**SEMINAR COURSE**

**ABORTION LAW: EVOLUTION AND COMPARISON**

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**(April, 2020)**

**ABSTRACT**

Since 1950, World trade has grown more than twenty-eight fold in volume terms. By way of correlation, the level of world GDP rose eight-fold during the same period. As a consequence, the share of international trade in world GDP has raised from 5.5 per cent in 1950 to 59.44 per cent in 2018. Climate change is the colossal sustainable development challenge the international community has had to tackle. The Measures to address climate change need to be fully compatible with the international community's wider ambitions for economic growth and human advancement. It is a challenge that transform borders and requires solutions not only at national levels but at the international level as well .Since multi-trading and climate change are inter-related and it is aimed at furthering trade opening, a number of aspects of the Doha Round that have a direct bearing on sustainable development and can therefore contribute positively to efforts to mitigate and adapt to challenges to climate change. Also, Environmental goods can cover a number of key technologies that may contribute positively to the fight against climate change. In the context of the ongoing WTO Doha Round of negotiations, some multilateral work is also taking place that could contribute positively to mitigation efforts for positive response. Of key importance, are the first-ever multilateral trade and environment negotiations among the members.

This paper will analyze the activities of the WTO and the challenge of climate change and its impact on trade opening. The paper will try to elaborate the potential relevance of WTO rules while dealing with climate change. This paper aims to improve understanding about the linkages between multilateral trading and climate change.

KEYWORDS**:** Trade, Sustainable, climate, environment.

**Introduction**

In the recent era, Climate change has the biggest sustainable development challenge the international community has had to tackle up to now. The Measures to handle climate change needs to be absolutely compatible with the international community's wider ambitions for Economic process and Human advancement. It's an obstacle that transcends borders and requires to be tackled effectively not solely at national levels but also at the international level. The World Trade Organization (WTO) was established with Innovation Charter, the Marrakesh Agreement. It represents more than 95% of total trade happening around the globe. It is considered to be one part of architecture of multilateral cooperation. It provides a framework of disciplines to facilitate more open international trade to achieve sustainable development and provides members flexibility to pursue their environmental and health objectives. Two Fundamental principles governing international trade: national treatment and the Most favoured nation (MFN). Sustainable development, the protection and preservation of the environment are recognized as fundamental goals of the WTO. The 1994 Marrakesh Agreement establishing the World Trade Organization (the "WTO Agreement") conjointly introduced new components into the legal texts that are of relevance for the trade and environment discussions. Its Preamble includes, for the first time within the context of Multilateral Trading System, relevancy for the target of sustainable development and to the necessity to safeguard and preserve the environment and monitor climate change. Article XX of the GATT (General Agreement on Tariff and Trade) enlists exceptions to open trade and protection of the environment. WTO rules permit members to determine their own environmental objectives and its appropriate level of protection but in a coherent manner. The WTO contributes to preservation of the climate change through its trade expansion, through efforts in different WTO bodies, through its rules and enforcement mechanism, and through ongoing discussions under the Doha Development Agenda. WTO provides a pivotal means of advancing international environmental goods. WTO also promotes productive allocation of resources, increased income levels and economic growth which provides additional possibilities for protecting the environment. Trade liberalization and predictable trade conditions support the environment and enhance the possibility of innovation.

Multilateral trading system is when three or more countries agree to open their markets for goods and services, binded by commitments. This is done to make business more stable and effective. It brought all signatories to treat each other equally, made international trading easier, standardized commerce regulations and helps emerging markets and moreover, multiple nations were covered by one treaty. For the issue of climate change, per se, there are no WTO specific rules. However, the WTO rules, as a whole are relevant as it provides climate change measures and policies framework for ensuring predictability, fair implementation and transparency. They also provide legal framework which intersect with international trade indirectly in the following ways:   
First, liberalizing trade can help in efforts to alleviate and adapt to climate change, for example by raising standards of living and improving access to environmental goods and services. Second, the WTO is relevant because Social measures to alleviate and adapt to climate change may have an impact on international trade (due to conditions of competition) and may be accountable to WTO rules. The WTO rules, as a whole can be relevant, therefore, to the examination of climate change measures as it ensures predictability, transparency and the fair implementation of such measures.

