to achieve sustainable production and consumption) by helping to galvanize the shared ambitions of the international community and frame consensus around actions to be taken on this topic.

Recognizing the challenges in achieving mutual recognition and harmonization on standards and regulations in the short term, **individual countries should also proactively consider the unintended trade barriers that national circular policies and legislation may create, and include those most affected within the policy and regulation processes.**

Action: Seek mutual recognition agreements to align conformity assessment procedures CAPs are conducted by importing countries to verify that products, services or systems conform to relevant regulations and standards. The main forms of CAPs are testing, certification and inspection. Differences in conformity assessments can result in duplication of testing procedures and, ultimately, additional costs and barriers to exports (particularly for small and medium-sized enterprises – SMEs). A lack of transparency around the use of CAPs also adds risk to participating in circular trade flows. To address these concerns, **mutual recognition agreements of conformity assessment procedures should be sought** that would allow an importing country to recognize *ex ante* the technical competence of a specific body in an exporting country to perform conformity assessment.

Individual countries should proactively consider the unintended trade barriers that national circular policies and legislation may create.

A good example of mutual recognition is found in the EU–Singapore Free Trade Agreement, which provides for the mutual acceptance of declarations of conformity for a set of environmental goods. The EU–Canada Comprehensive Economic and Trade Agreement (CETA) also contains a protocol on mutual acceptance of conformity results for a number of specific energy-related products.

Trade facilitation

Trade facilitation refers to a specific collection of measures that help make the legal and technical procedures enabling products to enter or leave a country simpler and more efficient. Challenges for circular trade facilitation include the complexities of product classifications as well as cumbersome trade-permitting processes, particularly for products classified as hazardous. Trade facilitation can have

¹⁸ United Nations Environment Assembly of the United Nations Environment Programme (2022), ‘Enhancing circular economy as a contribution to achieving sustainable consumption and production (English Version) – Resolution adopted by the United Nations Environment Assembly on 2 March 2022 [UNEP/EA.5/Res.11]’, <https://wedocs.unep.org/20.500.11822/39747>.

a particularly important role in helping overcome current barriers to circular trade, notably for developing and emerging economies whose trade facilitation measures may not be as efficient as those of wealthier countries.

Action: Digitize the Basel Convention Prior Informed Consent procedure for low-income countries

Within the Basel Convention, the Prior Informed Consent (PIC) procedure requires exporters of some (mostly hazardous) waste to receive prior consent from the national environmental agency in the importing country. Many countries do not currently use an electronic PIC procedure, resulting in delays and lack of transparency on decisions. This is particularly the case in low-income countries, which stand to gain the most from being able to better regulate the inflow of waste shipments. Efforts to automate and digitize the PIC procedure therefore need to be stepped up.

Building on the findings of existing work in this area,¹⁹ **a dedicated capacity-building initiative for automating and digitizing the PIC procedure is particularly needed. Such an initiative could specifically focus support to border and environmental agencies in low-income countries that do not have the resources, digital infrastructure or skills base to participate in an e-PIC system.** Such an initiative could initially focus on the most problematic circular trade flows such as plastics, and used electronics and e-waste.

Action: Establish a working group to enhance PIC interoperability

In addition to dedicated support to low-income countries to streamline the PIC procedure, criteria for approving requests could also be better aligned. Currently, national environmental agencies use different criteria for what constitutes hazardous and non-hazardous waste (due to the differences in waste definitions and clarifications), which means additional compliance and administrative costs for exporters. **Establishing a global working group for environmental agencies to share knowledge and work together to streamline PIC approval processes would be a valuable step.**

Action: Pilot cross-border transparency and traceability for circular economy trade flows

Trade facilitation can also be improved through the implementation of supply-chain-wide transparency and traceability protocols and digital systems. Data from these can be provided to customs and border agents to streamline assessments and procedures. For example, the UN Economic Commission for Europe (UNECE), the UN Centre for Trade Facilitation and Electronic Business (UN/CEFACT) and the International Trade Centre (ITC) have produced a traceability protocol to facilitate verification of the circular and sustainability claims for textiles and garments (such as the percentage of recycled content), as well enabling trade in used textiles to authorized

¹⁹ Examples include initiatives by the Circular Electronics Partnership, PACE, PREVENT Waste Alliance, StEP, UN E-Waste and the Global Battery Alliance, as well as the ongoing work of the Open-ended Working Group of the Basel Convention, and that of the World Customs Organization.

recyclers.²⁰ Another example is the North Sea Resources Roundabout (NSRR).²¹ This joint initiative between France, the Netherlands, the UK and the Flanders region of Belgium aimed to facilitate trade and transport of secondary resources including struvite, PVC, electronic waste, compost and bottom ash, and to shed light on the practical challenges concerning secondary raw material and waste trade.

