

# **PROMOTING THE DEVELOPMENT OF THE SOUTH IN THE TRADE AND CLIMATE REGIMES**

## **SYNOPSIS**

This South Centre Analytical Note stresses that addressing the challenges of development and climate change requires an integrated approach. Both the trade and climate regimes have a role to play. In each case, a development perspective must guide discussions to ensure an outcome that advances the needs and aspirations of developing countries and their peoples. The shift to a low-carbon economy requires a range of measures to support developing countries, and sufficient development policy space to allow those countries to tailor approaches to their national contexts. In particular, developed countries must fulfill their existing international obligations in both the trade and climate regimes, and ensure that their development-related rhetoric is matched by the reality of their actions. This paper identifies a number of areas where developed countries are falling short in promoting development-oriented outcomes on trade and climate issues, and where further efforts should be made.

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IN THE TRADE AND CLIMATE REGIMES**

**Table of Contents**

Executive Summary .....	3
I. Introduction .....	4
II. In the Trade Regime .....	5
A. Barriers to climate-friendly exports from developing countries .....	5
B. Environmental goods and services .....	5
C. Non-agricultural market access (NAMA) .....	6
D. Agricultural negotiations .....	7
E. Technology transfer .....	8
III. In the Climate Regime .....	9
A. Implementation of existing technology transfer commitments .....	9
B. Introduction of “international competitiveness” considerations .....	10
IV. Conclusion .....	10

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## Executive Summary

Addressing the challenges of development and climate change requires an integrated approach. Both the trade and climate regimes have a role to play. In each case, a development perspective must guide discussions to ensure an outcome that advances the needs and aspirations of developing countries and their peoples.

The shift to a low-carbon economy requires a range of measures to support developing countries, and sufficient development policy space to allow those countries to tailor approaches to their national contexts. In particular, developed countries must fulfill their existing international obligations in both the trade and climate regimes, and ensure that their development-related rhetoric is matched by the reality of their actions.

This paper identifies a number of areas where developed countries are falling short in promoting development-oriented outcomes on trade and climate issues, and where further efforts should be made.

In the context of the international trading system, developed countries can help promote climate and development friendly outcomes by, inter alia:

- Removing barriers to climate-friendly exports from developing countries.
- Addressing developing country concerns in WTO environmental goods and services (EGS) negotiations.
- Ensuring WTO non-agricultural market access (NAMA) negotiations support, rather than undermine, the industrial development required to adapt to climate change.
- Ensuring WTO Agriculture negotiations support, rather than undermine, the capacity of farmers in developing countries to develop and improve their capacity to adapt to climate change.
- Supporting meaningful technology transfer to developing countries, including through steps to increase flows of technology outside the WTO EGS negotiations.

In the context of the climate regime, developed countries can help promote appropriate outcomes by, inter alia:

- Implementing their existing technology transfer and financial obligations under the UNFCCC and Kyoto Protocol.
- Addressing competitiveness concerns, if any, in the context of the existing processes established in the climate regime, including the Subsidiary Body on Implementation.

Implementation by developed countries of these obligations and activities is an essential foundation for building the trust required to realize the sustainable development objectives of both the WTO's Doha Development Agenda and the UNFCCC Bali Roadmap process.