**Climate Change**

Climate change has received considerable attention in the last 25 years, including through the

Adoption of the UN Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol. Similarly, in the last 15 years, an increasing number of RTAs, namely 34 agreements include at least one provision referring explicitly to climate change, global warming or greenhouse gases reduction.[[1]](#footnote-2) Most provisions referring to climate change are being identified as climate change mitigation and adaptation as one of the cooperation areas. Other provisions underscore the importance of addressing climate change, including through trade in environmental goods and services, while others refer to the development and adoption of climate change policies. The RTA reaffirms the parties' commitment to effectively implement in their laws and practices the Kyoto Protocol to the UNFCCC. In addition, other provisions are found in a specific article on climate change in the chapter on trade and sustainable development. The parties recognize that climate change is an issue of common and global concern that calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response. The parties are further resolved to enhance their efforts regarding climate change, which are led by developed countries, including through the promotion of domestic policies and suitable international initiatives to mitigate and to adapt to climate change. These efforts shall be enhanced on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions, and taking particularly into account the needs, circumstances, and high vulnerability to the adverse effects of climate change of those Parties which are developing countries. In that context, another provision specifies that the parties will promote the sustainable use of natural resources and will promote trade and investment measures that promote and facilitate access, dissemination and use of best available technologies for clean energy production and use, and for mitigation of and adaptation to climate change. The parties further agree to consider climate change actions, such as facilitating the removal of trade and investment barriers to access to, innovation, development, and deployment of goods, services and technologies that can contribute to mitigation or adaptation, taking into account the circumstances of developing countries; and promoting measures for energy efficiency and renewable energy that responds to environmental and economic needs and minimize technical obstacles to trade. The RTA also mentions various possible cooperation areas, including activities related to the reduction of emissions from deforestation and forest degradation (REDD) as well as activities related to aspects of the international climate change regime with relevance for trade.

**Trade and environment in the WTO**

**The first United Nation Conference** on Sustainable Development and Environment was held in Rio de Janeiro in 1992, this conference has made comprehensive plan by setting guidelines for global economy, the principle guidelines were implemented globally and nationally. In 2002 world summit on sustainable development was held in Johannesburg to achieve remaining goals of Rio de Janeiro by renewing the global commitment and making new comprehensive plan. The landmark conference of United Nation in 1992 popularly known as Earth Summit since it has set the track for the growth global economy without neglecting sustainable development and environment.

**Rio conference**

This UN conference was held in Brazil on June 2012 for the sustainable, the theme and idea behind this conference is to maintain balance between economy, environment and sustainable development and political commitment towards sustainable development and green economy. The Rio has also addressed many challenges to the participating country with reference to green economy and sustainable development.[[2]](#footnote-3)

Rules made by the Rio conference in the context of environment and sustainable development:

* International Corporation on finance for development.
* National sovereignty over the uses and protection of natural resources.
* Universal membership will be established in governing council.
* Providing assistance by official development authority (ODA) and access to technology for green economy
* Promote multilateral environment agreements (MEAs) and encourage the parties and enhance coordination and cooperation.
* Participation of relevant stakeholder and multilateral institution.
* Role of environment and sustainable development will be strengthening in UN bodies.
* Establishment of head quarter in Nairobi and strengthen its presence globally and regionally and nationally.

An increasing number of RTAs include environment-related provisions that build on Principle 10 of the UN Rio Declaration, which highlights the importance of environmental governance through:

