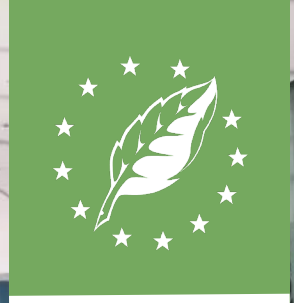




13th WTO MINISTERIAL CONFERENCE



What lies ahead for Green Trade at the WTO after the Thirteenth Ministerial Conference?

Time for creative forms of cooperation!

The **World Trade Organisation's Thirteenth Ministerial Conference** (MC13) took place in Abu Dhabi (UAE) between 25 February and 1 March 2024. It concluded on the much-expected – but nonetheless disappointing – failure of Members to agree on any key agreements on the agenda. More worrying, Members did not manage to decide on any precise action plan for reforming the organisation's dispute settlement system, and the MC13 even saw certain Members frontally opposing discussing issues related to climate change and environmental protection, asserting they do not belong within the scope of the WTO's mandate. This policy brief reviews the main lessons and outcomes of MC13 and reflects on the positive prospects for progress on issues at the nexus of trade and the environment at the WTO level.

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Returning from the balmy and sun-kissed shores of Abu Dhabi to Brussels' cool winds while awaiting the outcome of the Ministerial Conference, of which the conclusion of the negotiations was postponed from 29 February to 1 March, was a pretty uncomfortable experience.

Setting aside frustration and disappointment, this brief looks back at the key outcomes of the last Ministerial Conference of the World Trade Organisation (WTO), which was the first Ministerial Conference in which the Green Trade Network and the Institute for European Environmental Policy participated. The brief examines the positive prospects for the green trade agenda at the Centre William Rappard in the run-up to the next ministerial conference in Cameroon.

Box: Main Outcomes of WTO MC13

1. Ministers formally approved the WTO accession of two new Members – Timor Leste and Comoros, bringing WTO membership to 166.
2. Members agreed in extremis on a “precarious” extension of the moratorium on e-commerce until 2026. The agreement mentions that the moratorium shall end if a deal is not reached by the next Ministerial Conference.
3. Three paragraphs of the Ministerial Declaration mention the continuation of discussions on the reform of the Dispute Settlement System, insisting on the accessibility imperative but without mentioning the issue of the applicability of its decisions.
4. Ministers agreed on new disciplines for domestic service regulation. Seventy-one governments, representing 92.5% of global services trade, are committed to implementing these new disciplines.

Who still believes in (miracles at) the WTO? A “post-MC12 effect” on trade and environment

The agreement achieved at MC12 to curb harmful fisheries subsidies and the WTO’s presence at COP28 in the framework of the first “Trade Day” and “Trade Pavilion” in an International Climate conference have fuelled increased interest and enthusiasm towards the WTO’s activities within the environmental community since 2022. At the forefront of discussions in Abu Dhabi were diverse topics with varying trajectories. While some, such as agricultural subsidies, were anticipated not to yield any concrete outcomes, others, such as the continuation of the WTO’s pivotal agreement on fisheries subsidies (Focus 1) or the plurilateral agreement on Investment Facilitation for Development (Focus 2), held promising potential for swift adoption.

Momentum has surged around these issues, with expectations soaring before and during the conference. However, even after an additional day of negotiation, none of these texts reached the finish line in Abu Dhabi. The EU’s negotiating mandate pragmatically insisted on developing the deliberative function of the WTO and referred to new issues such as industrial policy, two aspects that were eventually not taken up in the Declaration. Even the highly scrutinised “sustainable development-related paragraph” (Focus 3) in the Ministerial Declaration ended up referring to a vague notion of “global challenges”, marking a step backwards from previous declarations. India’s eventual blockage of some of these texts further underscores the system’s current dysfunctional nature, which still operates under a notably restrictive interpretation of the concept of “consensus.” The spectre of upcoming elections in both India and the US rendered the prospect of any concrete outcomes at this Ministerial

Conference highly unlikely. These participating members opted for a “lose-lose” negotiation stance, prioritising the preservation of their domestic political capital.

Focus 1: Part two of the agreement on harmful fisheries subsidies

Two years ago, the MC12 had set a bar that WTO Ministerial conferences had not been able to reach for decades with the conclusion of a historic first-step agreement to curb harmful fisheries’ subsidies, added to the WTO rulebook. The Agreement of 2022 marked a significant milestone in the WTO’s history, showcasing how WTO rules can tangibly advance Sustainable Development Goals, particularly SDG 14.6, on restoring fish stocks. For some reason, observers had started to believe during the week that the agreement on fisheries subsidies could escape the usual “nothing is agreed till everything is agreed” paradigm. While the Agreement of 2022 only covers subsidies contributing to IUU fishing (article 3.1) and fishing of already overfished stocks (article 4.1), the second part of the agreement intends to address the remaining issues of overfishing and overcapacity, which are the core of the problem as the leading causes of fish stock depletion across the globe¹, however, they were removed from the MC12 agreement (article 5.1).

