

BRIDGES NETWORK

BIORES

Analysis and news on trade and environment

VOLUME 9, ISSUE 5 – JUNE 2015



Next stop in the climate governance talks

UNFCCC

What to expect at the Bonn mid-year talks

CLIMATE CHANGE

Consumer-facing climate policies and trade impacts

ENVIRONMENTAL GOODS AND SERVICES

How to define product coverage in the "green goods" trade talks



International Centre for Trade
and Sustainable Development

BIORES

VOLUME 9, ISSUE 5 – JUNE 2015

BRIDGES TRADE BIORES

The leading authority on news and analysis emerging from the trade and environment nexus.

PUBLISHED BY

ICTSD

International Centre for Trade and Sustainable Development

Geneva, Switzerland

www.ictsd.org

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UNFCCC

- 4 **Countries look to consolidate text for new climate change deal**

CLIMATE CHANGE

- 6 **Exploring the trade impacts of consumer-facing climate policies**

Sonja Hawkins, Doug Crawford-Brown, and Michael Grubb

ENVIRONMENTAL GOODS AND SERVICES

- 11 **Options for defining the products covered by the Environmental Goods Agreement**

Roy Santana

CLIMATE CHANGE

- 16 **Arctic black carbon: The challenge for international governance**

Thomas L. Brewer

NATURAL RESOURCES

- 20 **EU Parliament approves draft law mandating conflict minerals reporting**

POST-2015 DEVELOPMENT AGENDA

- 22 **Post-2015 development agenda talks consider follow-up and review options**

- 24 **The newsroom**

- 26 **Publications and resources**

Next step in the climate governance talks



Climate negotiators are meeting in Bonn, Germany from 1-11 June with the aim of streamlining a draft negotiating text containing multiple options on what to include in a new climate deal. The agreement should, for the first time, see all nations come forward with plans to cut climate-warming greenhouse gas emissions. Countries are hoping to sign off on the universal climate plan at a UN Framework Convention on Climate Change (UNFCCC) meeting in Paris, France in December. The agreement will come into effect at the end of the decade.

Hammering out the new climate regime in the coming months will likely focus countries' attention on some big questions including around how to co-ordinate diverse national efforts, divisions of responsibility, as well as means of implementation and finance. These issues are also being tackled in other forums addressing the shifting landscape of twenty-first century global governance, notably, the talks on a post-2015 sustainable development agenda.

This issue of BioRes provides an update on developments in the UN climate talks in recent months and what to expect over the coming days in Bonn. In particular, calls from the private sector and some governments for strong carbon pricing policies such as emissions trading schemes, have been making headlines in the lead up to the mid-year climate meet. How officials will deal with this topic, however, remains an open question.

We are also running several articles on emerging policy topics of interest to trade and climate audiences. Sonja Hawkins, Doug Crawford-Brown, and Michael Grubb discuss consumption-based emissions accounting as a complement to the more traditional production-based emissions accounting methodologies. The authors explore the possible relationship with trade policy for several consumer-facing climate policy instruments, such as product labels, information campaigns, and regulatory standards.

Roy Santana, from the WTO Secretariat, looks at the negotiation of existing trade deals between groups of WTO members for inspiration on aspects of the current, ongoing tariff-liberalising Environmental Goods Agreement (EGA) talks. A planned EGA between 17 WTO members could make it easier to trade some products with climate benefits.

And against the backdrop of recent Arctic Council and International Maritime Organization (IMO) meetings, Thomas Brewer outlines options for co-operation around tackling the potent pollutant black carbon, which is set to increase as new Arctic sea lanes open.

We'll shortly be heading to Bonn to track developments in the negotiations, particularly focused on issues at the nexus of trade and climate policy, as well as how the UNFCCC talks relate to other global conversations. Stay tuned and [subscribe](#) to get BioRes news delivered straight to your inbox. Do also be sure to follow our social networking streams on Twitter and Facebook. And if you are interested in contributing material to future issues of BioRes, please do [write to us](#). We appreciate both your time and your feedback.

The BioRes Team

UNFCCC

Countries look to consolidate text for new climate change deal

Climate negotiators have their work cut out for them during a mid-year UN climate meet.

Talks on a planned universal climate deal kicked off in Bonn, Germany on 1 June, with delegates from nearly 200 nations working on slimming down a 90-page long draft text, the result of a February negotiating session. The deal is due to be signed off at this year's UN Framework Convention on Climate Change (UNFCCC)'s annual meet – scheduled to be held in Paris, France in December – and will come into effect at the end of the decade. It will at that point replace the current Kyoto Protocol that only requires developed country parties to undertake emissions reductions.

According to a scenario note coupled with further clarifying information released by the co-chairs of these talks, Daniel Reifsnyder of the US and Ahmed Djoghla of Algeria, the June session should result in a more streamlined, concise, and manageable negotiating text and an outline of a draft decision that would likely adopt the planned Paris agreement.

The new climate architecture

The pressure is on for the new deal to deliver ambitious international climate action. According to UN scientists, the world's governments must agree to a 40 to 70 percent cut in global emissions over the next 40 years relative to 2010 levels in order to avoid the worst social, economic, and environmental damages of climate change. A large push toward full decarbonisation will be necessary by the end of the century.

At last December's climate talks in Lima, Peru, countries agreed that the new deal will be comprised of national contributions containing at least a mitigation component, as well as possible efforts on adaptation. Some 38 nations have submitted their national climate contribution plans to date, each with varying information, timelines, and ambition levels. Together, these account for around one third of global territorial emissions, and 33 percent of global goods exports. In a recent joint statement, India and China promised to submit their respective contributions in due course. The UNFCCC secretariat has been tasked with publishing a report in November on the aggregate ambition of the individual country climate efforts put forward by October. Important leaders in these discussions, such as UNFCCC Executive Secretary Christiana Figueres, have warned that the Paris deal alone will likely not do enough to tackle climate change and a key aspect of the negotiations should revolve around a review mechanism to ramp up action over time.

At a climate conference last week in Barcelona, Spain, Figueres told participants that responding to climate change in the coming years is the world's "mega development project" given the need to shift investments towards building a low-carbon economy. Ongoing talks on a new post-2015 development agenda, set to shape global governance for the coming years, have recognised the importance of the UNFCCC mandate in achieving sustainable development aims. Meanwhile, the 17 WTO members negotiating a tariff-liberalising Environmental Goods Agreement have pointed to the importance of making a contribution to the global environmental protection agenda, including supporting the UN climate talks.

The decisions made in the UN climate talks could help signal a new era of green investment and growth. However, how the new bottom-up climate structure will support other international processes, square away with a globalised economy, and interact with international trade rules, remains to be seen in implementation.

Slimming down the text

The "Geneva negotiating text," so-called after the Swiss city in which it was put together earlier this year, contains options and sub-options put forward by countries on the shape of the new agreement. In order to consolidate the plethora of proposals, parallel negotiations are taking place in Bonn on the text's various sections. The main sections of the negotiating text cover its general objective; mitigation; timeframes; adaptation and loss and damage; finance; technology development and transfer; implementation and compliance; capacity building; and institutional provisions. A working document could be released towards the end of the first week, after an initial reading of the draft text, outlining any progress on streamlining. A second reading will then take place for the remainder of the conference, and potentially the convening of a single drafting committee, in a bid to reach a compromise text. The co-chairs have named 11 country delegates to help facilitate informal consultations on sections of the text during the two weeks.

Countries will have to grapple with a series of big, and historically difficult, questions in Bonn including mitigation parity, timeframes, a review mechanism and accountability, adaptation, and climate finance. In a surprise move in May, France's chief climate diplomat Laurence Tubiana told reporters that Paris would step in and produce a text if countries fail to sufficiently whittle down the Geneva negotiating text by the end of August. The French leaders of the December meet, and Peruvian officials that headed up last year's talks, are also calling for the adoption of an action agenda to account for efforts made by non-state actors such as businesses, cities, and civil society.

Dealing with carbon

In a recent letter to the Financial Times, the chief executives of six European energy groups signalled their intention to seek direct talks with governments on creating a global carbon pricing system, echoing calls made at a May business and climate summit by French President François Hollande and key business chiefs for the introduction of effective carbon pricing to tackle climate change. A new World Bank report suggests that carbon pricing efforts are expanding worldwide, however, there are varying prices in different jurisdictions. A number of countries and regions are focusing on emissions trading schemes (ETS) to put a cost on carbon.

Conversely, in the context of the UN climate talks, countries remain divided on the role for market-based mechanisms in the Paris deal. Efforts to write the rules on international co-ordination among carbon markets in the technical work undertaken in the UNFCCC's Subsidiary Body for Scientific and Technological Advice (SBSTA) have proved slow in recent sessions. This has prompted a growing interest from a number of experts and players on the possibility of independent ETS linkages, and the potential interactions of such a development with WTO rules. The negotiations in SBSTA are nonetheless continuing in Bonn on a so-called framework for various approaches (FVA) for mitigation actions, non-market-based approaches (NMA), and a new market-based mechanism (NMM). Stakeholders interested in the possibility of a global carbon market are closely watching both the SBSTA and Paris deal negotiations.

Joint negotiations under the Subsidiary Body for Implementation (SBI) and SBSTA are also continuing on a bracketed draft text on how to deal with the impact on third parties of the implementation of response measures to climate change, in other words, climate action's side effects. At last December's climate meet, delegates were unable to agree on how to take the subject forward, with some countries pushing for the establishment of a dedicated mechanism to deal with the impacts of such measures. The talks have touched on issues such as whether export or development opportunities are hampered by unilateral climate action.