Similar **plurilateral pilots should be launched between cohorts of willing countries to pilot technological and procedural solutions for improving the transparency and traceability of circular trade flows, and to better understand the challenges related to specific trade flows (e.g. e-waste as compared with scrap metals)**. These pilots would also help identify technical challenges in integrating secure and real-time data transfer between the many stakeholders involved in trade processes (producers, retailers, logistics companies, etc.) and regulation (e.g. border agencies, customs, port authorities and environmental agencies).

Capacity-building

Alongside the growing digital divide, a circularity divide is becoming evident between wealthy and poorer countries. Existing global inequities in digital capabilities, infrastructure, finance and development are likely to mean that this digital divide remains or, worse, becomes wider. Furthermore, businesses in developing countries (particularly micro, small and medium-sized enterprises) will experience the biggest technical barriers to trade as circular standards and regulations (along with broader environmental measures such as the EU's Carbon Border Adjustment Mechanism) are ratcheted up in developed countries.

Many low- and middle-income countries that rely heavily on manufacturing and export to high-income countries in traditionally 'linear' sectors (such as mining) are likely to be most negatively affected by the circular transition, as patterns of demand change from consumers and industry in countries with ambitious circularity agendas. Dedicated support from the international community is needed, through targeted assistance programmes, to mitigate the adverse impacts of increasing trade barriers and changing demand patterns.

Action: Embed circular economy in existing multilateral capacity-building programmes
To mitigate the risk of a circular divide becoming entrenched, and establish a level playing field for circular trade, **circularity should be identified as a core pillar in the pursuit of 'greening' the WTO Aid for Trade initiative and the agenda of the UN Capacity Building Task Force on Trade, Environment and Development**. Key areas for circular capacity-building that Aid for Trade could focus on include: investing in infrastructure to enable domestic circular activities such as repairing, remanufacturing and recycling; trade infrastructure; customs systems and enforcement measures to counter illegal waste shipment; circular production skills and training; and policy development.

²⁰ United Nations Economic Commission for Europe (2022), 'Traceability for Sustainable Garment and Footwear', <https://unece.org/trade/traceability-sustainable-garment-and-footwear>.

²¹ Green Deal (2020), 'International Green Deal North Sea Resources Roundabout to work on new case', <https://www.greendeals.nl/nieuws/international-green-deal-north-sea-resources-roundabout-work-new-case>.

Action: Establish a global ‘repairation’ fund for circular economy

While the circular economy, in general, remains significantly underfunded globally (SDG12 is the least-funded SDG), there is already a substantial gap in access to circular investment between the Global North and Global South.²² Existing initiatives such as Aid for Trade are also limited in scale and thus in their capacity to address the investment gap. **A global ‘repairation’ fund²³ should be established to provide investments and financing to local governments, workers’ cooperatives and social entrepreneurs for circular solutions such as repair, recycling and remanufacturing.**

Several ad hoc initiatives already exist that connect development organizations, multinational corporations and the informal economy. The global ‘repairation’ fund would play a pivotal role in tackling the global waste crisis and addressing the circular divide by helping to systematize and synergize such disparate initiatives, and providing strategic support for circular businesses to engage in international trade. The fund could also prioritize capacity-building support and funding to communities directly affected by waste and pollution from waste trade, such as those living near waste dumps.

Action: Create a dedicated WTO initiative for circular economy awareness-raising

As with circular investment, awareness about the potential benefits of participating in circular trade remains low among both the international trade community and national policymakers. A dedicated awareness-raising initiative would help to address this gap, including by creating a space for collective discussions on the wide range of barriers to circular trade outlined in this framework paper, and allow best practice to be shared. It could, for example, take the form of a **dedicated WTO initiative on circular economy and trade that would include collective dialogue, research and information exchange on certain elements of the action areas outlined in the framework, as well as encouraging targets and voluntary commitments.**

Trade and economic cooperation agreements

As outlined in the other areas for collective action, international trade cooperation and coherent policy approaches across jurisdictions are important for delivering inclusive circular trade. Trade and economic cooperation agreements (bilateral, regional and plurilateral) are important mechanisms to foster such cooperation and coherence.

Action: Embed circularity across the full spectrum of trade and cooperation agreements

While global cooperation at the WTO is the best option, cooperation under bilateral, regional and plurilateral trade agreements can facilitate circular trade cooperation, and accelerate adoption and testing of solutions outlined in this framework.

²² Schröder, P. and Raes, J. (2021) *Financing an inclusive circular economy: De-risking investments for circular business models and the SDGs*, Research Paper, London: Royal Institute of International Affairs, <https://www.chathamhouse.org/2021/07/financing-inclusive-circular-economy>.