## PROMOTING THE DEVELOPMENT OF THE SOUTH IN THE TRADE AND CLIMATE REGIMES

### I. Introduction

1. Addressing the twin development and climate change challenge requires an integrated approach to, inter alia, trade policy, economic diversification, the development of productive capacity, environmental policy, investment policy, intellectual property policy, among others. This approach should ensure that the overall development approach is “climate-friendly”, alleviate poverty, achieves development, and improves standards of living while adapting to and mitigating climate change.
2. Both the trade and climate regimes have sustainable development at the core of their respective mandates. In the trade regime, promoting the objective of sustainable development is clearly stated in the Preamble of the WTO Agreement as well as in over 40 references to development in the Doha Ministerial Declaration. In the climate regime, the UNFCCC and the Kyoto Protocol both recognize that meeting the development needs and priorities of developing countries is an integral component to global action on climate change.
3. Developing countries have been consistent and clear in articulating the primacy and necessity of addressing and promoting their development options in both the trade and climate regimes. In the trade regime, they have put forward clear positions in agriculture, NAMA, services, trade facilitation, and environmental goods and services on how the Doha negotiations can arrive at a development-oriented outcome. In the climate regime, developing countries have stressed that meeting development objectives would require, among others, a reflection of the principle of common but differentiated responsibility with respect to reductions in greenhouse gas emissions (including for developed countries to fully implement their commitments in this area), the implementation of existing commitments on technology transfer to developing countries, and the establishment of an operational Adaptation Fund easily available to developing countries.
4. Developing countries have continually stressed the need for development policy space, choices, and flexibilities, so as to ensure that international commitments and domestic policies are able to address in a flexible manner the unique set of development and environmental circumstances of each individual developing country. They have also stressed the need to improve supply-side productive capacity through financing support for the acquisition of technologies and the modernization of production in developing countries. In addition, they have called for technical assistance and capacity building, especially in terms of research and development, design and production, and infrastructure development to support a shift to cleaner, less carbon-intensive, and more equitable and sustainable production and consumption patterns in developing countries.
5. Developed countries have been equally engaged in the trade and climate regimes, although from a development-oriented perspective, their approach leaves much to be desired. In many cases, there is a gap between their pronouncements of support for development and their actions. This note highlights some areas in which there continue to be failures in addressing the development dimensions of the trade and climate regimes.

## II. In the Trade Regime

### A. *Barriers to climate-friendly exports from developing countries*

6. Developed countries, especially the EU and the US, claim an interest in removing trade barriers to climate-friendly exports. Their practice, however, leaves much to be desired. The EU, for example, has recently imposed anti-dumping duties of up to 66% on energy saving lightbulbs made in China. In both the US and EU, Brazilian exports of biofuels face significant tariff (at least 25% in the US and 50% in the EU) and non-tariff barriers (in the form of subsidies to domestic biofuel producers). These countries have also threatened to put in place a Kyoto tax or other measures designed to address so-far unproven competitiveness concerns arising from developing country production processes.
7. These measures are inconsistent with the EU and US' claimed interest in liberalizing climate-friendly products, including their recent proposal (Job(07)/193) in the WTO in late 2007 to eliminate tariff and non-tariff barriers in environmental goods and services, and hence should be immediately removed.

### B. *Environmental goods and services*

8. The EU and US claimed that their proposal would be "an important part of the EU and US' contribution to the Bali Trade Ministers' summit on climate change." The proposal, however, mainly restated their existing positions in the WTO environmental goods and services negotiations and failed systemically to respond to concerns and proposals raised by developing countries. Rather, it was geared to furthering their access to overseas markets for certain products of their export interest.
9. A genuine effort to contribute on trade and climate issues would involve identifying not merely market-based trade liberalization of environmental goods and services across the board for all WTO Members, but rather an approach that responds effectively to developing country proposals for an integrated and development-oriented approach which is required for a more coherent approach to trade policy, environmental protection, and development, especially in developing countries. The EU and US proposal fails to address concerns identified in developing country proposals for an integrated or project-based approach<sup>1</sup> as well as other developing country proposals<sup>2</sup>.
10. To achieve a balanced, development-oriented outcome, countries should agree, among other things, to:

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<sup>1</sup> See e.g. TN/TE/W/51 (3 June 2005), TN/TE/W/57 (4 July 2005), TN/TE/W/60 (19 September 2005), TN/TE/W/67 (19 June 2006) of India; TN/TE/W/62 (14 October 2005); Job(07)/77 of India and Argentina.

<sup>2</sup> Submissions by TN/TE/W/59 (8 July 2005) of Brazil; TN/TE/W/55 (5 July 2005) of Cuba. In oral statements in various meetings of the Committee on Trade and Environment Special Session, Argentina, Brazil, Colombia, Bolivia, Venezuela, Paraguay, Ecuador, Egypt, South Africa, China, and others all stressed the need for development to be a major component in the negotiated outcome.