In an effort to boost climate action in the next few years, the UN climate talks are holding a series of technical expert meetings on options with high mitigation potential, particularly those with adaptation, health, and sustainable development co-benefits. Two sessions this week in Bonn will focus on policy opportunities and practices to scale up renewable energy supply, as well as to increase energy efficiency in urban environments.

CLIMATE CHANGE

Exploring the trade impacts of consumer-facing climate policies

Sonja Hawkins, Doug Crawford-Brown, and Michael Grubb

Consumption-based climate policies could complement production-based tools and help to address carbon embedded in international trade.

Climate change is one of the biggest challenges facing mankind today and responding to it will require a significant scale-up of climate action through a wide range of mitigation tools. To date, however, the majority of mitigation policies target production patterns. This is in part a reflection of current accounting frameworks that are based on assessments of domestic emissions.

In other words, greenhouse gas (GHG) emissions are attributed to the countries in which they occur during given production processes. This focus on mitigation policies that target certain production patterns is also partly due to the lack of reliable information about the effectiveness of consumer-facing policies in delivering global emissions reductions.

The focus on production, however, fails to take into account the significant flows of carbon embedded in goods and services traded internationally and the role consumers play in driving these flows. Carbon embedded in international trade accounts for almost one quarter of global emissions.^①

A pure production focus misses opportunities to address consumption as a driver of rising GHG emissions, and the many mitigation options along the value chain, as well as at the point of final consumption and use. The gap between countries' territorial and consumption-based emissions and the role of consumption as a driver of GHG emissions was recognised in one of the [reports](#) issued last year by the Intergovernmental Panel on Climate Change (IPCC).

Complementing production-based climate policies and measures with consumer-facing policies and instruments can help address carbon embedded in international trade in order to drive greater and more effective mitigation.

This article provides an overview and assessment of consumption-based instruments, with a particular emphasis on the possible interactions with trade and market access issues. It is based on preliminary findings from the ongoing EU-based [Carbon-Cap](#) project.^②

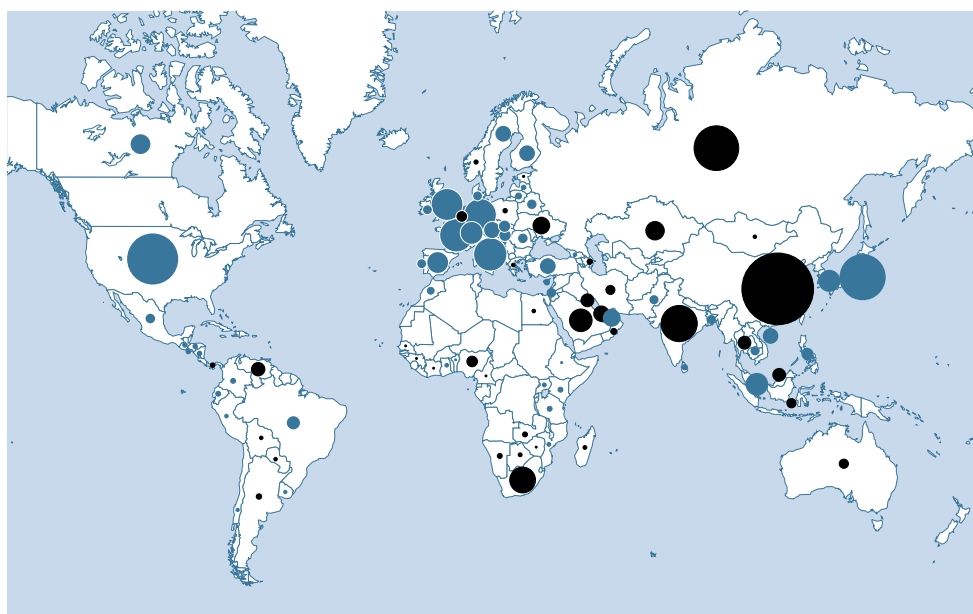
Embedded carbon flows

The re-structuring of value chains has led to changes in production and consumption patterns around the world. Through international trade, goods and services and their associated emissions, are moved from producer to consumer countries. As a result, some countries export emissions associated with the goods and services they produce, while other countries consume the emissions embedded in these exports. Emissions consumed abroad, however, are currently counted in the records of countries that produce them.

This can change the picture of countries' roles and responsibilities in tackling climate change. And while some countries have been able to reduce emissions at the territorial level, they have in some cases increased these at the consumption level, through imports of embedded carbon.

Embedded carbon flows have led to the emergence of a pattern where some countries can be considered net exporters and others net importers of GHG emissions. Broadly

Figure 1: Global emissions transfers in 2012



Source: Copyright Global Carbon Atlas, www.globalcarbonatlas.org. The map shows emissions transfers in 2012 (preliminary data): net exporters of emissions (black) and net importers (blue). Data is restricted to fossil fuels related emissions.

speaking, many industrialised economies such as the US, the EU, Japan, and Switzerland are net importers of embedded carbon, while many emerging economies, including China, Russia, India, South Africa, and Saudi Arabia are net exporters of embedded carbon as demonstrated in Figure 1. However, some industrialised economies are net exporters of emissions, like Australia, while some emerging economies are net importers, for example Brazil.

Production vs. consumption-based frameworks

It is crucial to address emissions related to the consumption of domestic and imported goods and services in order for climate mitigation to be more effective. However, the measuring and accounting of consumption-related emissions is complex, and shifting from production-based accounting to consumption-based accounting at the international level would be extremely challenging. Measuring and addressing production-related emissions will also remain very important in order to drive substantial GHG reductions. Therefore, the value of consumption-based accounting and policies lies in using them as a complement to the current production-focused frameworks, rather than as a replacement.

Consumption-related emissions can be addressed through a wide range of different policy instruments. These can be broadly classified into four categories, although the lines between these can at times become a bit blurred: informational; regulatory/administrative; economic/financial; and enabling infrastructure and institutional. Instruments can be either voluntary or mandatory within these categories. Table 1 overleaf provides a classification of consumption-based policy instruments with some non-exhaustive examples.

Varying potential

There are substantial variations between instruments and sectors with regard to how successful they are likely to be in changing consumption patterns in order to reduce emissions. Broadly speaking, if one considers the effectiveness of an instrument – the percentage reduction in emissions associated with a given consumed product or sector – and scope – the percentage of the world's emissions associated with that product or sector – there is evidence that supply chain requirements, product labelling, regulatory restrictions on high carbon variants of a product, trade body standards, and provision of infrastructure and institutions to enable recycling are particularly strong candidates for successful consumer-based instruments.

Table 1: Classification of potential consumption-based policy instruments with examples

Class	Mandatory	Voluntary
Informational	<ul style="list-style-type: none"> - Product labels - Approved technology lists 	<ul style="list-style-type: none"> - Information campaign - Preferential location of low-carbon products at point of sale
Regulatory/ administrative	<ul style="list-style-type: none"> - Regulatory standards - Product ban - Extension of product lifetime - Licences - Government procurement - Recycling requirements 	<ul style="list-style-type: none"> - Sector trade body standards - Supply chain procurement requirements - Shop product choice
Economic/financial	<ul style="list-style-type: none"> - Carbon-intensive products charge - Minimum price limits - Deposits/refund mechanisms 	<ul style="list-style-type: none"> - Subsidy for purchase of low-carbon products
Enabling infrastructure / institutional	<ul style="list-style-type: none"> - Mandatory metering of consumed goods 	<ul style="list-style-type: none"> - Enabling product sharing - Enabling recycling - Infrastructure improvements

Additionally, the reduction in emissions for some products and sectors, such as motor vehicles, white goods, and electronics, appears to be greater when utilising these instruments. This suggests that initial pilots of the instruments should be in these products or sectors.

Instruments will be generally more successful when employed in combination rather than in isolation, in part because one instrument applied in isolation may simply cause consumer choices to shift emissions between products or sectors of the economy.

A suite of instruments can reduce the risk of this shift taking place. Combinations of instruments can also tap multiple influences on choices, for example a combination of information, economic incentives, and infrastructures that facilitate lower carbon choices.

Indirect trade impacts

Consumption-based instruments may have implications for international trade flows to the extent that they induce product substitution or total consumption reductions. Both would reduce demand for certain high-carbon products and in some cases increase demand for lower-carbon alternatives.

Some instruments would only lead to indirect impacts. These impacts are not necessarily problematic since they also occur as a result of shifting comparative advantages or changes in consumer preferences. This particularly concerns measures targeting the end-use stage of a product's life-cycle, such as recycling requirements for retailers and/or consumers, waste targets/requirements, refund mechanisms or deposit systems for purchased goods, and improving recycling infrastructure.

While these measures would reduce waste-related emissions and material demand input for new products, they would not restrict the ability of products to access the market, nor would they necessarily change consumer demand for products.

There are also other types of instruments that would not necessarily create trade barriers. This includes mandatory metering of heat and power consumption, enabling product sharing to reduce purchases of individual items, improving buildings and transport infrastructure to encourage low-carbon power/heat provisions and transport choices, or placing lower-carbon products at preferred spots at the point of sale.