The facilitator agreement released at the beginning of MC13 met most of the Members’ requirements. Members had even managed to solve sensitive issues, such as the scope of subsidies for artisanal fishing excluded from the disciplines. Only a few elements were missing by the end of the week, such as the disciplines’ implementation deadlines. The agreement ultimately faced opposition from certain Members looking to “preserve their policy space” in that area. The second part of the agreement must be completed as quickly as possible, as the entire agreement is set to expire four years after the entry into force of the initial part.

Focus 2: The Investment Facilitation for Development Agreement (IFD) is a plurilateral agreement originating from the Structured Discussions on trade and investment facilitation for development initiated in December 2017 by 70 WTO Members. It aims to enhance transparency and facilitate the conditions for investment in developing countries.

In the first days of MC13, lead negotiators announced that the text had been agreed upon by an overwhelming majority of WTO Members (over 120 signatories). All agreements reached at the Ministerial Conferences require the approval of all Members to enter into force through incorporation into Annex 4 of the GATT. However, India opposed the incorporation of the IFD at MC13, arguing that the agreement covers issues that are not directly related to trade (a similar argument mirroring their position on trade and environmental issues). As a remarkable post-MC13 test, the incorporation of the IFD in Annex 4 of the GATT was added as an agenda item of the WTO’s General Council as early as 22 March, with a list of signatories reaching 128 Members. Still, the agreement was blocked again by India, South Africa and Turkey. This development highlights the dysfunction of the WTO’s consensus system and the need to explore alternative cooperation pathways.

¹ 90% of global fish stocks are currently overexploited or depleted.

Focus 3: One paragraph to rule them all

One final development that environmental CSOs scrutinised during the MC13 was the paragraph in the Ministerial Declaration referencing the Chapeau of the Marrakesh Agreement and reiterating the original mission of the WTO. Despite its limited legal implications, some Members advocated for reaffirming the WTO's role in advancing sustainability, aiming to align the organisation's work with addressing contemporary challenges. Indian Trade Minister Goyal quickly cut it short, emphasising in media statements that trade and environmental concerns are distinct and asserting that climate change should not be within the WTO's purview.

These outcomes at MC13 are highly symbolic of the current landscape of the multilateral trading system. However, as recently suggested by colleagues from ODI, it is possible that observers' expectations (especially those of the environmentalist CSOs) were merely out of touch with the harsh realities of the geopolitical landscape². The argument sounds sensible, and it is true to say that the WTO is much more than its Ministerial Conferences. However, let us put these developments in a historical perspective. In 1999, during the Seattle protests, demonstrators took to the streets to vehemently oppose an organisation perceived as emblematic of the worst aspects of the neoliberal globalised economy.

Excessively high expectations surrounding MC13 regarding trade and sustainable development can be interpreted as a natural consequence of increased scrutiny and interest from an increasingly broad spectrum of environmentalist experts. The WTO should view this surge of interest from environmental advocates as a positive development, potentially one of the most significant in decades. Non-governmental organisations (NGOs) aren't merely opposing the WTO and the decisions made at Ministerial Conferences; they now actively engage with the trade space, often eagerly awaiting the opportunity to contribute to the dialogue, demonstrating a proactive approach to shaping trade policies.

Civil society: the central piece to fill the WTO's "leadership gap"?

Abu Dhabi National Exhibition Center (ADNEC) offers a variety of beautiful patio doors, the details of which "NGOs"³ had the pleasure of examining (and trying to circumvent) during MC13. Members should bear in mind that the recent accomplishments of the WTO over the preceding decade are significantly indebted to the collaborative efforts of sustainability-oriented think tanks and NGOs, particularly exemplified by the inception of the fisheries agreement. Notably, MC13 stood out for its deficiency in integrating civil society.

In contrast, IISD's Trade + Sustainability Hub, which took place in a hotel across the street, was a tremendous success and a genuinely inclusive initiative, bringing geographical and thematic diversity to the discussion. The hub's success is a powerful testament to the potential of CSO

² David Kleimann, Jodie Keane, & Michai Robertson, [Climate and Trade Cooperation After the Thirteenth WTO Ministerial Conference: Quo Vadis?](#), Expert Views, TESS Forum, 2024

³ In the setting of an MC, one is either part of a member's delegation or considered an "NGO".

engagement within multilateral settings. Not only does it enrich discussions with diverse and technical perspectives, but it also plays a crucial role in fostering reconciliation among entrenched divisions between the Parties. This (desirable) phenomenon is what former WTO Director-General Pascal Lamy theorised as “polylatéralisme”⁴.