²³ As proposed by Anantharaman, M. and Schröder, P. (2021), ‘Why we need to fund the circular economy’, Devex, <https://www.devex.com/news/opinion-why-we-need-to-fund-the-circular-economy-101554>.

Some trade agreements already include circularity provisions. However, these provisions often take the form of high-level statements in the trade and sustainable development chapters, and as such lack objective requirements or commitments. There is therefore **a significant opportunity to further embed circularity in specific areas of trade and economic cooperation agreements**, such as those concerning overcoming technical barriers to trade, including encouraging national and regional participation in the preparation and use of international circular economy standards; clarifying mutual areas for investments in the circular economy (e.g. preserving the right to establish non-discriminatory regulations aimed at fostering a circular transition); and public procurement processes and best practice.²⁴

There is a significant opportunity to further embed circularity in specific areas of trade and economic cooperation agreements.

Plurilateral agreements offer particular potential to bring together countries with a shared ambition to collaborate on circular trade. An example is the Agreement on Climate Change, Trade and Sustainability (ACCTS), which aims to align agendas on climate change, trade and sustainable development. The ACCTS focuses on three areas related to circular trade: (i) removal of tariffs on environmental goods, and new and binding commitments for environmental services; (ii) reform of harmful subsidies; and (iii) the development of eco-labelling guidelines. **Expanding the ACCTS and similar agreements to include coordinated action on the circular economy (in terms of the action areas outlined in this framework) will offer additional gains in terms of tackling climate change and other environmental crises.**

Another opportunity for plurilateral action on circular trade is to reactivate negotiations under WTO auspices for an agreement on environmental goods and services. Negotiations started in 2001 with the aim of reducing or eliminating tariff and non-tariff barriers on environmental goods as well as services. However, the overall lack of agreement on what constitutes environmental goods and services, as well as the stalling of the Doha Round as a whole, meant that there was little progress on this issue after 2011. This deadlock prompted a sub-group of 46 WTO members to launch a plurilateral initiative for an Environmental Goods Agreement (EGA) in 2014, building on a 2012 decision by Asia-Pacific Economic Cooperation (APEC) countries to cut tariffs voluntarily to 5 per cent or less on 54 environmental goods. Talks under the EGA initiative, with the goal of promoting trade in eco-friendly goods through substantial reduction or elimination of customs duties, subsequently identified around 300 possible candidates for liberalization. However, the participants failed to reach consensus, and the negotiations have been inactive since December 2016. In the meantime, exploratory discussions on environmental services have continued within the Special Session of the Council

²⁴ For a full list of recommendations for embedding circularity in Regional Trade Agreements, see Bellman, C. and Sell, M. (2021), 'Options to Incorporate Circular Economy Provisions in Regional Trade Agreements', IISD, <https://www.iisd.org/system/files/2021-05/circular-economy-regional-trade-agreements.pdf>.

for Trade in Services (CTS-SS). Although the EGA negotiations have not been successful to date, there are calls for the process to resume with renewed ambition and a wider scope after the WTO's 12th Ministerial Conference. After several years of slow progress, deliberations have gained renewed momentum in the context of both the TESSD and IDP initiatives at the WTO, with trade ministers calling for an exploration of opportunities and possible ways to approach and facilitate trade in environmental goods and services.

So far, goods related to circular economy considered within the EGA have largely been limited to those applicable to recovery of waste or end-of-pipe pollution control, recycling equipment, spare parts for industrial equipment, and a narrow range of resource efficiency equipment. They do not yet extend to wider aspects of circularity such as equipment for remanufacturing or manufacturing of circular materials, equipment for circular agricultural activities, or goods that enable circular business models (such as sensors, computer vision equipment, etc.) or activities (such as circular building materials and tools).

It is therefore proposed that the revived EGA initiative should **consider the additional value or viability of including a sub-category for circular goods within the scope of the agreement**. This work could tackle questions such as: how to define a circular good; how to ensure goods are used for circular purposes; how to categorize circular goods given the HS system limitations; and whether, and how, circular services should be included; as well as the inclusion of non-tariff barriers and political challenges that could result from this.

One area for particular consideration would be the **mapping of a shortlist of goods necessary for conducting activities that offer a substantial contribution to the circular economy, as defined by the EU taxonomy for sustainable activities, but are currently subject to high tariffs**. Given the many outstanding questions on this topic, it is necessary first to undertake a collective and extensive consultation with a wide range of relevant stakeholder groups. This consultation could be led by a consortium of relevant groups such as the TESSD Informal Working Group on circular economy and circularity, or the Friends Advancing Sustainable Trade (FAST Group).