Information campaigns about the carbon implications of consumption patterns, such as discouraging excessive paper printing or promoting the use of public transport, can also be employed to reduce consumption-related emissions.

Measuring carbon

New ways of tracking greenhouse gas emissions in the atmosphere have emerged in recent years. Consumption-based emissions inventories cannot be considered a single solution for climate policymaking, however, but could be used to provide extra data for a more complete mitigation picture.

However, in order to avoid trade distortions, it is important that information is neutral, based on internationally-recognised science, and allows for comparisons between potentially substitutable products. For example, campaigns promoting consumption of locally-produced foods, as a general principle, can distort trade and may not reduce carbon footprints, since local food is not necessarily a lower-carbon option.

Another instrument that has the potential to be very effective without necessarily creating trade barriers is the introduction of a benchmarked consumption charge for carbon-intensive categories of goods/materials.

Such a charge would only be due when goods/materials are transferred from producers to intermediate consumers, for example, as cement moves from producers to builders. This would help re-instate the price signal for consumers, which is currently limited as a result of protection measures under production-based policy instruments, such as the free allocation under the EU Emissions Trading System (ETS).

By internalising the carbon cost intermediate consumers would have incentives for substitution and efficient use. Domestic products that are exported would not face the charge since they would not enter the domestic consumption sphere.^③ And since domestic and foreign goods/materials would be subject to the same charge both would face the same market access opportunities.

Carbon embedded in international trade accounts for almost one quarter of global emissions.

Direct trade impacts

Some instruments do risk creating barriers to trade and could thus cause direct trade impacts. For example, regulatory standards seeking to ban products that do not meet carbon requirements from entering the market, could be considered a market access barrier. Similarly, requiring certain designs for products in order to extend their lifetime, would prevent products that do not meet the requirements from entering the market.

Mandatory product labels could also affect trade, since only producers who have the know-how, resources, and requirements to carry out calculations of embodied carbon and pay for accreditation would be able to supply the market. Market access would also be restricted if the purchase of high-carbon products would require consumers to buy limited licenses.

Some “softer” instruments could also directly affect trade. Voluntary trade body standards, for example, can become de facto mandatory if high demand for certified products decreases the market share for non-certified products. This can limit market access for producers who are not able to comply with the costly and complex carbon footprinting methodologies and accreditation requirements for gaining access to a label.

Decisions by shops to offer a restricted range of low-carbon products could also confine market access, especially if implemented by large outlets. Similarly, the supply chain procurement requirements of large businesses could become de facto mandatory, and limit the ability of some producers to supply certain markets.

At the same time, these instruments can also create market access opportunities for producers who are in compliance with the carbon requirements, thereby leading to positive spillover effects on trade. And even when instruments adversely affect trade this does not necessarily mean that they are not viable options. Achieving significant emissions reductions will require fundamental changes and this may eventually justify the implementation of even more trade restrictive instruments.

The direct trade impact would often depend on how the instruments are applied. Careful design and implementation of the trade instruments can make it possible to either minimise the direct trade impacts or ensure that the instruments play within the existing trade rules.

In many cases methodological challenges inherent in calculating carbon footprints risk in themselves creating trade barriers. There are many procedures for the calculations and if producers have to comply with a range of different approaches it will make access to those markets more costly and complicated. This could have the undesired effect of driving down innovation by smaller firms that do not have the resources to perform the assessments needed. Some methodologies also fail to reflect the actual production situation in a nation and can create a bias against certain producers. In addition, producers sometimes have no ability to change the carbon content of their products, such as when they rely on a national grid whose carbon intensity is out of their control. Therefore, the development of robust methodologies as well as harmonisation or mutual recognition can reduce compliance costs, and thus minimise the risk of trade barriers.

Another challenge relates to the risk that domestic products may be given preference over imported products. This concerns in particular support schemes such as subsidies, product tax incentives, and preferential finance terms for low-carbon products. The products benefiting from such support schemes would become more competitive, which could distort competition and restrict market access of foreign products.

Government procurement, either through tenders or approved technology lists, also involves the risk of discrimination against foreign products if the tenders or lists include criteria that would confer an advantage onto domestic products. This could happen if tenders/technology lists specify certain transport modes and distances, or use specific labels in the selection process. However, government procurement can also be designed in a way that would give equal opportunities to domestic and foreign products and services, so that it would not result in barriers to trade.

The way forward

When designing consumption-based instruments, the potential impacts on international trade need to be taken into account, and efforts should be made to minimise adverse effects on the free flow of traded goods. In this context, it is also important to consider compliance with existing trade rules, which will vary from one instrument to another.

However, although certain measures may seem trade restrictive and legally challenging, they should not necessarily be dismissed. There is real value in complementing production frameworks with consumption policies. Responding to the climate challenge will ultimately require the deployment of a wide range of mitigation tools that will involve some changes to current practices and habits. Even instruments that seem to sit at the extreme end of trade restrictiveness may ultimately be acceptable, as illustrated by the EU's ban of incandescent light bulbs.

In addition, the transition to a low-carbon society can also offer opportunities for producers and exporters. Consumption-based climate policy instruments can open up market access opportunities and help producers and exporters of low-carbon products gain new market shares.

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- ① Glen P. Peters et al. 2012. "A synthesis of carbon in international trade." *Biogeosciences*, 9, 3247-3276.
 - ② The Carbon-Cap (Carbon emission mitigation by Consumption-based Accounting and Policy) Project receives funding from the European Union's Seventh Programme for research, technological development, and demonstration under grant agreement No 603386.
 - ③ Karsten Neuhoff et al. 2014. *Carbon Control and Competitiveness Post 2020: The Cement Report*. London, Climate Strategies.

ENVIRONMENTAL GOODS AND SERVICES

Options for defining the products covered by the Environmental Goods Agreement

Roy Santana

Groups of WTO members have in the past negotiated tariff-liberalising deals on select goods. What lessons from these talks for a planned EGA?

Seventeen WTO members are currently in the process of negotiating an Environmental Goods Agreement (EGA) geared towards liberalising trade in a number of products that will help countries address environmental challenges. Like other sectoral agreements undertaken by a subset of WTO members – also known as plurilateral initiatives^① – it is envisaged that these tariff cuts will be extended to all other WTO members on a most-favoured-nation (MFN) basis. Moreover, as any new commitments will be recorded in the participants' WTO schedules of tariff concessions, they would also become enforceable through the global trade body's dispute settlement mechanism.

One of the most difficult tasks in this type of initiative is defining the product coverage or scope of the agreement. In the initial phase of the EGA negotiations, participants spent the first few rounds conceptually exploring the environmental credibility of products related to ten broad environmental categories, and set a deadline of the beginning of April for the formal nomination of specific products for inclusion in an EGA.^② Reports suggest that approximately 650 products have been proposed by various participants. With product proposals now on the table, participants will start their negotiations to determine the specific products that will be covered by the agreement. Although the list of proposed products has not been made public, it appears that a diverse set of products have been proposed for inclusion, and one of the negotiating objectives is to try to design some sort of "living list" in order to allow the product coverage to adjust to future needs. Some of the products reportedly nominated for inclusion range from wind power generating equipment, solar panels, and carbon capture and storage (CCS) equipment, to other items such as bicycles, lithium-ion batteries, and even garden mowers.

In practical terms, what are the tools that EGA negotiators have at their disposal to define what's in and what's out of the final deal? What kinds of approaches have been used in previous sectoral initiatives? Can the product coverage be "future-proofed" to take account of technological change? Without prejudice to the manner in which the EGA negotiations may be carried out, and acknowledging that other relevant issues will also need to be tackled,^③ this article will focus on the challenges and solutions found in selected past sectoral agreements at the WTO.

How are products defined in a typical tariff negotiation?

The results of tariff negotiations are ultimately implemented by customs officers at the border. Therefore, products are typically defined in their preferred classification scheme, the "Harmonized System" (HS). The HS is an international product nomenclature developed and regularly updated by the World Customs Organization (WCO). It comprises approximately 5000 commodity groups that are uniform around the World. Products are classified according to their objective characteristics and properties at the time of import. Their end-use or the manufacturing methods used in their production are normally not relevant, unless they have an impact on their objective properties, for example goods that are "of a kind used" for certain activities.

Tariff liberalisation negotiations such as the EGA normally result in a list of relevant HS codes, which could be expressed in terms of Chapters (2 digits), headings (4 digits), or subheadings (6 digits), or a combination of the three. What should be done, however, if

EGA participants

The current 17 WTO members negotiating an Environmental Goods Agreement include Australia, Canada, China, Costa Rica, the EU, Hong Kong, Iceland, Israel, Japan, Korea, New Zealand, Norway, Singapore, Switzerland, Chinese Taipei, Turkey, and the US.

negotiators only want to cover some of the products falling within a particular subheading? Using national tariff lines, at the 8-digit level or higher, is typically avoided because they are not standardised across countries. Rather negotiators would normally make use of "ex-outs" to define a subset of products to be covered. For example, subheading 0901.11 relates to "coffee, not roasted nor decaffeinated," so an ex-out could be used to indicate that only Arabica coffee beans are covered. This could be expressed as "ex0901.11 Arabica coffee beans."