1. **Transparency**- *Transparency* in environmental matters is often viewed as one of the key principles defining environmental governance. A number of principles established under the UN Rio Declaration on Sustainable Development refer to transparency. Principle 10 highlights the importance of having appropriate access to environment-related information held by public authorities, including information on hazardous materials and activities. Although the principle of transparency refers mainly to access to information, it is also linked to education and awareness on environmental matters. In fact, access to information is often not fully exploited because of limited knowledge and lack of awareness on environment-related issues. Principle 10 of the UN Rio Declaration focuses the importance of promoting public awareness by making environment-related information available.
2. **Public Participation**- Transparency and public participation are inter-related concepts. While transparency is about the access to information on environment-related matters, *public participation* relates to the actual engagement of the public in environment-related decision-making (including environmental impact assessment) and/or implementation of environment-related activities (including the enforcement of environmental laws, policies and programs). Transparency is often a necessary condition to ensure active public participation. The public cannot fully and meaningfully participate on any matters (including environmental ones) if the relevant and timely information is not, or only partially, available. Public participation often contributes to the legitimacy and accountability of the Decision adopted and implemented. The UN World Charter for Nature, adopted in 1982, was the First international declaration to recognize, in its Principle 23, that all persons, in accordance with their national legislation, shall have the opportunity to participate, individually or with others, in the formulation of decisions of direct concern to the climate change. Similar to the principle of transparency, public participation is a cross-cutting issue. As a result, the principle of public participation is mentioned in different contexts, which explains why many of these provisions are idiosyncratic. Provisions on public participation related to environmental matters, including climate change are incorporated in 36 RTAs, ranging from the recognition of the importance and the Promotion of public participation to the adoption of policies and cooperation related to public participation. The remaining and most common provisions regarding public participation in environmental matters refer to cooperation[[3]](#footnote-4). Therefore, Public participation is a vital means of enhancing environment stewardship, protection and conservation and sustaining natural resource management including climate change.
3. **Access to Justice**- The principles of procedural guarantees and *access to justice* in environmental matters are another sensitive issue related to environmental governance. Procedural guarantees refer to the fair and consistent application of judicial and administrative proceedings related to the enforcement of environment law and to the remedies to the violation of environmental law. The concept of access to justice is often linked to the two issues discussed above, namely the access to environmental information and public participation in environmental matters. The rationale behind access to justice is, among other things, to strengthen the rights of access to environmental information and participation in environmental decision-making, as well as to enhance environmental laws implementation and enforcement.

**The Article XX of general agreement off tariff and trade (GATT) 1947** is exception of free trade among member countries, this article will not be applied when measures taken by any member is arbitrary, discriminatory and unjustifiable with the aim of protectionism and unfair trade advantages, the exception will be applicable when:

* It is necessary to protect human, animal, health, plant and public morals.
* The matter is related to import and export of gold and silver.
* Necessary to secure laws and regulation which are not inconsistence with GATT, custom enforcement, enforcement of monopolies operate, protection of patent and trade mark, copyright and to prevent deceptive practices
* The product is related to prison labor.
* It is necessary to secure national treasures of artistic, archaeological or historic value.
* It is necessary to protect and conserve exhaustible natural resources if it is also effective in domestic production and consumption of such resources.
* It becomes necessary to ban domestic export to ensure availability of essential commodity and when the price of the product is below the world price because of government stabilization plan, the restriction shall not imposed to increase the export by departing non discriminating policies of this agreement.
* Any obligation under intergovernmental commodity agreement criteria submitted to the contracting parties which are not disproved by any of them.
* Essential commodity is acquired or distributed to general public to fulfill the supply and any other action would be considered consistence based on the principle of “every contracting party must get equitable supply of product in international trade”.

The relationship between existing WTO rules specific trade obligations set out in MEAs. The negotiations shall be- reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services and procedures for regular information exchange between MEA Secretariats and the WTO committees. Committee on Trade and Environment (CTE) in its agenda gives particular attention to relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights.

**The impact of trade opening on climate change**

Since 1995, the real volume of world trade has expanded by 2.7 times which outstrips the two-fold increase in world GDP. It has been marked by a bizarre expansion of International trade. This was mainly due to technological changes and more open trade and investment policies. The expansion of world trade is one reason why trade is increasingly being raised in climate change panels meetings and discussions. From last 2 decades, countries have been designing new policies for addressing climate change. In doing so, government will find the best balance and would impose minimal and efficient costs for the economy, while addressing climate change. Trade economists are trying to develop a conceptual framework for how trade can be affected by climate change. This framework was first applied to study the environmental impacts of North American Free Trade Agreement (NAFTA). This framework, therefore, can be used to study the link between trade and climate change. It initially separated the impact of trade expansion into 3 parameters: scale, composition and technique.[[4]](#footnote-5) The “scale” refers to the impact on climate from the increased economic activity resulting from expansion of trade. In fact, increase in the scale of economic activities will lead to higher levels of greenhouse gases emissions. The “composition” refers to the manner that expansion of trade changes a mix of a country’s production towards those goods where there is a comparative advantage and economic efficiency. It is difficult to predict whether composition effect results in higher or lower climate change. The “Technique” refers to means so that production of goods and services generate less climate change. It will result in improvement in energy efficiency and availability of low cost and environmental goods. By increasing the availability of goods and services that are important in improving energy efficiency, trade is likely to help in meeting the challenge of climate change. On the other hand, Climate Change will have impact on all the sectors of the economy from Agriculture to tourism. Agriculture, fisheries and forestry are affected by climate change through increase in temperature leads to droughts, water scarcity and changes in snow cover. These are most pivotal sectors in international trade since for developing countries which have a slight advantage over the developed countries in International trade. And, the process of International Trade requires goods to be transported cross-borders which are likely to lead the increased use of transportation. Climate change can disrupt the supply and distribution channels, in turn, raising the cost of International Trade. The global climate change agreement, based on principle of “common but differentiated responsibility”- determines what each country must do to reduce emissions which means taking into account different levels of emissions and checking their responsibilities- could help in mitigating some of the concerns related to trade and climate change.