- (i) Ensuring that the negotiations' *product coverage* is balanced in favour of developing countries, in particular by focusing on products of environmental and export interest to developing countries and through modalities (e.g. the project approach, China's dual list approach) that ensure reflection of developing country interests;
  - (ii) Reflecting *less than full reciprocity in tariff cuts* ("zero tariff" approaches would require developing countries to make larger, not smaller, tariff cuts than developed countries);
  - (iii) Eliminating *unjustified trade restrictions* on developing country environmental goods exports;
  - (iv) Providing *transitional implementation periods* linked to development status and implementation capacity;
  - (v) Delivering an *integrated technology transfer approach*, which supports tariff cuts with funding to identify, transfer, adapt and implement appropriate technologies in developing countries.
11. The WTO negotiations on environmental goods and services should be complementary to the discussions on technology transfer, finance and investment in climate-friendly technologies that are taking place in the climate negotiations. They should also not divert from implementation and compliance by Annex I (i.e. developed) countries of their existing UNFCCC and Kyoto Protocol commitments to facilitate technology transfer of environmentally sound technologies (UNFCCC, Art. 4(5)) and provide financial resources to developing countries (Kyoto Protocol, Art. 11).

### ***C. Non-agricultural market access (NAMA)***

12. Building industrial capacity in developing countries is essential to advance development and improve their ability to mitigate and adapt to climate change. The WTO negotiations on NAMA will have a significant effect in terms of the industrialization prospects of developing countries, and hence on their future responses to climate change.
13. These prospects will be affected by the NAMA negotiations. Currently, the modalities proposed for these negotiations remain tilted in favour of greater market access through tariff liberalization, and include little if any of the flexibilities needed to reflect the principle of less than full reciprocity that developing countries require.
14. In this regard, to enhance the development impact of the outcome of the NAMA negotiations, countries should agree, among other things, to:
- (i) Formula approaches for tariff cuts that reflect *less than full reciprocity in favour of developing countries*, in a way that enhances the ability of developing countries to use tariff measures as an effective tool for developmental purposes;
  - (ii) Provide *enhanced market access to developing countries* for their industrial exports;
  - (iii) Assist developing countries to take greater advantage of trade opportunities by meeting technical requirements and other non-tariff barriers and by diversifying their export products and markets, by providing *capacity-building support* (including trade-related assistance) to address specific needs and concerns arising

out of NAMA (e.g. industrialisation, productive and export diversification, diversification of export markets, fiscal reform and loss of fiscal revenue, etc.).

15. Ensuring a strong development-oriented outcome from the WTO NAMA negotiations will be essential for building industrial capacity necessary to mitigate and adapt to climate change and shift to a low-carbon, climate-proof and climate-friendly development path.

#### ***D. Agricultural negotiations***

16. Agriculture is one of the major international trade issues. Its development impact is very great for many developing countries whose economies and peoples continue to rely on agricultural production. Climate change threatens agricultural communities, especially in developing countries. The livelihoods of these communities and their ability to adapt to climate change will depend, in large part, on the outcome of the WTO agriculture negotiations. Promoting a pro-poor outcome in the WTO agriculture negotiations will make a significant contribution to both development and climate outcomes.
17. However, the high levels of trade distorting domestic and export support in the agricultural sector by developed countries have so far escaped WTO disciplines and have adversely affected the development prospects of developing countries. Developed countries are responsible for the main distortions in agriculture and therefore must be the ones to move to address these effectively.
18. To this end, there must be comprehensive solutions in export competition, domestic support and market access, and mechanisms that support the ability of developing countries to enhance food security and rural livelihoods. A strong and vibrant agricultural sector will enable developing countries to adapt better to climate change. Hence, countries should agree, among other things, that:
  - (i) In *domestic support*, there should be effective cuts in overall trade-distorting subsidies (OTDS), at the lowest end of the ranges being discussed; credible and effective disciplines to avoid concentration of expenditures, product-shifting and box-shifting of support, with deeper and more expeditious commitments for cotton; the development of disciplines to ensure that green box policies are indeed non- or, at most, minimally trade-distorting and accommodate programmes of interest to developing countries;
  - (ii) On *market access*, the formula for tariff cuts must be consistent with developing country proposals (especially of the G-20) on tiers, cuts, capping and average cuts. Developed countries must commit to meaningful tariff rate quota (TRQ) expansion to effectively compensate for the deviation from the formula cut for sensitive products and to the elimination of the SSG. Conversion of all agricultural tariffs to simple *ad valorem* terms is essential to ensure transparency, predictability, and an overall balanced result in market access in the Round. The modalities must also deliver on the mandate for RAMs, SVEs, tropical and alternative products, tariff escalation and preference erosion.
  - (iii) On *export competition*, the deadline of 2013 for the elimination of all forms of export subsidies as agreed in Hong Kong should be complied with and cannot be reopened. Strengthened and improved monitoring and surveillance to ensure compliance with new commitments and disciplines is also needed;