However, while negotiating HS codes is relatively straightforward as they are either "in" or "out," negotiating ex-out descriptions can become a lengthy and difficult process. The description has to be commonly agreed by participants and be precise enough to allow customs officers to identify the products. One example of this approach is the APEC list of environmental goods that was agreed to in September 2012, which lists 54 HS subheadings, many of which are only partially covered. Notwithstanding the benefits of defining the scope of a sectoral agreement on the basis of HS codes, there have been situations where alternative approaches have been required.

The Agreement on Trade in Pharmaceuticals ("Pharma")

In 1994, as part of the Uruguay Round multilateral trade negotiations, representatives of 12 General Agreement on Tariffs and Trade (GATT) Contracting Parties agreed to liberalise trade in pharmaceutical products.⁴ Negotiators initially struggled to define what "pharmaceutical products" were to be covered by the Pharma, because there was no exact HS definition, and thousands of products were involved. They eventually agreed on a mixed approach that included a list of HS codes to be fully covered⁵ plus four specialised annexes listing a number of chemical compounds that should receive duty-free treatment "wherever they are classified in the HS."

Annex I of the Pharma lists a number of pharmaceutical active ingredients that bear an "international non-proprietary name" (INN). INNs are official generic and non-proprietary names that facilitate the identification of pharmaceutical substances or active pharmaceutical ingredients. Each INN is a unique name – including well-known medical cabinet favourites "paracetamol" and "cortisone" – that is globally recognised by the medical community. This system has been co-ordinated by the World Health Organization (WHO) since 1953 and results in at least one new INN list per year. Active ingredients were also identified using "CAS numbers," which are unique and widely used numerical identifiers for chemical compounds, polymers, biological sequences, mixtures and alloys, assigned by the Chemical Abstracts Service (CAS). Annex II and III of the Pharma list a number of "salts, esters, and hydrates" of pharmaceutical products of INN active ingredients. These are substances that are used to "suspend" the pharmaceutical active ingredients and result in the addition of "prefixes" and "suffixes" to the INNs. Although "suspending" a substance may result in a different tariff classification, it does not change the nature of the active ingredients. Finally, Annex IV of the Pharma lists a number of "intermediate substances" that are used in the production of finished pharmaceutical products. While intermediates could also have other uses, participants decided that it was worth liberalising trade in these without further restrictions.

To take account of this mixed approach Pharma participants modified their WTO schedules in two ways. Firstly, they bound the HS codes listed at duty-free levels in the "traditional" part of the tariff schedules and, secondly, they also included specialised annexes to take account of the four Pharma annexes. Unlike other Uruguay Round sectoral initiatives, which were quite informal in nature and were not recorded, Pharma participants submitted a formal communication that provides details on the agreement reached, as well as the options for the national implementation. It also states that each national customs authority may require importers to provide specific additional information to "certify" that the product is really covered by the Pharma.

The Information Technology Agreement (ITA)

In terms of volume of trade involved and number of participants the ITA is the most significant tariff liberalisation initiative negotiated in the context of the WTO since it was

Table 1: Product coverage definition in the Pharma, ITA, and the TCA

Element	Pharma	ITA	TCA
A. Document reflecting the plurilateral initiative	Communication by the participants (GATT doc. L/7430)	Ministerial Declaration (WTO doc. WT/MIN(96)/16)	Plurilateral Trade Agreement in Annex 4 of the WTO Agreement
B. Problem(s) faced during the negotiation	Unclear HS classification of thousands of pharmaceutical and intermediate substances	- Multiple use - Unclear HS classification (mostly due to technological convergence)	Multiple use
C. Product coverage defined using: 1. HS codes 2. Additional, non-HS based annexes 3. External product definitions 4. Actual use requirement	Yes Yes Yes (INNs by the WHO, and CAS numbers) No	Yes Yes No No	Yes No No Yes
D. Concessions included in participants' WTO goods schedule 1. Using HS codes in the "traditional" parts and sections of the schedule 2. Including additional, non-HS-based annexes	Yes Yes Yes (But some participants simply made reference to the products covered by the reviews)	Yes Yes Yes	Yes Yes No
E. Review clause	Yes (Consensus of participants)	Yes (Consensus of participants)	No
F. Number of reviews concluded	4	None (But ITA expansion negotiations are currently been conducted by a subset of ITA participants)	N.A.

Source: Summary by the author based on WTO documents.

established. It was announced on the margins of the global trade body's first ministerial conference held in Singapore in 1996. Initially sponsored by 29 signatories, its participation had increased to 42 by the time of its implementation in 1997. Besides providing for the tariff elimination of a number of IT products the ITA also launched a work programme to tackle non-tariff barriers affecting trade in these products.

Although the ITA negotiators were able to define most of the relevant "IT products" in terms of HS codes, they faced a peculiar problem for 55 of them, when their customs experts could not agree where to classify these in the HS. The disagreement for some of these products stemmed from rapid technological convergence, whereby two or more single-function apparatus were incorporated into a new "multi-function" device, and the lack of an official decision by the WCO's HS Committee on how to classify the new good. This problem affected products such as computers with multimedia capabilities – should they be classified as computers or as TV reception apparatus? And LAN equipment – should they be classified as telecommunications or computer equipment? Other products, such as certain semiconductor manufacturing equipment, could also be used for the production of other items and it was not always clear where such equipment should be classified in the HS. Finally, some parts and intermediate products could also be used in the production of products that were not meant to be covered by the ITA. For example,

an LCD screen could be used to produce a computer monitor, which negotiators wanted to include, but it could also be used to produce a television, which they did not.

Possibly inspired by Pharma, ITA negotiators decided to use a mixed approach in the product scope definition. While several products were defined in terms of HS codes and ex-outs – those for which the HS classification was not controversial – others were defined with narrative product descriptions on the understanding that the tariffs would be eliminated “wherever they are classified in the HS.” The latter are referred to in ITA jargon as the “Attachment B” products. Negotiators agreed that each participant would grant duty-free treatment for the above-mentioned products regardless of where these products were classified in the HS. Like in Pharma, the results were incorporated in the WTO schedules of concessions using two sections and including a specialised Attachment B annex, which includes a headnote that states that duty-free treatment will be provided to those products wherever they are classified in the HS. Mindful of the long term importance of arriving to a common classification of these products, and with a view to narrowing down those classification differences over time, ITA participants committed to work in different fora, including the HS Committee of the WCO. As a result of this work the classification of a number of IT products has been clarified over the years.

The Agreement on Trade in Civil Aircraft (TCA)

The TCA was initially negotiated during the GATT Tokyo Round (1973-79). Unlike the ITA and the Pharma, where legal relevance stems primarily from the inclusion of the concessions in WTO schedules, the TCA is also an official plurilateral agreement under Annex 4 of the Marrakesh Agreement that established the WTO. TCA concessions are also intermingled in the traditional part of WTO members' schedules.

One problem faced by TCA negotiators is that many products used in the production and maintenance of civil aircraft can also be used in the manufacture or maintenance of other goods, for example, a sheet of aluminium could have many “end-uses.” Although the TCA does include a positive list of HS codes and ex-outs to be covered, it expressly states that products shall only be accorded duty-free treatment or be duty-exempted if they are “for use” in civil aircraft or ground flying trainers. It also includes a negative list of products that are not covered, such as certain materials when they have not been “cut to size or shape” for incorporation in a civil aircraft or ground flying trainer. How are these end-use concessions implemented? Several approaches could be adopted, including an import licensing scheme, or a self-certification scheme complemented with post-clearance audits. The EU, for example, applies a tariff suspension that is conditional to the presentation of an “airworthiness certificate”. It goes without saying that end-use concessions are not necessarily easy to implement if the product can be easily used for other purposes and if there are a large number of importers to control.

Is it possible to future-proof a list of products?

No matter how well informed negotiators are at the time of a negotiation it is nearly impossible for them to foresee future changes in technology. While some key products during the negotiating process could eventually lose significance, or even disappear from the market, new ones may acquire importance. Will those new products be covered by the agreement? It depends. The manner in which products are recorded in WTO schedules could play an important role in answering this question. One general misconception by those unfamiliar with the HS classification and the WTO schedules of concessions is the notion that “new products,” which did not exist at the time of negotiations, are not subject to tariff liberalising obligations. This is rarely the case. Once a member binds a certain tariff level for a particular HS code it is obliged to provide no less favourable treatment to any product that falls within the scope of that HS code. As a result any future product classified or classifiable within that HS code will also be subject to that concession. This occurred when ITA participants bound at duty-free level HS heading 84.71, which refers to “automatic data-processing machines” and their units, namely computers. In 2012, the HS Committee of the WCO began discussing the correct classification of “tablet computers,” which clearly did not exist at the time the ITA was negotiated in the 1990s. Because WCO

members agreed that tablets should be classified under HS 84.71, it followed that ITA participants had to provide these with duty-free treatment.

The result would obviously be different if it turns out that the new product is not classified in an HS code covered by the agreement. What can be done in such situations? ITA negotiators partially addressed this problem for some Attachment B products. As the obligation to provide duty-free treatment revolves around the narrative product descriptions, any product that meets such description is therefore covered by the agreement. The scope of some Attachment B descriptions is quite broad in nature and is not linked to any particular technology. For example the "Flat panel display devices" has an illustrative list of technologies used that reads "including LCD ... and other technologies." However, others were drafted with a much narrower scope, as they were linked to specific technologies that subsequently lost importance. This occurred with "monitors" that were defined as display units for computers that use a "cathode ray tube," a technology that has been superseded by newer display technologies such as LCD, plasma, and other technologies. Inclusion in the Attachment B was not a guarantee for survival in the market place, as some products even disappeared when they became functions incorporated into other apparatus, think "paging alert devices."