**Activities of the WTO and the challenge of climate change**

In the Marrakesh Agreement establishing WTO and climate change issues have clear links. Members also established links in order to ensure that trade policies go hand-to-hand with environmental and social objectives. Universal problems like climate changes require global solutions. In the Doha Agenda, members agreed to launch sustainable development paths by setting out obligations for multilateral environment agreements (MEAs). These agreements will undoubtedly help in mitigating climate change and platform for addressing the linkage between trade and climate change.

* A more open market for environmental goods and services- WTO Members are working on eliminating or reduction on barriers to trade that will benefit the environment. It will help in improving countries’ ability to obtain better quality environmental goods. WTO members are working upon GATS specific commitments relevant to policies aimed at alleviating climate change. Facilitating access to these types of goods and services will help in fostering a better dissemination of environmental technologies at lower costs and have a positive impact on air quality, soil and water resources conservation. According to Recent World Bank Study on Trade and Climate Change, elimination of tariffs could results in a 14% increase in trade of these goods and services. A successful outcome of negotiations could deliver threefold win for WTO-members- a win for trade, a win for environment and a win for development.
* More coherence between trade and environmental rules- Members have made some recommendations highlighting the relevance of national coordination between trade and environment rules, particularly in the context of implementing MEAs for bringing more coherence between trade and environmental rules. Nations having mutually supportive relationship can further enhance trade and environmental regimes.
* Better cooperation between WTO and MEAs- WTO members have been discussing ways to ensure a harmonious relationship between WTO and MEAs by ensuring specific trade obligations in various agreements that have been negotiated to ensure protection of the environment and keep a check on climate change. Notably, there has been no evidence of conflict between WTO and MEAs. Further, the negotiators are seeking ways to improve national coordination and cooperation for the implementations of Multilateral Environmental Agreements (MEAs) at the National Level. These efforts can play a central role to the success of alleviation of climate change and improve adaption efforts taken at both national and international levels. Moreover, it is clear from the rules of WTO and United Nations Framework Convention on Climate Change (UNFCCC) that both regimes work in coordination with each other. Article 3.5 of the UNFCCC and Article 2.3 of the Kyoto Protocol provides that measures to combat climate change should be implemented to minimize adverse effects, including trade and environmental impacts on other members. Meetings and discussions are done to improve existing practices and cooperation measures.
* Agricultural and non-Agricultural negotiations- It is seen that some benefits to climate change alleviation, indirectly, may result from the negotiations on agriculture and of non-agricultural goods. Elimination of tariffs and reduction in agricultural support may lead to efficient appropriation of global resources and production. Trade negotiations will increase trade opportunities among developing countries which would in turn help them grow and reduce their vulnerability to the effects of climate change. This will also ensure that developing countries do not suffer from the negative impacts of climate change disproportionately. The challenge of climate change has contributed to the development of biofuel sector since biofuel will help them meet their reduction in commitment for climate change under Kyoto protocol.
* Fisheries Subsidies- Reducing fisheries subsidies could significantly reduce overfishing which harbors species preservation. Members agreed to eliminate subsidies focusing on its negative impacts, i.e., distort trade and undermine the sustainable exploitation of fish stocks. An agreement in this will lead to triple-win for trade, development and environment which is core of this negotiation[[5]](#footnote-6).

**Doha Agenda**

At the fourth ministerial conference held in 2001, WTO members agreed to launch new negotiations in particular for the implementation of the agreements including environment and climate change. They were termed as Doha Development Agenda (DDA). There are subjects from 31-33 listed in Doha Declaration which states about trade and environment. Negotiations in this field shall be an integral part of the Work Programs. Ministers also agreed to launch negotiations on the relationship and links between existing WTO rules and trade obligations set out in multilateral environment agreements (MEAs). They will in particular clarify the relationship between trade rules under MEAs and WTO rules. Ministers agreed on various aspects under these negotiations: information exchange, fisheries subsidies, observer status, trade barrier on environment goods and services. Ministers also recommended the Trade and Environment Committee in pursue of work on its agenda, paying attention to: Intellectual property, win-to-win situations, environment labeling requirements, effect of environmental measures.

