

# Understanding the interplay between the climate regime and the trade regime

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# Core questions

Is the trade regime undermining the climate regime?

# What is a regime?

'Regimes are implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations'.

Stephen. D. Krasner 1983

Regimes are 'institutions with explicit rules, agreed upon by governments, that pertain to particular sets of issues in international relations.'

Robert O. Keohane, 1993.

Regimes are 'discourse/discipline sets' which define and order a particular space or realm of action, including the recognized actors, the relevant knowledge, and appropriate management techniques that seek to shape and control behaviour

James Keeley, 1990.

# A discursive reformulation of regimes

A regime is constituted by the

- (1) the detailed prescriptive rules which constitute the operative or binding provisions;
- (2) the general goals and principles that guide the formulation and implementation of the rules;
- (3) the discourses that articulate the collective meaning and significance of the rules and principles

# WTO core principles

- nondiscrimination
- reciprocity
- transparency
- ongoing negotiations in order to further the overriding objective of trade liberalisation
- special and differentiated treatment for developing countries (Article XVII)

# UNFCCC/Kyoto core principles

- intergenerational and intra-generational equity, CDBR and capabilities, and developed country leadership (Articles 3.1, 4.2a)
- special consideration of developing countries, especially the most vulnerable (Articles 3(2), 4(8), 4(9) and 4(10))
- a precautionary approach (Article 3.3)
- sustainable development, in accordance with national circumstances (Article 3.4)
- support for an open international economic system and avoidance of any measures that might constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade (Article 3.5);
- maintaining 'strong and sustainable economic growth' in pursuing measures to mitigate climate change (Article 4.2a)

# Overlap

- the endorsement of sustainable development
- special consideration of the circumstance of developing countries
- support for an open economic system (including avoidance of any arbitrary or unjustifiable discrimination or disguised restrictions of trade)
- maintenance of economic growth (this is implicit in the liberalization agenda of the WTO).

# Key Tensions

## Trade regime

- Nondiscrimination and reciprocity

Versus

## Climate regime

- action according to equity and common but differentiated responsibilities and respective capabilities; developed country leadership (Article 3(1))
- a precautionary approach (Article 3.3)

# Kyoto rules

- KP avoids any explicit authorization of trade measures (cf. CITES, Basel Convention, Montreal Protocol, Cartagena Protocol).
- Article 2(3) stipulates that the developed countries shall 'strive to implement policies and measures under this Article in such a way as to minimize adverse effects, including the adverse effects ... on international trade.'
- Marrakesh accords on compliance do not authorize the use of trade sanctions

# Rules

- Yet many points of potential conflict between the provisions of the Protocol and the 50 or so WTO agreements
- most problematic area is the potential *unilateral* use of border tax adjustments (BTAs) to compensate for competitive disadvantage and prevent 'carbon leakage'

# Key tension

- BTAs that are consistent with CBDR would be incompatible with the principle of nondiscrimination (and vice-versa)

# Constructing compatibility

The 'official' trade-environment integration discourse (e.g. Pascal Lamy's Bali speech, 2007):

- that 'trade liberalization generates wealth and innovation for climate protection'
- Rejects unilateral trade measures such as border measures
- Selectively highlights synergies (especially EGSs) and downplays or ignores contradictions
- Emphasises 'win-win' relationships

# Neoliberal environmentalism/ weak ecological modernisation

- the law of comparative advantage enables the most efficient allocation of resources
- trade builds environmental capacity
- trade enables diffusion of environmental goods and services (EGS)
- the WTO rules provides adequate environmental exemptions while guarding against protectionism

# Transnational Economy-Environment Discourses

- Limits-to-growth – early 1970s
- Sustainable development – 1987 Brundtland Report
- Compromise of liberal environmentalism - 1992 Rio Declaration
- Compromise of neoliberal environmentalism (weak ecological modernisation) - 1992 UNFCCC; Kyoto Protocol 1992
- Counter-discourse of reflexive/strong ecological modernisation

# Deconstructing compatibility: the political ecology counter-discourse

- the growing scale of trade following liberalization leads to rising aggregate GHG emissions; reductions in the emissions intensity of production merely reduce the rate of aggregate increase
- trade leads to 'ecologically unequal exchange' and therefore undermines environmental capacity in the South; Kuznets curve misleading
- the WTO's rules permit countries to use the environment as a 'free resource'; the failure of the WTO to apply the PPP allows unfair subsidization
- WTO rules discourage only certain kinds of environmentally damaging trade but do very little to actively promote ecologically sustainable trade; WTO rules undermine the climate regime by restricting the range of effective policy measures that can be used; the WTO's environmental exemptions are inadequate

# Conclusion

- The climate regime has been adapted to fit an open, expanding international economy in accordance with the integration discourse of neoliberal environmentalism
- No recalibration of core trade principles and rules to conform with the requirements of climate protection; liberalisation of EGS *does not* entail any recalibration

# How/Why?

- Arose from 'self-censorship' by the parties to the climate regime (via shared lowest common denominator discourse of neoliberal environmentalism/weak ecomod): PPP conspicuously not utilised as a potential basis of integration
- Consolidated in 1992, *prior* to the conclusion of the Uruguay round and the establishment of the WTO
- No direct disciplinary measures applied by WTO to limit climate regime, but ongoing 'chill' effect re use of unilateral measures such as border tax adjustments