Trade and Climate Change

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Outline of the Presentation

- The Core functions of WTO and climate change
- CTE work on climate change
- Climate change related measures and WTO rules
- Border Tax Adjustments debate
Activities of the WTO and the challenge of climate change
Climate change and the WTO

The issue of climate change, *per se*, is not part of the WTO's work programme and no WTO rules are specific to climate change.

The core functions of the WTO may have a place in the trade and climate change debate:

- A negotiating forum
- Specialized committees
- The administration of a set of rules
Negotiations on Environment (DDA Para. 31)

1. Relationship between existing WTO rules & specific trade obligations set out in Multilateral Environmental Agreements (MEAs)

2. Procedures for regular information exchange between MEAs and relevant WTO committees and the criteria for the granting of observer status

3. Reduction/elimination of tariff and non-tariff barriers to Environmental goods and services
Climate change and the WTO

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Specialized Committees

Committee on Trade and Environment (CTE)

E.g. discussion of the environmental benefits of removing restrictions in the energy sector, the forestry sector, the effect of energy efficiency labelling on market access
Committee on Trade and Environment (CTE)

“... identify the relationship between trade measures and environmental measures, in order to promote sustainable development;”

“... make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required...”

(Marrakesh Ministerial Decision on Trade and Environment (1994))
The CTE Work Programme

- MEAs and WTO rules (Item 1)
- Environmental policies (Item 2)
- Taxes, technical regulations, labelling (Item 3)
- Transparency (Item 4)
- Dispute settlement and MEAs (Item 5)
- Market access (Item 6)
- Domestically prohibited goods (DPGs) (Item 7)
- Intellectual Property (TRIPS) (Item 8)
- Services (Item 9)
- Arrangements with NGOs (Item 10)
Trade and Environment after Doha

CTE (1995)

Doha Ministerial Declaration (Nov. 2001)

CTE in Special Session
(Negotiations on MEAs/environmental goods and services)

Negotiating Group on Rules
(Negotiations on fisheries subsidies)

CTE Regular
(Continuation of work program with special focus on certain issues)
CTE Mandate: Paragraphs 32, 33 & 51

CTE Regular: Focused work

- **Para. 32 (i)** – Environmental requirements and market access, win-win-win
- **Para. 32 (ii)** – Trade-Related Aspects of Intellectual Property Rights
- **Para. 32 (iii)** – Eco-labelling
- **Para. 33** – Technical Assistance, Environmental Reviews
- **Para. 51** – Sustainable Development
Climate change and the WTO

The core functions of the WTO may have a place in the trade and climate change debate:

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In recent years the CTBT discussed a number of product standards and labeling requirements targeted to energy efficiency or emission control.

Examples of regulations discussed so far include:

- Fuel economy standards for cars
- Eco-design requirements for energy-using products
- Energy efficiency programmes for consumer products
- Emission limit values for diesel engines
Climate change related measures
Part IV: National Mitigation and Adaptation Policies and Trade Implications
Climate change mitigation measures

Key objectives

- Internalize environmental costs
- Improve energy efficiency and reduce GHG emissions
- Facilitate access to renewable energies

Key policy instruments

- Carbon tax, emissions trading schemes
- Emissions standards, labelling on energy performance
- Technology, subsidies, R&D
- Border adjustments

Address global price disparities & enhance env’l effectiveness
# Climate change mitigation measures

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WTO Tool Box of Rules

Disciplines on tariffs (border measures)

General prohibition against border quotas

General non-discrimination principle, consisting of the most-favoured-nation and national treatment principles

Rules on subsidies

Rules on technical regulations and standards

Rules for trade-related intellectual property rights

…
Measures to facilitate development of, and access to, CC technologies and renewable energy

**Incentives to promote deployment of CC technologies and renewable energy**

- **Fiscal measures** (e.g. tax rebates or tax credits) targeted at consumption (of certain technologies) or at facilitating investment in production of climate friendly goods and renewable technology
- **Price support** (e.g. feed-in tariffs, net metering) to support production of renewable energy
- **Investment support** to reduce the capital cost of installing climate friendly technologies
Measures to facilitate development of, and access to, CC technologies and renewable energy

Incentives to promote inventions of new CC technologies

- Grants to support development of new technologies, e.g. to finance research on renewable energy technologies
- Awards (ex post or ex ante), e.g. in the context of a competition to recompense for an innovation
Competitiveness issues, carbon leakage and the discussion on border measures
Climate change border adjustments

Rationale

Relevant WTO rules
Climate change border adjustments: Economic Rationale

Emissions reduction policies (carbon prices) are not applied universally

This may give rise to

Competitiveness loss

Carbon leakage

In certain emissions and energy intensive industries (ie. not economy wide!)
Climate change border adjustments and WTO rules

Coverage?

Importance to define the instrument at hand to determine relevant WTO/GATT provisions

A border adjustment to a tax?

A border adjustment to another carbon cost, e.g. an ETS?
A border adjustment to a regulation, e.g. an ETS?

Comparable mechanism

Imposition of a border adjustment on imports from countries that have not taken "comparable action" to reduce their emissions, as compared to the importing country
Climate change border adjustments and WTO rules

Justifiability?

- WTO rules, as confirmed by jurisprudence
- Essential to maintain a balance between
- Under certain conditions, Members can adopt trade-related measures aimed at protecting the environment
- The right of Members to take regulatory measures to achieve legitimate policy objectives
- The rights of other WTO Members under basic trade rules
Climate change border adjustments and WTO rules

**Justifiability?**

*WTO jurisprudence has confirmed that WTO rules do not trump environment*

- Conservation of clean air from air pollution
- Conservation of sea turtles from incidental capture in commercial fishing
- Protection of human health from risks posed by asbestos
- Protection of human health from risks posed by the accumulation of waste tyres

Several disputes on measures that sought to achieve a variety of policy objectives
Justifiability?

Case law shows that implementation is key!
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