

Submission by CHINA on behalf of the BASIC Group

05 November 2024

Dear Executive Secretary, COP Presidencies,

In accordance with Rule 10(d) of the draft Rules of Procedure of the UNFCCC, China submits a request on behalf of the BASIC group of countries (Brazil, China, India and South Africa) to include the following agenda item in the provisional agenda of SBI/SBSTA, COP29, CMP19 and CMA6:

“Concerns with climate-change related unilateral restrictive trade measures, and identifying the ways to promote international cooperation in line with the First GST Outcome”

Unilateral trade-restrictive measures adopted by developed country Parties under the guise of climate objectives represent a systemic concern with disproportionate adverse effects on developing country Parties. Such measures increase the cost of worldwide climate action, hinder the efforts of developing countries to advance their climate commitments and ambition, undermine the basis of multilateral cooperation and contradict the principles and provisions of the UNFCCC and its Kyoto Protocol, the Paris Agreement, and the UAE Consensus, etc.

BASIC is of the view that UNFCCC Parties are obligated to send a clear and strong signal of commitment to multilateralism and global cooperation as the most effective and just manner to respond to climate change and consider concerns with unilateral trade-restrictive measures based on climate objectives, while calling on all partners to strive for cooperative solutions and partnerships for stimulating the production and trade access for sustainable goods and services in line with existing legal provisions.

Concerning trends towards unilateralism, trade protectionism and fragmentation of international cooperation jeopardizes trust and, consequently, ambitious climate action. In order to reverse such trends, the international community must reiterate its firm commitment to contributing to an international environment that is conducive to sustainable development and to inclusive and equitable global decision-making processes that are effectively representative of humanity's collective intelligence and development aspirations, with a view to shared prosperity.

Parties should seek to engage in good faith to address concerns with unilateral trade-restrictive measures based on alleged climate objectives. Parties should also reiterate opposition to the politicization of climate change issues and all forms of unilateralism and protectionism, recognizing that unilateral measures with negative cross border impacts violate the objectives and principles of the UNFCCC and the Paris Agreement, deviate from the visions as set out in the UAE Consensus, in particular the outcome of the first GST, and seriously undermine multilateral cooperation and the ability of the concerned countries to combat climate change, and increase the cost of global climate action and cooperation.

Parties should also collectively oppose any measures to restrict trade and investment and setting up new green trade barriers, such as unilateral carbon border adjustment measures and due diligence requirements, with the pretext of addressing climate change, which are incompatible with multilateral rules and the cornerstone principles of the UNFCCC and the Paris Agreement, i.e., equity and common but differentiated responsibilities and respective capabilities (CBDR-RC), in the light of different national circumstances. Parties should also, in line with the UNFCCC and the Paris Agreement, remedy unilateral measures which

have negative cross border impacts.

Relevant legal provisions:

Article 26 of the Vienna Convention on the Law of Treaties: “*Every treaty in force is binding upon the parties to it and must be performed by them in good faith.*”

Rio Declaration on Environment and Development, Principle 11: “*States shall enact effective environmental legislation. **Environmental standards, management objectives and priorities should reflect the environmental and developmental context to which they apply.** Standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries.*”

Rio Declaration on Environment and Development, Principle 12: “*States should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation. **Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided.** Environmental measures addressing transboundary or global environmental problems should, as far as possible, be based on an international consensus.*”

Article 3.5 of the UNFCCC: “*The Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problems of climate change. **Measures taken to combat climate change,***

including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.”

Article 2.3 of the Kyoto Protocol: *“The Parties included in Annex I shall strive to implement policies and measures under this Article in such a way as to minimize adverse effects, including the adverse effects of climate change, effects on international trade, and social, environmental and economic impacts on other Parties, especially developing country Parties and in particular those identified in Article 4, paragraphs 8 and 9, of the Convention, taking into account Article 3 of the Convention. The Conference of the Parties serving as the meeting of the Parties to this Protocol may take further action, as appropriate, to promote the implementation of the provisions of this paragraph.”*

Article 3.14 of the Kyoto Protocol: *“Each Party included in Annex I shall strive to implement the commitments mentioned in paragraph 1 above in such a way as to minimize adverse social, environmental and economic impacts on developing country Parties consider what actions are necessary to minimize the adverse effects of climate change and/or the impacts of response measures on Parties referred to in those paragraphs.”*

Article 4.15 of Paris Agreement: *“Parties shall take into consideration in the implementation of this Agreement the concerns of Parties with economies most affected by the impacts of response measures, particularly developing country Parties.”*

Para 154, Decision 1/CMA.5 – Outcome of the first global stocktake: *“Recognizes that Parties should cooperate on promoting a supportive and open international economic system aimed at achieving sustainable economic growth and development in all countries and thus enabling them*

to better to address the problems of climate change, noting that measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.”

UN General Assembly Resolution 70/1 (2015) - Transforming our world: the 2030 Agenda for Sustainable Development

30. States are strongly urged to refrain from promulgating and applying any unilateral economic, financial or trade measures not in accordance with international law and the Charter of the United Nations that impede the full achievement of economic and social development, particularly in developing countries.

*Goal 2. End hunger, achieve food security and improved nutrition and promote sustainable agriculture, 2.b **Correct and prevent trade restrictions and distortions in world agricultural markets***

*Goal 17. Strengthen the means of implementation and revitalize the global partnership for sustainable development, Trade, 17.10 **Promote a universal, rules-based, open, nondiscriminatory and equitable multilateral trading system***

United Nations Pact for the Future, Global Digital Compact, and Declaration on Future Generations:

Action 5. *We will ensure that the multilateral trading system continues to be an engine for sustainable development*

24. *We are committed to a rules-based, non-discriminatory, open, fair, inclusive, equitable and transparent multilateral trading system , with the World Trade Organization at its core. We underscore the importance of the multilateral trading system contributing to the achievement of the*

Sustainable Development Goals. We reiterate that States are strongly urged to refrain from promulgating and applying unilateral economic measures not in accordance with international law and the Charter of the United Nations that impede the full achievement of economic and social development, particularly in developing countries