Trade & Response Measures in the UNFCCC

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Definitions
Relevant definitions

- **Climate change**
  Human induced versus change in the climate system

- **Developing countries**
  In UNFCCC developed countries are listed in Annexes 1 and 2 of the Convention and all other countries are considered as developing.

- **Green economy policies**
  Defined in “The future we want” para 58, 16 conditions
Para 58 (h)

- Not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade,

- avoid unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country, and

- ensure that environmental measures addressing transboundary or global environmental problems, as far as possible, are based on an international consensus.
Linkages
Main trade and climate change linkages

1) Climate change physically affecting trade (in terms of patterns and volume);

2) Trade affecting climate change, both directly and indirectly;

3) Climate change policies affecting trade;

4) Trade policies as a mechanism to address climate change and promote low-carbon growth.
Climate change physically affecting trade

- Biophysical effects of climate change on trade

- Potential adverse effects on agriculture, fisheries and societies can modify countries’ productive capacities, affecting their comparative advantages and consequently their trade patterns and export specializations.

- Extreme weather events related to climate change threaten physical integrity and infrastructure needed for trade

- Climate change will affect trade as countries react, adapt and adjust to the current or potential impacts of climate change.

- Agricultural sector, e.g. is particularly affected by climate change, raising food security and economic development concerns for countries, especially in the developing world.
Trade affecting climate change

Direct impacts of trade on climate change exist where trade-related activities have a causal effect on climate change, which can be positive or negative.

A decline in trade barriers can affect the environment by increasing the scale of economic activity, consequently resulting in enlarged levels of greenhouse gas (GHG) emissions derived from new opportunities of exchange of goods and services.

Trade liberalization may influence the composition of economic activity in a given country, once national economies tend to concentrate its activities on sectors which they have comparative advantages.

Depending on the nature of their production, inter alia, countries might become more or less GHG-intensive.

Improvements in the processes of production (e.g. cleaner technologies), result in reductions of GHG emissions and create opportunities related to climate change mitigation.
Climate change policies affecting trade

A wide range of policies has been developed to address climate change, such as:
- carbon taxes,
- emission trading schemes,
- border carbon adjustments,
- allocation of emission allowances free of charge,
- national promotion of low GHG emitting technologies and clean energy,
- technical requirements,
- standards and labelling schemes,
- subsidies & regulations of bunker fuels.

These policies can potentially have negative impacts on trading partners.
Use of trade policies for climate change adaptation and mitigation involves, inter alia,

removal of trade barriers for climate-friendly goods and services, increasing their availability and lowering their cost,

Stimulation of the diffusion of climate-friendly technologies.

Trade policies can also involve intellectual property rights to provide incentives for investments in research and development of new technologies.

But for technology recipients, intellectual property rights may however have undesirable effects, such as increased costs of acquisition of climate-friendly technologies.
Trade & response measures in the UNFCCC
Trade in the Convention

Trade concerns have consequently appeared since the very onset of the Intergovernmental Negotiation Committee that negotiated the UNFCCC. This is mainly reflected in the following Convention Article 3, paragraph 5:

5. The Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problems of climate change. Measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.
The Kyoto Protocol considers trade, both explicitly and implicitly, in the following Articles:

2.3 The Parties included in Annex I shall strive to implement policies and measures under this Article in such a way as to minimize adverse effects, including the adverse effects of climate change, effects on international trade, and social, environmental and economic impacts on other Parties, especially developing country Parties and in particular those identified in Article 4, paragraphs 8 and 9, of the Convention, taking into account Article 3 of the Convention. [...]

Trade &KP
3.14 Each Party included in Annex I shall strive to implement the commitments mentioned in paragraph 1 above in such a way as to minimize adverse social, environmental and economic impacts on developing country Parties, particularly those identified in Article 4, paragraphs 8 and 9, of the Convention. In line with relevant decisions of the Conference of the Parties on the implementation of those paragraphs, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session, consider what actions are necessary to minimize the adverse effects of climate change and/or the impacts of response measures on Parties referred to in those paragraphs. Among the issues to be considered shall be the establishment of funding, insurance and transfer of technology.
In particular Article 16 under 1.CP.10, adopted in Buenos Aires in 2005, provide for measures to address building resilience to possible impacts of response measures, in particular through economic diversification.

Similarly to Article 3.14 of the KP, there is no explicit mention of trade in Article 16 under 1.CP.10.

Trade is however a crucial component in any strategy towards diversification, particularly in relation to economic diversification.
Decision 31/CMP.1

Ground breaking agreement between developed country Parties to the Kyoto Protocol and developing countries

The Montreal decision recognizes that minimizing the impacts of the implementation of Article 3, paragraph 1, of the Kyoto Protocol is a development concern affecting both industrialized and developing countries, and commits each Party included in Annex I to take fully into account the consequences of these actions on developing countries, and to prevent or minimize their adverse effects.