Mindful of the difficulties around agreeing on a product coverage that can stand the test of time, negotiators can also revert to "review clauses," where they agree to negotiate again in the future. The Pharma and the ITA provide an interesting point of comparison in this respect. While both sectoral initiatives were finalised within two years of one another, the Pharma has been reviewed and updated on four occasions, whereas ITA participants have not yet been able to do so and efforts for an expansion remain ongoing. Granted the number and level of development of the parties involved, as well as the types of products and the amount of trade, are probably not completely comparable. It may also be easier to include a small number of products that were agreed elsewhere than to hold fully fledged negotiations to include many more additional products. Whatever the reasons, however, the Pharma is a living proof that review clauses can work effectively.

Final thoughts

The types of products currently discussed in the EGA are quite different in nature from those covered in previous sectoral initiatives. The "green goods" talks also have the additional task of wedding environmental credibility with the dynamics of a trade negotiation. However, while new and unique challenges are always likely to emerge, it is also quite possible that negotiators will have to deal with some familiar problems in the coming months. Of course, past experience may not necessarily offer a ready-made template to copy, but it can provide valuable lessons to allow negotiators to think out of the box in order to reach an agreement.

The opinions expressed herein are the sole responsibility of the author and do not necessarily reflect the views of the members of the WTO or of the WTO Secretariat.



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- ❶ For a detailed description of the evolution of sectoral negotiations, see the note by the WTO Secretariat in TN/MA/S/13.
- ❷ These categories include air pollution control; solid and hazardous waste management; water management and water treatment, environmental remediation and clean-up; noise and vibration abatement; cleaner and renewable energy; energy efficiency; environment monitoring assessment and analysis, resource efficiency; and environmentally preferable products.
- ❸ Other questions that are likely to become relevant include *inter alia* the critical mass question, the "staging" or speed at which the tariff elimination will take place, whether non-tariff barriers will also be addressed, and whether special and differential treatment provisions will be required.
- ❹ See GATT document L/7430.
- ❺ Chapters 30 and subheadings 29.36, 29.37, 29.39, and 29.41.

CLIMATE CHANGE

Arctic black carbon: The challenge for international governance

Thomas L. Brewer

Increased international maritime traffic raises questions around how to tackle black carbon, or soot, affecting the Arctic region.

Black carbon – commonly known as “soot” – is a distinctive and serious climate change problem in the Arctic region. It was a central item on the agenda of the April Arctic Council ministerial meeting held in Iqaluit, Nunavut, Canada. Of particular concern is the extent to which black carbon emitted from ships powered by fossil fuels exacerbates the decline of sea ice and reduces the albedo effect of the ice. This term is used in the measurement of how much solar energy is reflected, rather than absorbed, by a particular surface. Ice has a high albedo with much of the sunlight hitting it bouncing back out to space. In other words, soot settling in the Arctic region reduces the amount of sunlight reflected back into the atmosphere by ice and snow.

Increased attention to black carbon (BC) in the Arctic region by bodies such as the Arctic Council and the International Maritime Organization is also being driven by three ongoing developments: accumulating scientific evidence of the significance of BC's climate change impacts beyond the Arctic, including ocean acidification and sea level rise; increases in maritime traffic as oil and gas exploration and extraction expand in the region; and the prospect of increased emissions from maritime shipping as new Arctic sea lanes open because of sea ice melt.

More than 90 percent of global trade in goods is carried by maritime shipping and the demand for shipping is expected to continue to grow year on year. Moreover, according to the US-based Arctic Institute, the number of ships using the Northern Sea Route – a shipping lane offering faster connection between Europe and Asia – increased by 54 percent in 2013 compared with the previous year. Of course, the number of vessels involved in Arctic traffic is still very small compared to those using the Suez or Panama Canal, but even modest further increases in the Arctic region could have substantial climate change consequences.

Estimating the impacts of BC on climate change also poses special measurement challenges, however, because it is fine atmospheric particulate matter consisting of particles less than 2.5 millimetres across. Black carbon is thus not a gas and so it is not included among the standardised lists of widely recognised greenhouse gases (GHGs) currently being addressed by the UN Framework Convention on Climate Change (UNFCCC). It is also very short-lived, as its atmospheric life time averages only about a week, compared with carbon dioxide's 100 year average. But it is very potent per unit of emission, with a global warming potential that is hundreds to thousands times greater than carbon dioxide, and tens of times greater than methane.

Fortunately there are technological and operational solutions to the Arctic BC problem. Perhaps as much as 90 percent of reductions in maritime black carbon emissions could be achieved by a combination of technological and operational measures: increased use of ultra-low sulphur diesel fuel to reduce the rate of black carbon emissions per weight-distance unit; new fuel efficiency regulations that have been promulgated by the IMO; the installation of new equipment such as particulate filters on diesel engines and scrubbers on smokestacks; and operational measures ranging from slower speeds to the use of port-side electricity sources instead of on-board diesel-power generators. The increased use of liquefied natural gas (LNG) as a maritime fuel could also reduce maritime black

carbon emissions. However, the potential for increased methane emissions from LNG as fuel or cargo is problematic, especially in view of methane's high global warming potential compared with carbon dioxide.

Arctic Council

The Arctic Council, established as an inter-governmental forum by the Ottawa Declaration of 1996, has eight member states – Canada, Denmark, Finland, Iceland, Norway, Russia, Sweden, and the United States. There are six organisations serving as Permanent Representatives of indigenous peoples. The Arctic Council's observers include 12 states outside the Arctic region, nine inter-governmental and inter-parliamentary organisations, and 11 non-governmental organisations. The Council's bi-annual ministerial meetings are high-level policymaking events and the chair revolves among the national members on a two-year cycle corresponding to the ministerial meetings. In April the US assumed the chair for the 2015-2017 period.

Washington has said it will place an emphasis on the growing consequences of – and for – climate change in the Arctic region during its chairmanship. The current emphasis on climate change issues expands several years of work by the body's specialised expert groups. Moreover, at the latest April Ministerial Meeting, the Council advanced the black carbon agenda by approving an Arctic Council Framework for Action titled "Enhanced Black Carbon and Methane Emissions Reductions."

In this the eight member states commit to: "Develop and improve emission inventories and emission projections for black carbon using, where possible, relevant guidelines from the Convention on Long-Range Transboundary Air Pollution (CLRTAP) and improve the quality and transparency of information related to emissions of black carbon," and "Enhance expertise on the development of black carbon inventories, including estimation methodologies and emissions measurements, by working jointly through the Arctic Council and other appropriate bodies..."

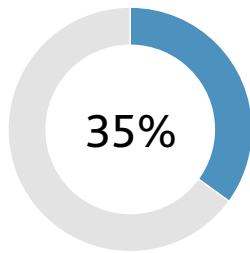
The Arctic Council appears to be becoming more attentive to climate change issues, including black carbon in particular. It will not, however, be able to promulgate enforceable mandatory regulations unless it undergoes a dramatic transformation in its basic institutional nature. Importantly, Council decisions are taken by consensus. The Council also does not implement its decisions collectively; it has no enforcement authority; and it has no programme budget. Implementation and financing of its programmes are undertaken by individual member states. Its mandate explicitly excludes military security issues. It is thus essentially a discussion forum with a variety of working groups that produce studies about environmental and safety issues. It can serve an important role, however, in drawing attention to the black carbon problem and in collecting and analysing data about it.

International Maritime Organization

As a sector-specific agency in the UN system, the International Maritime Organization (IMO) has been granted mandates on two separate multilateral governance topics; one to address the functioning of international shipping trade, and the other to address marine pollution, which links to climate change issues.

The 1948 UN Maritime Conference in Geneva passed a convention to establish the Inter-Governmental Maritime Consultative Organization that eventually entered into force in 1958. Article 1(a) of the convention states the purposes of the organisation are: "To provide machinery for cooperation among governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade; [and] to encourage and facilitate the general adoption of the highest practicable standards in matters concerning maritime safety, efficiency of navigation and prevention and control of marine pollution from ships." The name of the body was changed to the International Maritime Organization in 1982. The IMO's mandate concerning climate change is embodied in Article 2 of the Kyoto Protocol of the UNFCCC: "The Parties included in Annex I shall pursue limitation or reduction of emissions

Arctic melt



The extent of the Arctic's September sea-ice reduction over the past 35 years, according to Swart et al. Arctic sea-ice melts each summer and reaches a minimum in September before freezing again in the winter. Global warming trends imply decreasing volumes of sea-ice by the end of the summer, changing the region's landscape.

of greenhouse gases not controlled by the Montreal Protocol [on Ozone Depleting Substances] from ... marine bunker fuels, working through ... the International Maritime Organization."

In short, the IMO as a specialised UN agency serves as a key international institution for both trade and climate change issues, and is designed to complement the multilateral trade and climate change institutions.

However, there is tension in the relationship in that the UNFCCC has recognised the principle of "common but differentiated responsibilities" (CBDR) for emissions cuts while the IMO operates under a trade-policy non-discrimination concept of "no more favourable treatment," stipulating that its rules apply to all ships equally regardless of the nationality of the owner or country of registration.