**Climate change issues in WTO's regular work**

* The Committee on Technical Barriers to Trade (TBT Committee)
* The TBT Committee provides the platform to discuss technical standards and regulations to alleviate climate change. The committee foresees at climate change measures and ensures that they don’t pose unnecessary hindrance to international trade and harmonization. It aims to ensure that technical standards and procedures are non-discriminatory and implement measures to achieve legitimate policy objectives. It also aims to create a predictable trading environment due to its transparency provisions. In recent years, reports suggest that TBT committee so far appear to principally concern product requirements. Examples of regulation discussed include eco-design requirements for energy-using products to emissions levels.
* The Committee on Trade and Environment(CTE)
* The Committee on Trade and Environment (CTE) was created at 1994 Ministerial Decision on Trade and Environment. The CTE provides a forum which covers the main issues related to trade and environment in order to promote sustainable development. The Committee serves as incubator for ideas to advance the trade and environment agenda and is the main gateway should members decide to explore further linkages between climate change and trade. The committee’s mandate is broad. [[6]](#footnote-7) The committee had reports which expressed concern over the possible trade effect of eco-labels: the multiplication of eco-labeling schemes with different requirements and criteria. It also stressed upon how the criteria will be set for non-product related processes and production methods that are to be treated under TBT Agreement.

**Climate change and the potential relevance of WTO rules**

Climate Change refers to global climate patterns largely due to increased levels of atmospheric carbon dioxide produced by the use of fossil foils. National, multilateral initiatives to deal with climate change, in addition to regulatory measures are being formulated which involve the adoption of price-based measures such as taxes and tariffs, and variety of subsidies and market-based mechanisms. As they refer this to trade, these matters are subject to WTO rules and procedures. The pattern of climate change programs will only take into account the potential trade impact and the relevance of members’ rights and obligations under WTO rules. WTO rules and procedures are relevant to the examination of climate change measures. It is evident that general approach under WTO rules has been to endorse some degree of trade restriction may be decisive to achieve certain policy objectives. Below are a few number of WTO rules which may be relevant to measures aimed at alleviating climate change:

* A General non-discrimination principle, consisting of the Most-Favoured Nation (MFN) and National Treatment (NT) Principle.
* Disciplines on tariffs (border measures), essentially prohibiting members from collecting greater tariffs than prescribed in their WTO scheduled consolidation.
* A general prohibition against border quotas.
* Rules on subsidies
* Disciplines relevant to trade in services
* Rules on technical regulations and standards. Here, Technical regulations and standards must also respect the principle of non-discrimination and based on international standards.
* Specific rules for sanitary and phyto-sanitary measures, which are relevant for agricultural products.
* Rules on Trade-related intellectual property rights (TRIPS). These rules are significant for the development and transfer of climate-friendly technologies and know-how. [[7]](#footnote-8)

Conferences on “Climate Change, Trade and Competitiveness” were been held for discussing the issues for WTO. In the wake of Copenhagen, nations will rely more on national determined climate policies as these policies vary in severity. This will also lead to the introduction of climate-related subsidies and tariffs for competing with other nations. These policies can also distort trade and pose challenge to the world trading system. Well, with this, WTO dispute settlement body will pass decisions, could pose risks forcing nations to choose between adhering the WTO rulebook and maintaining political support for climate policies, on the other hand. It is very pivotal for the government to not undermine these set of rule-system when used in climate-related trade conflicts. The goals of the conference are-

* Blueprint all the main categories of ideas and solutions.
* Support and promote discussions of the options by experts and stakeholders.
* Gather the best available sources on various aspects of the problem.