The relevance of this notion in the WTO context is further exemplified by the pivotal role played by colleagues from TESS Forum and E3G in fuelling and supporting the work of both the Trade and Environmental Sustainability Structured Discussions (TESSD) and the Coalition of Trade Ministers for Climate launched in Davos last year. The latter, officially taking place outside of the WTO framework, has managed to gather 61 Ministers so far and has started to trigger a discussion on the positive contribution the global trading system and trade policies can make in the fight against climate change.

The pragmatic way forward: a focus on incremental progress at the William Rappard Centre

Some voices have started to speculate and assume that if MC13 had occurred two months later (meaning after the Indian election), the outcomes would have been different. Yet, our take is that we simply cannot afford to wait every two years to see no progress being made. To escape from national politics contingencies, more emphasis should be placed on the daily work of the WTO committees. The question also relates to the Fisheries Agreement and other environment-related files regarding how best to move them over the line as quickly as possible in Geneva.

First positive point: The failure of negotiations on harmful fisheries subsidies in Abu Dhabi is not the end of the road, and the momentum is still alive. Many members are currently pushing for talks to resume in Geneva, with a view to a swift conclusion at one of the forthcoming General Councils. While WTO Director-General Dr Ngozi Okonjo Iweala also affirms that progress could be achieved before the next MC, [some voices are now suggesting](#) that a plurilateral deal between the Members who have already ratified the agreement could be sufficient to address the issues at stake. There has also been recent progress regarding the implementation of the fisheries agreement reached at the MC12. For the first part of the Agreement to enter into force, a quorum of two-thirds of WTO Members, having introduced their acceptance instrument, must be met. The Russian Federation presented its acceptance instrument of the first part of the Fisheries Agreement on Monday, 18 March, bringing the number of Members having accepted the agreement to 72. Fifteen additional acceptance instruments are expected between March and April 2024, and the Director General of the WTO recently indicated that the organisation is currently working on the future acceptance of 20 more Members.

⁴ Le Grand Continent, [Polylatéralisme ou Chaos ; une conversation avec Pascal Lamy](#) (November 2020)

Second positive element: The outcome of MC13, which is strongly linked to the electoral and geopolitical context described above, should not conceal the substantive progress made at a more technical level within the framework of ad hoc initiatives on trade and environmental issues.

- a. **The plurilateral dialogue on plastic pollution**, which brings together 78 members representing over 85% of world trade, shows that progress can be achieved outside the traditional scope of negotiation, as the initiative is said to be very close to releasing a first action plan. Some WTO officials interestingly describe this new form of cooperation as “coordinated unilateralism”. Against a background of tensions and reluctance towards multilateralism, the concept of coordinated unilateralism gently articulates creating a joint framework of action with a pragmatic narrative of “policy space preservation”. The initiative is being held in parallel with UN negotiations for a binding multilateral agreement addressing plastic pollution and further underscores the complementarity of trade measures with Environmental Agreements.
- b. **The Trade and Environmental Sustainability Structured Discussions**, involving 76 Members, released a [statement](#) and updated work plan before the MC13, showing clear signs of political willingness and vitality.
- c. **On industrial decarbonisation** policy issues, last year, the WTO launched [a forum on technical standards for decarbonisation](#). This initiative can admittedly sound less sexy than a traditional agreement. However, one should not underestimate the value of such initiatives to achieve progress on transparency and interoperability of unilateral carbon footprint policies.
- d. **There is an increasing willingness to advance regulatory cooperation and eliminate the Technical Barriers to Trade (TBT)** in the framework of committee work, especially on the part of developing countries. This commitment of Members to advance regulatory cooperation through alleviating TBTs bears real potential not only for avoiding trade disputes but also for the diffusion of technologies associated with the green transition and the mitigation of negative trade impacts related to the implementation of uncoordinated domestic environmental regulations.

Conclusion: As we look ahead towards the next Ministerial Conference, the imperative lies in leveraging collective efforts, embracing creativity in overcoming challenges and recognising the pivotal role of civil society in advancing the green trade agenda within the WTO framework. Through concerted action and pragmatic collaboration at more technical levels, the WTO has the potential to chart a more sustainable and inclusive course for global trade.

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