The IMO features not only a widely representative membership among countries, but also diverse inter-governmental and non-governmental organisational participation, and industry-specific mandates within the UN system. The UN body currently has 170 member states and three associate members. In addition to the governments representing the 170 members, there are 63 inter-governmental organisations (IGOs) with cooperative agreements and 77 non-governmental organisations (NGOs) with consultative status. The European Commission has a cooperative agreement with the IMO, and all of the individual member states of the EU are members. NGOs with consultative status include a broad array of both industry groups, such as the World Shipping Council and the International Chamber of Shipping, environmental groups like Friends of the Earth International, and technical bodies including the International Organization for Standardization (ISO).

Black carbon has been on the IMO agenda for several years and the organisation's environment committee recently agreed on a definition of the term. It has not, however, included BC in a new Polar Code. The International Code for Ships Operating in Polar Waters, to give the code's full name, addresses safety and environmental issues for shipping in hazardous and environmentally vulnerable waters of the Arctic and Antarctic regions. The code will be mandatory through amendments under both the International Convention for the Prevention of Pollution from Ships (MARPOL) and the International Convention for the Safety of Life at Sea (SOLAS). It will enter into force on 1 January 2017. Perhaps in the future the code might be used to serve as a legal basis for expanding IMO regulations to mitigate Arctic black carbon.

The most recent meeting of the IMO's Marine Environment Protection Committee (MEPC) exhibited resistance to a proposal to set a GHG emissions reduction target for the shipping industry. The committee pledged instead to continue analytic work in this area. This includes efforts on mandatory measures adopted in 2011 and effective from 2013 on improving the fuel efficiency of new and existing ships. The fuel efficiency objectives of these measures are relevant because they can reduce black carbon emissions.

The fuel efficiency regulations are mandatory, tangible, in force – in the form of amendments to MARPOL – and will evolve over time. These regulations include: the Energy Efficiency Design Index (EEDI) for new ships; the Ship Energy Efficiency Management Plan (SEEMP) for all ships; and guidelines concerning the method of calculation of the EEDI, the calculation of reference lines for use with the EEDI, survey, and certification of the EEDI; and development of an SEEMP. According to reports from the MEPC May meeting, the committee did agree to further the development of a data collection system to analyse energy efficiency, although this information may not be made public.

More can be done

An Arctic Black Carbon (ABC) agreement is needed. An ABC agreement could build on the analytic and diplomatic work that is in progress in the Arctic Council and the International Maritime Organization. Such an agreement can take the form of a club-like partnership involving commitments to limit black carbon emissions from international shipping in the Arctic region and to undertake international technology transfer processes to facilitate

emissions reductions. Carefully designed, an agreement could be consistent with both the UNFCCC and the WTO, but not involve either one directly.

There is increasing interest in the possibility of creating international institutional arrangements that have the features of a "club." The benefits derived from participation in a club have two key features: they can be shared among members and they can be excluded from non-members. In the context of climate change agreements the development of club-like international deals can incentivise participation and compliance. As an institutional modality such an arrangement has the advantages of deterring "free riding" via non-participation and/or non-compliance. In short, countries – or indeed non-state actors – that want to enjoy the benefits of the club agreement must join it and comply with its rules.

There are many possible benefits for signing up to some sort of ABC agreement. An obvious one is the opportunity to operate in Arctic region waters. Only ships meeting BC-related equipment and operational standards could operate in the Arctic region. An international license for Arctic operations by individual ships and ship owners-operators could be issued on the basis of certification that the required equipment meets operational standards and is properly installed and maintained. The standards could be established by the IMO with direct participation of the International Organization for Standards (ISO). The licensing requirement would be imposed on ships involved in oil or gas exploration or extraction activities, as well as ships engaged in the transport of any goods or people, in order to include all types of ships engaged in international commerce.

An ABC could be similar to the existing Emissions Control Areas (ECAs) for North America, the Baltic Sea, North Sea, and part of the Caribbean Sea, which limit sulphur oxide (SOx) emissions. The precise regulations and the implementation procedures could be codified and monitored by the IMO with advice and operational support from a variety of organisations, including the ISO.

Another benefit of an ABC agreement that could be shared by members and excluded from non-members could be a technology transfer agreement, whereby members would be entitled to assistance in the acquisition of the required technology to meet membership and compliance criteria. The scope and funding levels of the programmes would of course be issues to be negotiated.

Participation in an ABC agreement would need to also be open to non-state entities such as ship owners and operators, as well as governments. International financial and development institutions such as the World Bank, regional development banks, the UN Industrial Development Organization (UNIDO), and the UN Conference on Trade and Development (UNCTAD) could also participate, particularly in helping to develop and implement the technology sharing programmes.

A compliance enforcement system will also be needed. There is already in place a world-wide, satellite-based, real-time tracking system that identifies individual ships, with their position, direction, and speed. Any ship sailing into or through the Arctic region would be required to keep its transponder operating in order to be tracked. Failing to do so would result in a fine, embargo of the ship, and cancellation of the owner-operator's right to sail ships in the Arctic region for a period of years. All licensed ships would be monitored for compliance with the equipment and operational standards.

Because Arctic black carbon is an increasingly serious contributor to climate change, it is desirable that it be substantially mitigated by technological and operational measures, preferably prescribed in the context of an Arctic Black Carbon (ABC) agreement. Such an agreement can be developed from the work of the Arctic Council and the International Maritime Organization, with the assistance of a variety of other international organisations with relevant expertise.

This article is based on a forthcoming ICTSD research paper.



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NATURAL RESOURCES

EU Parliament approves draft law mandating conflict minerals reporting

The EU is in the process of crafting a law to tackle minerals and ore imports associated with violence and conflict.

EU parliamentarians signed off in May on a draft law that would impose stricter measures throughout the supply chain to ensure that certain imported minerals – tin, tantalum, tungsten, and gold – do not exacerbate conflicts and human rights abuses in conflict areas. The 20 May vote passed by 402 votes to 118, with 171 members abstaining. Compliance under this draft law would be mandatory for all EU importers who source such minerals from conflict areas. Companies that use such minerals in production of other goods would also have to produce information showing their own efforts at dealing with risks in the supply chain.

The 28-nation EU is home to approximately five percent of the smelters and refiners operating worldwide, as well as 880,000 “downstream” companies that use these minerals in their manufacturing processes, for consumer goods ranging from automobiles and electronics to jewellery and industrial machinery. The EU imports around 25 percent of global trade in tin, tantalum, and tungsten, and about 15 percent of gold. Under the draft law, areas that qualify as conflict-afflicted and high risk include those that suffer from armed fights, involving widespread violence and systematic human rights violations, as well as little to no governance and security.

Supply chain responsibility

One of the hotly-contested subjects ahead of the vote was whether parliamentarians would require downstream producers that use such minerals in manufacturing to also provide information on how they are tackling risks throughout their supply chains, or whether the legislation would just target importers of the raw minerals and ores. Under the version approved by Members of the European Parliament (MEPs), these downstream companies will indeed be required to do so, marking a significant shift from earlier versions of the legislation. Importers, for their part, would have to face compulsory, independent audits by third parties.

“The regulation reflects the need for due diligence along the entire supply chain from the sourcing site to the final product, by requiring all companies who first place covered resources, including products that contain those resources on the [EU] market to conduct and publicly report on their supply chain due diligence,” the relevant amendment to the draft law says.

The draft law approved by the Parliament also includes provisions that would help small- and medium-sized enterprises, in light of some concern that these companies might not have the same capacity to deal with additional costs of these requirements. These provisions include a request that the Commission grant such enterprises financial support to help with these practical difficulties, including in the areas of third party audits and responsible sourcing.

The version approved by the full Parliament goes further than a draft text previously approved by the European Parliament’s International Trade Committee (INTA) in April, which had only asked that smelters and refiners be subject to mandatory certification requirements. The committee voted against making certification mandatory for downstream companies and rejected a proposal to extend the scope of the regulation to include other minerals and metals.

For its part, the European Commission had proposed a voluntary "self-certification" scheme over a year ago, also targeting the "upstream" part of the supply chain, relying on smelters and refiners to monitor their purchases of the raw minerals and ores.

According to the bloc's legislative process, parliamentarians have agreed to begin informal talks with representatives from EU member states in order to agree a final version of the law, with some predicting a difficult negotiating process ahead.

International comparison

Under the draft law, the EU's due diligence standards for the supply chain would be based on those already developed by the Organisation for Economic Co-operation and Development (OECD), which outline a series of steps to ensure responsible sourcing. These guidelines, known formally as the "Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas," already serve as the basis for the US' own requirements in this area, which are mandatory but more region-specific.

The US' Dodd Frank Act includes among its provisions an annual disclosure requirement over whether conflict minerals needed to produce or use a good came from either the Democratic Republic of the Congo or an adjoining country. Should that be the case, those persons must prepare a report outlining the due diligence measures taken throughout the supply chain, together with an independent private sector audit.

The EU imports around 25 percent of global trade in tin, tantalum, and tungsten, and about 15 percent of gold.

Stakeholder response

The vote by EU parliamentarians received a mixed reception from stakeholder groups. While some welcomed the move to target the whole supply chain, others raised concerns over whether the approach is sufficient or appropriate to tackle the human rights concerns while not harming EU producers.