**Multilateral Environmental Agreements and Climate Change**

In the last 70 years, multilateral environmental agreements (MEAs) have emerged as an important means for countries to tackle environmental problems, particularly those related to climate change.[[8]](#footnote-9) The 2012 Rio+20 Conference Declaration recognizes the significant contribution to sustainable development made by MEAs and encourages parties to MEAs to consider further measures, as appropriate, to promote policy coherence at all relevant levels, improve efficiency, reduce unnecessary overlap and duplication, and enhance coordination and cooperation among MEAs. Provisions related to MEAs, sometimes referred as "international environmental agreements" or "international environmental obligations" are found in a large number of Regional Trade Agreements, namely 126 agreements. These MEAs-related provisions are one of the most heterogeneous categories of environment-related provisions some provisions reaffirm the importance of MEAs, while others reaffirm the parties' obligations under MEAs. Several other provisions call on the parties to adopt measures required to comply with MEAs' obligations. A few provisions require the parties to adhere or ratify specific MEAs. Many provisions identify MEAs as an area of cooperation. A number of provisions also clarify the relationship, including in case of inconsistency, between the RTA and specific MEAs. The role of MEAs dispute settlement procedures is further specified in some provisions. The convention on International trade in Endangered Species on Wild Fauna and Flora (CITES), The Montreal Protocol on Substances that deplete the Ozone Layer( Montreal Protocol) and The Basel Convention and Convention on Biological Diversity Are some common MEAs that are being followed or better cooperation. The environment laws are consistent and in compliance with MEA’s obligations. These laws affirm or reaffirm the parties’ commitments to fulfill the international environmental obligations or implement effectively and recognizing the importance for implementing MEAs. There are a number of provisions establish commitments to adopt and uphold domestic environmental laws. These are done for adoption and upholding of laws to fulfill the obligations under MEAs.

**World Intellectual Property Organization and Climate Change**

The links between intellectual property rights (IPRs) and the environment are complex and many

of the issues involved remain contentious[[9]](#footnote-10). Many of these various issues have been the object of international agreements and are being discussed in different international forum, such as the World Intellectual Property Organization (WIPO), the Food and Agricultural Organization of the UN (FAO) in the context of the FAO International Treaty on Plant Genetic Resources for Food and Agriculture, and the Union for International Protection of New Varieties of Plants (UPOV), the Conference of the Parties of the Convention on Biological Diversity and the WTO.

These intellectual property provisions can be grouped in two broad categories

1. Patents and Climate Change( including climate preservation techniques)
2. Biodiversity and traditional knowledge

* Patents and Climate Change

Environment- related provisions regarding intellectual property are found In 69 RTAs. Several RTAs demonstrates environment- elated exemptions or exclusions from their respective agreement's obligations. In the context of intellectual property, 23 RTAs either refer to or replicate Articles 27.2 and 27.3 of Trade Related Intellectual Property rights (TRIPS) Agreement confirming that inventions can be excluded from patentability in order to protect animal or plant life or health or to avoid prejudice to nature or environment. The remaining types of environment-related provisions on patents, included in 66 RTAs, refer to climate change. The most common provision, found in 25 RTAs, lists (new) innovation climate techniques as part of the scope of intellectual property. Another provision, establishing the obligation to protect the intellectual property of techniques, is included in 20 RTAs either through a reference to or replication, in some cases with amended wording, of Article 27.6 of TRIPS Agreement. Another provision requests each party to provide for the application of criminal procedures and penalties in cases of rights infringement relating to environment, committed willfully and on a commercial scale. In that context, each party's competent authorities may initiate criminal proceedings *ex officio*, without the need for a formal complaint by the right holder whose intellectual property rights have been infringed.

* Biodiversity and Traditional Knowledge

Biodiversity and traditional knowledge conservation and sustainable use constitute a highly contentious environment-related issue that has received considerable attention in the last 20 years, including through the adoption of several MEAs. In particular, the Convention on Biological Diversity (CBD), adopted at the 1992 UN Rio Conference, aims, among other things, at ensuring the conservation and sustainable use of biodiversity (i.e. animals, plants, and microorganisms) and its components, including the contribution of indigenous and local communities, as well as the fair and equitable sharing of benefits arising from genetic resources. The CBD framework further led to the adoption of the Cartagena Protocol on Bio-safety in 2000 whose objective is the protection of biological diversity from the potential risks posed by the handling, transport and use of living modified organisms resulting from modern biotechnology. More recently, the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing Of Benefits Arising from their Utilization was adopted in 2010 and aims at sharing the benefit arising from the utilization of genetic resources in a fair and equitable way[[10]](#footnote-11). More generally, references to biodiversity and climate change can be found in the chapters on intellectual property (mentioned in 20 RTAs), cooperation (20 RTAs), and environment (13 RTAs). Environment related provisions on Fisheries and trade have been incorporated through cooperation and to fulfill specific commitments such as the adoption of measures to monitor and control fishing activities. It further includes ensuring effective monitoring control and surveillance necessary for combating IUU fishing and promoting effective exploitation, conservation and management of living marine resources, the agreement establishes a number of principles and commitments. The agreement stipulates that the precautionary approach shall be applied in determining levels of sustainable catch, fishing capacity and other management strategies to avoid or reverse undesirable outcomes such as over-capacity and over-fishing, as well as undesirable impacts on the ecosystems and artisanal fisheries. Other provisions include the possibility to take appropriate measures in order to ensure the sustainability of the artisanal and coastal fishery; the promotion of the membership to the Indian Ocean Tuna Commission and other relevant fisheries organizations; flag state responsibility; the establishment of a vessel monitoring system and development of other mechanisms to ensure effective monitoring, control and surveillance. The agreement further stipulates that the parties shall contribute to measure to ensure that fish trade supports environmental conservation and safeguards against stock depletion.