It furthermore requests Annex I Parties to provide information regarding their efforts to implement the commitments from Article 3, paragraph 1 of the Kyoto Protocol in such a way as to minimize adverse social, environmental and economic impacts on developing country Parties.
The decision also invites Parties not included in Annex I to provide information on their specific needs and concerns relating to the adverse social, environmental and economic impacts arising from the implementation of commitments under Article 3, paragraph 1 of the Kyoto Protocol, and requests Parties included in Annex II to the Convention to provide support for that purpose.

Decided to develop guidelines to help determine if Parties included in Annex I are striving to minimize adverse effects, including the adverse effects of climate change, effects on international trade, and social, environmental and economic impacts on other Parties, especially developing country Parties.

Developing countries, especially those in the G77 + China Group, have however widely stressed that several of these actions have not been properly implemented.
COP 13 marked the beginning of an era regarding trade and climate change.

Indeed, for the first time, trade ministers were convened by the presidency of the COP, Indonesia, parallel to the COP, to discuss trade and climate linkages specifically.

The guidance provided by FCCC/CP/2007/6/Add.1 made specific trade mentions, including on the relation to the WTO.
Specific trade concerns

In addition to general references to trade, there are also more specific trade concerns related to certain sectors.

Three sectors:
- agriculture,
- bunker fuels and
- technology transfer

They share a common presence in documents, have unresolved character on the trade agenda and they are quantitatively important as GHG emissions.

For some Parties, these issues are the most relevant and, for the community as a whole, they are complex and even controversial.
COP 17 in Durban reached a decision to create a forum on the impact of response measures, which intends to improve the understanding of the impact of the implementation of response measures.

Over the years, discussions of response measures have appeared in as many as six different negotiations under the UNFCCC.

The creation of the forum, that is now the designated venue for all discussions on response measures, will thus simplify and channel the work in all different spaces.
LCA- Shared vision

In spite of the agreement on conducting issues under the Forum, in the informal negotiations in Bangkok 2012, a group of 18 Parties submitted formally a document containing the following paragraphs:

6. Decides that the developed country Parties shall not resort to any form of unilateral measures against goods and services from developing country Parties on any grounds related to climate change, including protection and stabilization of climate, emissions leakage and/or cost of environmental compliance;
LCA- Shared vision

In paragraph 7 of the mentioned document affirms that:

... to enable meaningful mitigation and adaptation in developing countries,... TRIPS may be used to the fullest extent by developing country Parties...

...; specific and urgent measures shall be taken by developed country Parties to enhance the development and transfer of technologies at different stages of development...

... all Parties shall ensure removal of all obstacles to ensure the transfer of technology to developing countries.
Outcomes of Rio+20
Role of trade in technology transfer

271. We underline the need for enabling environments for the development, adaptation, dissemination and transfer of environmentally sound technologies.

In this context, we note the role of foreign direct investment, international trade and international cooperation in the transfer of environmentally sound technologies...
281. We reaffirm that international trade is an engine for development and sustained economic growth, and also reaffirm the critical role that a universal, rules-based, open, non-discriminatory and equitable multilateral trading system, as well as meaningful trade liberalization, can play in stimulating economic growth and development worldwide, thereby benefiting all countries at all stages of development, as they advance towards sustainable development. In this context, we remain focused on achieving progress in addressing a set of important issues, such as, inter alia, trade-distorting subsidies and trade in environmental goods and services.
Does climate protection deserve public health treatment?

142. We reaffirm the right to use, to the full, the provisions contained in the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Doha Declaration on the TRIPS Agreement and Public Health, the decision of the WTO General Council of 30 August 2003 on the implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, and, when formal acceptance procedures are completed, the amendment to article 31 of the Agreement, which provides flexibilities for the protection of public health, and, in particular, to promote access to medicines for all, and encourage the provision of assistance to developing countries in this regard.
Conclusions

Trade and climate change are intrinsically linked, and so are the policies governing them.

Three parallel processes— the UNCSD, the UNFCCC and the WTO— all touch upon it, in different ways and with different mandates,

But they build on a common understanding that the measures undertaken should not “constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade”
Conclusions

Fear of “green protectionism”

Particular emphasis on “unilateral measures”

Carbon standards, labeling and border measures are all looked upon with suspicion.

According to a group of Parties, trade issues shall be part of a shared vision and treated in the Forum established in Durban.

There is a need for a positive agenda on climate change and trade, in order to reduce the impact of response measures.
Thank you!

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