A second area for particular consideration concerns 'like' products. Being able to differentiate measures applied to imported similar products based on their circularity (such as use of recycled materials, or durability, repairability and recyclability) would be an important tool for countries to accelerate their own transition to a circular economy. Currently, however, the distinction between the level of circularity of products is irrelevant in determining 'likeness'. Moreover, if the process and production methods (PPMs) do not directly affect the physical appearance of the product – referred to as non-product related PPMs (NPR-PPMs) – it is unclear whether the products are classed as 'like'. If NPR-PPMs have an impact on the end consumer's perceptions and behaviours that results in a weak or no competitive relationship between the products (e.g. sustainably sourced versus non-sustainably sourced forest products), they can be found not to be 'like' products. However, this is unlikely to be the case for many goods where consumers are more strongly guided by price. **There would be value in initiating discussions on whether current rules relating to 'like' products are overly restrictive**

in terms of a country's ability to transition to a circular economy and protect its environment. Discussions could take place within relevant forums such as the TESSD Informal Working Group on circular economy and the various regional circular economy alliances.²⁵

WTO members can also leverage public procurement measures to favour circular over linear products and processes. This is because the non-discrimination obligations for trade in goods do not apply to the laws, regulations and requirements governing procurement of goods by government agencies, and as such can discriminate against unsustainable NPR-PPMs. It should be noted that 48 WTO members are party to the plurilateral Agreement on Government Procurement (GPA), which requires them to follow non-discrimination requirements for a large proportion of procured goods, although the GPA does allow procurers to set technical specifications on goods to conserve the natural resources or protect the environment. An area for development would be to **assess the value of integrating circularity requirements in the procurement guidelines, drawing on best practice such as the EU Green Public Procurement process.** This could be taken up as a topic of interest within the WTO work programme on sustainable procurement.

Action: Initiate discussion on the impact of 'linear' and 'circular' subsidies

Subsidies that have the effect of supporting 'linear' economic activities will also significantly impede the circular economy transition and economic incentives for conducting circular trade. The International Energy Agency estimates that the value of global consumer fossil fuel subsidies reached \$440 billion in 2021.²⁶ The gain from fossil fuel subsidies transfers into products that are dependent on fossil fuels as a material or energy source. Virgin plastics and metals, for example, rely on both these factors, meaning it is very difficult for recycled equivalents to compete on price. For agriculture, subsidies for fossil fuel-based fertilizers make it more difficult for regenerative agricultural processes to compete fairly. Few studies have quantified the inhibiting effect that linear subsidies have on the transition to a circular economy, and in particular on circular trade. Similarly, little is known about what forms of 'circular' subsidies could be introduced to create a level playing field.

It is therefore necessary to **evaluate the scale, nature and environmental impact of linear subsidies for different kinds of circular trade flows, and identify where opportunities exist to introduce circular subsidies.** It is also important to be aware of how the problem of linear subsidies can be addressed in an inclusive way that does not penalize low- and middle-income countries that depend on such subsidies for development.

Action: Set up well-resourced and long-term initiatives to tackle trade in illegal waste

As the volume and complexity of circular trade increases, so does the risk of illegal waste trade. Just as the proposed Global Plastics Treaty is intended as a mechanism for tackling illegal plastics trade, a treaty covering e-waste would be a valuable

²⁵ African Circular Economy Alliance (ACEA), Circular Economy Coalition of Latin America and the Caribbean, Platform for Accelerating the Circular Economy (PACE) and the Global Alliance on Circular Economy and Resource Efficiency (GACERE).

²⁶ International Energy Agency (2021), *World Energy Outlook 2021*, <https://iea.blob.core.windows.net/assets/4ed140c1-c3f3-4fd9-acae-789a4e14a23c/WorldEnergyOutlook2021.pdf>.

way forward. An example of successful international collaboration in this area is the DEMETER Operations, a global initiative, established in 2009 and run under WCO auspices, to address illegal waste trade, which as at late 2021 involved 87 customs administrations. Others include the Green Customs Initiative, the Regional Enforcement Network for Chemicals and Waste (Project REN) and, from 2021, the ‘Unwaste: tackling waste trafficking to support a circular economy’ initiative implemented by the UN Office on Drugs and Crime (UNODC) and the UN Environment Programme (UNEP). **To genuinely tackle international illegal waste trade, a longer-term, well-resourced and globally coordinated approach to the policing of illegal waste trade is needed. This could build on the work of the Green Customs Initiative and findings from the DEMETER Operations, and be coordinated by organizations such as UNEP, the WCO, Interpol, Europol and the Secretariat of the Basel Convention, with support from individual governments through commitments to report illegal waste crime incidents.**

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Cover image: Containers filled with plastic waste are displayed to the media at Port Klang, Selangor, Malaysia, on 28 May 2019.

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