**Environmental Goods and Climate Change**

Environmental goods play a vital role in keeping a check on climate change. There is much like other environmental issues, the importance of environmental goods, services and Technologies, including facilitating its development, application, dissemination, trade and transfer, have been recognized on several occasions at the international level. Paragraph 31(iii) of the 2001 Doha Ministerial Declaration instructs WTO members to negotiate, without prejudging the outcome, on the reduction or, as appropriate, elimination of tariff and non-tariff barriers of Environmental goods and services with a view to enhancing the mutual supportiveness of trade and environment. The zero draft of the Outcome Document adopted at the 2012 UN Conference on Sustainable Development (Rio+20) stresses in paragraph 281 the importance of achieving Progress in addressing trade in environmental goods and services, that fair multilateral trading system can stimulating economic growth and development worldwide. At the regional level, the Asia-Pacific Economic Cooperation (APEC) 2012 Vladivostok Declaration endorses APEC members' commitment to reduce applied tariff rates of 54 environmental goods to 5 per cent or less by the end of 2015 taking into account economies ‘economic circumstances and without prejudice to their positions in the WTO[[11]](#footnote-12). More recently, a group of 17 countries are taking part in the negotiation of a plurilateral agreement on Environmental goods since July 2014.

Although there is no internationally specified definition of environmental goods. While some provisions mention broadly environmental goods and/or services, while others refer to specific categories of environmental categories, such as products and services related to energy efficiency or (sustainable) renewable energy, or subject of eco-labeling schemes. The scope of most provisions refers to environmental services mentioned in the parties' schedules services commitments, which include sewage services, refuse disposal, sanitation and similar services, reducing vehicle emissions, as well as nature and landscape protection services. Some other provisions consider goods and services benefiting sustainable development, listing for instance goods and services subject of fair and ethical trade schemes or corporate social responsibility and accountability schemes. A few provisions also refer to goods and services contributing to climate change mitigation and adaptation to organic production for betterment of environment. The nature and scope of these provisions differ across agreements, ranging from best Endeavour language promoting, including through cooperation, trade but also foreign investment in environmental goods and services to more specific commitments related to environment.

**Multilateral Rules and National Environmental Policies**

The Marrakesh Decision enlists 10 things of relevance, including:

• The relationship between the provisions of the multilateral trading system and trade measures for environmental functions, together with those consistent to multilateral environmental agreements (MEAs).

• The relationship between environmental policies relevant to trade and environmental measures with important trade effects and also the provisions of the multilateral rules system.

• The relationship between the provisions of the tripartite commerce system and:

a) Charges and taxes for environmental functions

b) needs for environmental functions about product, together with standards and technical laws, packaging, labeling and employment. [[12]](#footnote-13)

A few optimal environmental policies were used. **First**: the utility of product differentiation in trade and environmental policy. National Environmental Policies shall be aimed at making trade smoother and efficient by encouraging the use of certain environment friendly products and discourage the use of toxic products that are harmful for the environment. WTO provisions aimed at discouraging protectionism, i.e. the discrimination against foreign products to protect the domestic products. WTO aimed at making a relevant policy that is an environment policy free from protectionist measure. **Second:** why markets fail when it comes to the environment? Basically, Environment policies are related to the problems of externalities. Externalities can be of 2 types- one is that which occur when consuming a good and those occurring when producing a good. An illustration of the first category is driving a vehicle. CO2 emissions involved deteriorate the quality of the air and also devote to the problem of global warming. Driving a vehicle creates air pollution and harm to others and the environment itself. This illustration is cited as a global character. Externalities can also be local or global in character. It is stated that Externalities can be of local or global in Nature. Many companies for instance use the burning of fossil fuels for production and which in-turn has a global effect. The illustration of a furniture plant polluting a river is one of a rather local nature.

