

# **Rules that Govern World Trade and Climate Change:** *The Importance of Coherence*

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RULES THAT GOVERN WORLD TRADE AND CLIMATE CHANGE–  
THE IMPORTANCE OF COHERENCE

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One of the major challenges facing policy makers dealing with global problems is to ensure coherence between the obligations of the many agreements negotiated to deal with them. Coherence between measures taken under the Kyoto Protocol to deal with climate change, and those of the World Trade Organisation (WTO) governing world trade, is no exception.

The United Nations Framework Convention on Climate Change creates legal obligations and mechanisms to enforce reductions in global emissions of greenhouse gases. With the negotiation of the Kyoto Protocol, governments will take action taken at the national level to meet agreed emission reduction target. These actions will affect the costs of production of traded goods. The competitive position of producers in world markets will change. Offsetting measures will be called for by those adversely affected by cheaper imports not subject to the same measures in the exporting countries. Energy, carbon and other taxes, mandatory and voluntary standards, subsidies for environmentally friendly production processes, labelling and certification schemes and the sale and transfer of emission permits within or between groups of countries all provide examples of measures that can affect international competitiveness.

As countries develop their national response strategies to “level the playing field”, trade measures will play an increasingly important role. Already, carbon and energy taxes have been introduced in a number of European countries. These all include some form of compensatory measures including total exemptions for certain sectors, reduced rates for most energy-intensive processes, ceilings for total tax payments and subsidies for energy audits. The challenge from a trade policy perspective – and for the World Trade Organisation in particular - is to draw the line between legitimate measures to restore competitiveness and those designed to create an unfair advantage to local producers.

In this context, any measures taken to reduce emissions will have to satisfy the disciplines of the various WTO Agreements. Subsidies must not constitute direct assistance to improve the competitive position of domestic industries; voluntary standards and

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mandatory regulations should not have as their objective the restriction of trade; preferential trading of goods or services within regions or “bubbles” must meet tight conditions; and, should any measures not conform to WTO obligations, they must be justified as “exceptional” in accordance with strict WTO criteria. Coherence between the regimes that govern world trade and climate change is of primary importance.

Another consideration in this respect is that should a government wish to restrict imports of certain goods in order to influence emission reduction in other countries, important systemic questions would be raised in the WTO. Under WTO rules, imported products can not be taxed solely because of the manner in which they are produced in the exporting country. Treating products that have the same physical characteristics equally, irrespectively of the methods by which they are produced in other countries, is one of the main pillars of the WTO Agreements. By not legitimising restrictions on the basis of production methods in exporting countries, the WTO remains an organisation that neither sets nor enforces environmental standards in its Member countries. To date, Members have shown no desire to make it one. Applying trade sanctions on imports from a country that has not achieved a certain emission target would challenge this fundamental principle.

While a lack of coherence between the regimes is certainly a possibility, any potential conflict should be kept in perspective. The Climate Change Convention does not specifically provide for any trade related environmental measures, and the Kyoto Protocol states that measures to combat climate change should not constitute “disguised restrictions on international trade”. Parties are to implement policies and measures in such a way as to “minimise adverse effects on international trade”. In addition to these statements of intention, coherence should be ensured as most governments involved in the trade and climate change negotiations are members of both the WTO and the Climate Change Convention. Trade and environment Ministries should co-ordinate closely.

In taking future decisions with respect to trade and climate change commitments, one would like to think that given the importance of the Agreements involved, governments will act only if they have a full awareness of the implications of their commitments in both areas. Should policies not be construed in a coherent manner, the implications would be considerable.

Policy coherence is only possible when policy makers have all the facts in hand. Given the complexity of the Agreements under consideration, it is not at all clear that this will be the case for all those involved in the process. In this respect, a current research project of the United Nations University, in close collaboration with its Institute of Advanced

Studies and its Global Environment Information Centre, is particularly important. Its objective is to provide policy makers with the necessary information to enable them to ensure coherence not only between the climate change regime and the WTO, but other treaties that one way or another will be affected by measures taken to implement the emission reduction targets of the climate change negotiations.