Groups such as Global Witness and Amnesty International, who have been among those groups pushing for mandatory reporting across the supply chain, openly endorsed the 20 May result. "Despite concerted efforts by big business to weaken the legislation, MEPs have clearly positioned themselves for a strong, binding law that is fit for purpose. This would put Europe at the helm of global efforts to clean up the minerals trade and encourage businesses to source minerals in a way that benefits local communities, not armed groups," said Michael Gibb of Global Witness in a [statement](#).

Some business groups, such as the Brussels-based BUSINESSEUROPE coalition, have pushed back against this version of the draft law, suggesting its design could negatively impact EU companies. Another question raised is whether trade tools alone focused on just the supply chain go far enough to address conflict in the countries where these minerals are sourced.

"Unfortunately, the system, as voted by the plenary session of the European Parliament is neither workable for business operators, nor going to provide concrete solutions for the conflicts on the ground," said Markus J. Beyrer, BUSINESSEUROPE Director General.

However, this view is not universal across EU industry, as some metals industry groups had reportedly pushed for a full supply chain approach. Such groups, sources familiar with the talks say, had expressed the concern that a system only focusing on smelters and refiners within the 28-nation bloc could actually give non-EU operators a competitive advantage, while reducing European access to the necessary raw materials.

POST-2015 DEVELOPMENT AGENDA

Post-2015 development agenda talks consider follow-up and review options

Countries are in the process of deciding how best to monitor a planned sustainable development agenda.

Delegates meeting at UN headquarters in mid-May remained divided on how best to follow-up and review a planned post-2015 development agenda, including a set of sustainable development goals (SDGs).

While consensus reportedly emerged around the importance of a functioning review framework, differences remain between countries over the terminology, degree of centralisation, and the relationship between the monitoring of the post-2015 agenda as a whole and the outcome from parallel UN talks on development financing.

The co-facilitators of the post-2015 talks – David Donoghue, Permanent Representative of Ireland and Macharia Kamau, Permanent Representative of Kenya – released a [discussion paper](#) earlier in the month outlining key elements on follow-up and review that have emerged in post-2015 talks to date.

The new development agenda is due to be adopted by world leaders at a summit scheduled to be held in New York in September.

Securing a good review

According to Earth Negotiations Bulletin (ENB), some delegates disagreed on whether to label the process a monitoring, accountability, or review exercise. Furthermore, while a number of delegates supported the use of a High-Level Political Forum on Sustainable Development (HLPF) as a key platform for review at the global level, some differences emerged around its outputs and relationship with other institutions.

The HLPF, born out of the UN Conference on Sustainable Development held in Rio de Janeiro, Brazil in June 2012 and placed under the UN Economic and Social Council (ECOSOC), replaces the Commission on Sustainable Development (CSD) in following the implementation of sustainable development.

During the May post-2015 session, negotiating groups such as the G77/China said that other mechanisms and conventions should report to the HLPF, with regards to follow up.

Other nations cautioned against a centralised structure, calling instead for a system where the HLPF was supported by a network of existing review mechanisms, including other agencies with expertise relevant to elements of a list of proposed SDGs put forward by a dedicated UN working group last July.

Delegates also did not reach convergence on how to structure the HLPF's outputs in this area, with the co-facilitators of the talks noting that the body only meets annually for eight days, which may not give it enough time to take on all the tasks eventually mandated.

The relationship with the outcome document of the Third International Conference on Financing for Development (FfD3) remained unresolved by the end of the negotiating session, with many delegates agreeing that the question of whether to have one overarching or two separate monitoring frameworks for both processes would need to be resolved after there is more clarity on the financing talks' content.

Trade-related targets have been put forward in both the proposed SDGs and the revised FfD3 draft outcome document. (See BioRes, [20 May 2015](#))

SDG targets

Ahead of the May post-2015 talks the co-facilitators also released a [revised proposal](#) on selected targets for the proposed SDGs.

Some of these revisions address areas in the UN working group's proposal where "x%s" instead of numbers were left for some of the targets. In other instances the co-facilitators have proposed revisions to bring the SDGs into line with other international agreements.

One such case applies to a trade-related target under the proposed health goal, which mentions flexibilities affirmed by the WTO's Doha Declaration on the TRIPS Agreement and Public Health, with TRIPS referring to Trade-Related Aspects of Intellectual Property Rights (TRIPS), in relation to providing access to affordable essential medicines.

Revisions to this target had already been proposed by the co-facilitators ahead of a post-2015 session in March to make it more consistent with current WTO documents. (See BioRes, [31 March 2015](#))

The latest revisions document acknowledges that while the target's language is inconsistent with certain aspects of the WTO declaration, making substantive linguistic revisions could backtrack on earlier negotiations, and therefore it suggests keeping the original proposed SDG text.

Other proposed revisions at the recent session, as in March, met with mixed reactions from post-2015 delegates who continued to express concern that this exercise would re-open the UN working group's SDG negotiations. Others reportedly welcomed the effort to ensure alignment with international agreements.

The new development agenda is due to be adopted by world leaders at a summit scheduled to be held in New York in September.

Next steps

The post-2015 talks will now head into a final negotiating phase in the coming two months in a bid to secure an outcome document to be adopted in September.

Talks since January have focused on the four substantive elements due to be included in the new framework: a declaration, the SDGs, the means of implementation (MoI) for these, and follow-up and review modalities. The co-facilitators announced at the end of the May post-2015 session that a "zero draft" of the outcome would be circulated at the beginning of June.

The next post-2015 negotiating session is scheduled for 22-25 June, followed shortly after by the Third HLPF. According to the processes' current agenda, delegates should wrap up the post-2015 outcome talks by the end of July.

Meanwhile informal talks are currently ongoing in New York on the FfD3 outcome document. That conference is due to be held 13-16 July in Addis Ababa, Ethiopia.

Post-2015 delegates in May also received a briefing update from John Pullinger, this year's chair of the UN Statistical Commission (UNSC), on its work developing a global indicator framework for the SDGs. This is due to be adopted at the body's annual session next March. Further progress reports will be delivered at the June and July post-2015 negotiating sessions.

The newroom

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APEC trade ministers eye environmental services

Trade ministers from the 21-nation Asia-Pacific Economic Cooperation alliance meeting on Boracay Island, The Philippines in May welcomed progress on implementing tariff reductions to a list of 54 environmental goods signed off in 2012. The group signalled that the APEC Committee on Trade and Investment (CTI) would publish a report in November on participants' implementation of this commitment.

APEC trade ministers also welcomed progress in developing an action plan on the liberalisation, facilitation, and co-operation on environmental services. An outcome on this front is also slated for November.

In a separate statement geared towards supporting the multilateral trading system, the trade ministers took note of advances in the plurilateral tariff-liberalising negotiations on environmental goods, ongoing this year in Geneva, Switzerland. The Environmental Goods Agreement trade talks include a number of APEC economies.

WTO rules on revised US COOL measure

The WTO's highest court said in May that the amended version of the US' country-of-origin labelling (COOL) regime continues to discriminate against livestock and meat imported from Canada and Mexico, confirming the bulk of an earlier compliance panel's findings.

Nonetheless, citing a lack of sufficient undisputed facts on the panel record, the Appellate Body was unable to properly compare alternative measures proposed by Canada and Mexico with the US policy, and ultimately did not make a definitive conclusion of whether the amended COOL measure is an unnecessary international trade barrier.

Under the original COOL policy, which was actually a series of instruments enacted under the 2002 US Farm Bill and then revised in 2009, producers were required to inform US consumers of meat's country of origin via a label on the sale package. The measure was challenged by Ottawa and Mexico City.

Value of carbon pricing schemes increases

Carbon pricing schemes around the world increased to US\$50 billion this year, according to a study released by the World Bank. As of April, emissions trading schemes (ETS) were estimated to be worth around US\$34 billion, up from US\$32 billion last year. The authors note that this occurred despite the repeal of Australia's planned ETS last July.

Carbon taxes amounted to some US\$14 billion. All in all the report found that some form of carbon pricing covered around 12 percent of the world's emissions. The volume of carbon covered also rose on the previous year up to the carbon dioxide equivalent of around seven gigatonnes.

The report highlights the change in carbon pricing policies in the last decade. In 2005 some four percent of the global greenhouse gas emissions were priced and almost all of this linked to the EU's Emissions Trading System. However, while a growing number of countries and regions are opting for carbon pricing tools, the report suggests that varying levels of ambition exist among the actors.

International energy declaration adopted

Energy ministers and officials from over 75 countries, as well as organisations including the EU and Economic Community of West African States (ECOWAS), adopted and signed a new International Energy Charter (IEC) during a summit held in May in The Hague, The Netherlands.

The IEC is a political declaration geared towards boosting global energy co-operation. The document was hammered out during several rounds of talks held in Brussels last year and represents an update to the 1991 European Energy Charter declaration that involved a smaller group of countries.

National ratification of the IEC will be viewed as a first step in acceding to a legally binding Energy Charter Treaty, which comprises a targeted set of rules on energy trade, investment, transit, and energy efficiency. Several countries announced at the summit that they would start the process of accession to the Energy Charter Treaty. The treaty is currently ratified by 47 countries.

IMO adopts polar code, shelves emissions target

The environment committee of the UN shipping body in May formally adopted the environmental requirements of a new code geared towards improving safe and sustainable navigation in the frigid waters surrounding the world's two poles.

The Polar Code, as the new guidelines are formally known, outlines safety and environmental provisions around the design and construction, operations and manning, as well as equipment for ships operating in the Arctic and Antarctic. Such measures are intended to avoid titanic-like disasters in these fragile ecosystems.