Economists predict that the best solution to these extremities is by bringing in taxes/subsidies in order to ensure that market prices reflect the real value of a product or activity and its bad effects on the environment. The furniture company would, for instance, have to pay taxes for polluting the river. A government would for instance want to impose a tax on the carbon content of fuels to achieve reduction in levels of emission of green house gases. A tax on vehicles related to their fuel efficiency would be another preference. Another policy a government can impose to overcome environmental externalities is a regulation, allowing only those products varieties that have satisfied specific criteria set by the authorities. This kind of policy will be a strong step in the area of environment as less environmental products will not be supplied more.

**Third-** Different concerns, Different market failures, Different Market Policies: There wouldn’t be any conflict if every country followed same set of environmental policies. But why environmental standards introduced in one country not correspond with another country? There may be 2 reasons: Every country use other preferred policy measures to achieve a given environmental objective; and every country pursue different preferred environmental objectives.[[13]](#footnote-14)

**Fourth-** How to deal with trade disputes on environmental policies? The foremost can be probably that the rules are binding and scope of economic research can be to improve the understanding between trade and environmental policies.

**Conclusion**

This paper provides a discussion and analysis of the multilateral lateral system and climate change. Two different type of concept can be linked. First there are discussions on trade and climate change in WTO. These discussions and negotiations from Rio conference and Doha declaration may at some point have an impact on the formulation of WTO rules. Second, the impact of trade opening on climate change and analyzing the activities of WTO with the challenge of climate change. It further linked climate change and relevant WTO rules. Existing WTO rules form the basis of such disputes and analysis of climate change issues with rules. It also linked multilateral trade system with national environmental policies which will give domestic policy makers an idea of potential incompatibilities between domestic environmental policy and multilateral trade law. It also linked the World Intellectual property organization with climate change issues. It also discussed “trade effect” and with environmental purpose. [[14]](#footnote-15)

1. Provisions referring to issues, such as energy efficiency or renewable energy, without any reference to

   Climate change or carbon emissions have not been considered. If these provisions were to be considered as

   Well, then the figure would increase to 59 RTAs. [↑](#footnote-ref-2)
2. United Nations, 1992. Report of the United Nations Conference on Environment and Development, United

   Nations, Rio de Janeiro, Brazil. [↑](#footnote-ref-3)
3. Many provisions about public participation apply to the implementation of the RTA's environment

   chapter or environmental side agreement, including cooperative activities, and the operation of the

   Institution established under the RTA or environmental side agreement. These provisions are discussed in

   Sections 5.10. Altogether, 52 RTAs include environment-related provisions on public participation [↑](#footnote-ref-4)
4. Nogales, F. S. 2002. "The NAFTA Environmental Framework, Chapter 11 Investment Provisions, and the

   Environment." Annual Survey International and Comparative Law, 8, pp. 97-149. [↑](#footnote-ref-5)
5. Mitchell, R. B. (2013). "International Environmental Agreements Database Project." Available at:

   <http://iea.uoregon.edu/> [↑](#footnote-ref-6)
6. <https://www.wto.org/> [↑](#footnote-ref-7)
7. <https://www.wto.org/english/tratop_e/envir_e/climate_measures_e.htm> [↑](#footnote-ref-8)
8. World Trade Organization (WTO), 2007. World Trade Report 2007, Sixty Years of the Multilateral Trading

   System: Achievements and Challenges. [↑](#footnote-ref-9)
9. See IISD and UNEP (2014). [↑](#footnote-ref-10)
10. <https://www.researchgate.net/publication/299472637_Nagoya_Protocol_-Access_to_genetic_resources_and_the_fair_and_equitable_sharing_of_benefits_arising_from_their_utilization-/citation/download> [↑](#footnote-ref-11)
11. <http://blogs.law.columbia.edu/climatechange/2012/10/01/u-s-and-china-continue-trade-disputes-concerning-renewable-energy-technology/> [↑](#footnote-ref-12)
12. Think of the literature on intra-industry trade (e.g. Krugman, 1980) [↑](#footnote-ref-13)
13. Differences in conformity assessment procedures can also represent a barrier to trade, that will however not be discussed in detail in this paper. See for instance Sykes (1995) for more information on this issue. [↑](#footnote-ref-14)
14. "Optimal" from the point of view economic analysis. See also Mattoo and Subramanian (1988) on this point. [↑](#footnote-ref-15)