The code is made mandatory through associated amendments adopted under both the International Convention for the Prevention of Pollution from Ships (MARPOL) and the International Convention for the Safety of Life at Sea (SOLAS) and will enter into force in 2017.

Activity in polar waters is forecast to increase as ice and glaciers retreat in the two regions. Black carbon is a particularly potent climate warming pollutant formed by the incomplete combustion of fossil fuels, biofuels, and biomass.

EU Commission probes China solar trade deal

The European Commission has confirmed plans to start an investigation into the "minimum import price" that has served as the basis of the hard-won price undertaking deal between the EU and Chinese solar exporters, in a move that could bring long-standing tensions between the trading partners back to the fore. A notice in the Official Journal of the European Union published announced a "partial interim review" of the benchmark used as a reference for the price undertaking deal. The products covered by the probe are imported crystalline silicon photovoltaic (PV) modules and key components that either originate or are consigned from China.

The price undertaking agreement was reached nearly two years ago between the European Commission, the China Chamber of Commerce for Import and Export of Machinery and Electronic Products, and a group of Chinese exporting producers.

The deal came following a row between Brussels and Beijing over allegations that Chinese solar modules and their components were being dumped on the EU market and that the producers involved were receiving unfair state aid.

"Green goods" talks review product list

Negotiations for a planned tariff-cutting deal on environmental goods by a group of 17 WTO members completed a first reading of a compiled product nominations list in early May in Geneva, Switzerland. Just over 650 tariff lines covering more than 200 products were reviewed.

According to trade sources, this sixth round of talks gave delegates the chance to express preliminary support or signal concern over specific nominations, with a view to moving towards consensus on a final list of products for the eventual Environmental Goods Agreement (EGA). The format of the round, whereby similar products were grouped together, also allowed EGA participants to further clarify with each other the environmental dimensions of some nominations.

Sources confirm that each EGA participant has put forward, or signalled support for, a list of product nominations. These lists – subsequently compiled by Andrew Martin, Counsellor, Permanent Mission of Australia to the WTO, who chairs the talks in his personal capacity, into a master list – collate various indicative product proposals made during previous rounds.

African Union strategy on illegal wildlife trade

African heads of state, experts, and policymakers – gathered for the International Conference on Illegal Trade in Wild Fauna and Flora in Africa from April 27-30 in Brazzaville, Republic of Congo – made progress on advancing an Africa-wide draft strategy and related action plan to reduce and eliminate the illegal trade in wild animal and plant species.

The draft strategy would target trafficking of the continent's iconic mega-fauna such as rhinos and elephants, as well as clamp down on illegal fishing and timber trade. It would be applied between the years 2015-2024. The document represents the first such pan-African approach to tackling the illegal wildlife trade challenge.

The move comes off the back of increased international efforts to address the complex illegal wildlife trade challenge. Several ministerial level conferences have been held over the past two years in an attempt to better co-ordinate a global response in this area. According to UN data, environmental crime could be worth up to US\$213 billion a year, involving illicit trade in many of Africa's natural resources.

Publications and resources

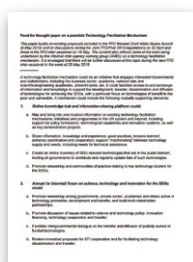
Suggested publications and resources do not necessarily reflect the views of ICTSD



Energy Technology Perspectives 2015 – IEA – May 2015

This report by the International Energy Agency (IEA) examines innovation in the energy technology sector and outlines steps required to achieve short and long term climate change mitigation targets. The report identifies regulatory strategies and co-operative frameworks to necessary advance innovation in areas such as variable renewables, carbon capture and storage (CCS) and energy-intensive industrial sectors. Technology development in specific economies, such as China, are also examined.

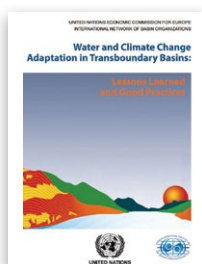
The report can be accessed at <http://bit.ly/1PMylcM>



Food for Thought Paper on a Possible Technology Facilitation Mechanism – UN – May 2015

This short paper builds on existing proposals put forward in financing for development outcome document discussions as well as those undertaken with the post-2015 development agenda negotiators on a possible Technology Facilitation Mechanism (TFM). The content also reflects some of the work being undertaken by the informal inter-agency working group (IAWG) in this area. Elements of a mechanism might include: an online knowledge hub and information-sharing platform; a regular forum on science, technology, and innovation (STI) for the sustainable development goals; a UN interagency working group on STI; and a coordinated STI capacity-building programme.

The paper can be accessed at <http://bit.ly/1R0gmSU>



Water and Climate Change Adaptation in Transboundary Basins: Lessons Learned and Good Practices – UNECE – April 2015

This publication by the UN Economic Commission for Europe (UNECE) uses examples from the programme of pilot projects implemented in 2010 to draw lessons and good practices on developing a climate change adaptation strategy for water management in the basin or transboundary context. Key messages include proper institutional arrangements such as a basin organisation with a mandate to address climate change adaptation, a flexible legal framework such as a transboundary agreement, communication and capacity building among diverse stakeholders, and adaptation plans within basin management plans.

The publication can be accessed at <http://bit.ly/1GCHW5z>



Establishing China's Green Financial System – Central Bank of China and UNEP – April 2015

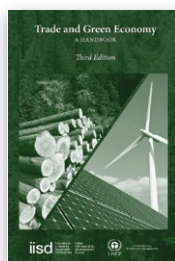
Launched by China's central bank and the UN Environment Programme (UNEP), this report estimates that some US\$320 billion worth of investment will be needed annually in order to meet China's environmental targets, and recommends key measures to meet this. This includes further developing specialised investment institutions and green energy funds, providing fiscal and financial policy support through green bonds and discounted interest rates on loans for environmental projects, accelerating the growth of carbon markets through adapting financial infrastructure, strengthening legal infrastructure in order to clarify environmental liabilities of banks, and requiring environmental disclosure for companies.

The report can be accessed at <http://bit.ly/1LGfOhg>



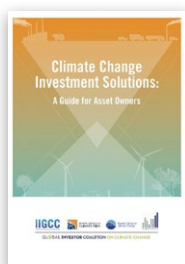
National Climate Change Adaptation Emerging Practices in Monitoring and Evaluation – OECD – April 2015

This report by the Organisation for Economic Co-operation and Development (OECD) presents four tools for countries monitoring and evaluating their vulnerability to climate change. Recommendations include creating climate change risk and vulnerability assessments, creating indicators to monitor progress, project and programme evaluations to identify effective adaptation approaches, and audits and climate expenditure reviews. The report can be accessed at <http://bit.ly/1Jwt6iT>



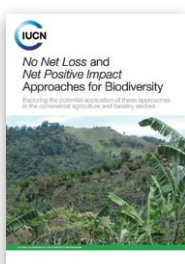
Trade and Green Economy: A Handbook – UNEP, IISD – April 2015

This handbook, published by the UN Environment Programme (UNEP) and the International Institute for Sustainable Development (IISD), suggests that while increased trade and economic activity are often linked with increased carbon emissions, trade also allows for the spread of low carbon technology, product standards, and regulations that can incentivise the reduction of environmental damage. It also addresses recent WTO jurisprudence, the emergence of BRIC economies, and the increase in preferential trade agreements. The handbook can be accessed at <http://bit.ly/1SBxkIY>



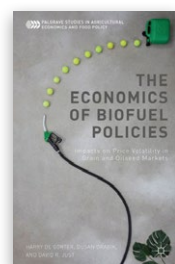
Climate Change Investment Solutions: A Guide for Asset Owners – Global Investor Coalition on Climate Change – April 2015

Aimed at trustee boards, investment committees, and asset managers this guide, published by four climate change investor groups, discusses methods for investors aiming to protect their portfolios and harness opportunities created by the move to a low carbon economy. It covers ways to integrate climate change into investment beliefs and policies, managing risk, reduce the carbon output of existing assets, and protect current assets against the physical impacts of climate change. The four investor groups include IIGCC, INCR, IGCC, and AIGCC. The report can be viewed at <http://bit.ly/1cONmOM>



No Net Loss and Net Positive Impact: Approaches for Biodiversity – IUCN – April 2015

The result of an exploratory workshop held by International Union for the Conservation of Nature (IUCN) in October 2013, this report examines the experience in the extractives and infrastructure sectors with setting No Net Loss (NNL) and Net Positive Impact (NPI) goals. The objectives of this report are to learn from the NNL/NPI experience of these sectors and explore the potential for applying these approaches in the agriculture and forestry sectors. The report can be accessed at <http://bit.ly/1H3ruat>



The Economics of Biofuel Policies: Impacts on Price Volatility in Grain and Oilseed Markets – Palgrave Macmillan – April 2015

This book by Harry de Gorter, Dusan Drabik, and David R. Just focuses on the role of biofuel policies on world grains and oilseed markets since 2006. The book puts together theory and empirical evidence on how biofuel policies created a link between crop and biofuel prices. The book also looks at how biofuel policies affect the link between biofuels and energy prices. It provides an overview of how alternative US, EU, and Brazilian biofuel policies have impacts on the level and volatility of food grain and oilseed prices. The book can be purchased at <http://bit.ly/1Qh253V>

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Price: €10.00
ISSN 1996-9198