(iv) *Special and Differential (S&D) treatment* must be made operative and integral to the negotiations in the three agriculture pillars. There must be overall proportionality in tariff reduction commitments. The vital importance to developing countries of special products (SPs) in addressing the food security, rural development and livelihood concerns of developing countries, and of the special safeguard mechanism (SSM) as core development instruments cannot be overstated and must be made integral parts of the modalities and the outcome of negotiations.

19. A development-oriented outcome of the WTO agriculture negotiations, as well as supporting development, will improve the capacity of developing countries to adapt better to climate change.

### ***E. Technology transfer in the WTO***

20. WTO Members have long recognized the importance of technology transfer to developing countries. The Doha Ministerial Declaration calls for an examination “of the relationship between trade and transfer of technology, and of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries” (paragraph 37). The Hong Kong Ministerial Declaration recognizes “the relevance of the relationship between trade and transfer of technology to the development dimension of the Doha Work Programme” (paragraph 43).

21. Any effort regarding technology transfer should seek to identify and address the specific barriers to technology transfer in climate-friendly technologies facing developing countries. It should also be complemented with technical assistance and capacity building designed to remove or otherwise address those barriers. As steps towards achieving such an outcome, countries could consider, among other things:

- (i) Requesting developed Members to provide additional information on existing programmes and activities designed to promote technology transfer (building on information submitted by Canada (TN/TE/W/50/Rev.1) and other delegations);
- (ii) Identifying any aspects of the work of the WTO Working Group on Trade and Transfer of Technology that may be of relevance to the work of the CTESS under the environmental goods and services negotiations;
- (iii) Looking at the barriers, challenges and opportunities to technology transfer from developed to developing countries with respect to climate-friendly technologies, including, among other things, the impact of intellectual property rights, support for the increase in innovation and research and development capacity in developing countries, improving the capacity to adopt and adopt transferred technologies in developing countries;
- (iv) Identifying additional activities and initiatives that could be taken in collaboration with or beyond the WTO to promote technology transfer in a manner consistent with the paragraph 31(iii) negotiations and with legally binding commitments in other international treaties such as the UN Framework Convention on Climate Change.

22. Efforts to identify additional means to transfer technology and related technical know-how to developing countries, drawing on experiences elsewhere in the WTO, could help to secure agreement under the environmental goods and services



negotiations and increase the likelihood of delivering on an integrated technology transfer approach, which supports tariff cuts with funding to identify, transfer, adapt, implement and innovate on appropriate technologies in developing countries.

### III. In the Climate Regime

23. The actions suggested above in the context of the trade system can be undertaken within the existing WTO framework and do not require new mandates or bodies. Similarly, in the context of the existing climate discussions and framework, there are a range of opportunities for developed countries to deliver on existing climate commitments in a manner that increases the synergies between trade and climate.

#### *A. Implementation of existing technology transfer commitments*

24. There are existing technology transfer (including financing) commitments in the UNFCCC (see e.g. Art. 4(1)(c), Art. 4(5), and Art. 4(9)), and the Kyoto Protocol. Article 11 of the Protocol calls for developed country Parties to “provide such financial resources, including for the transfer of technology, needed by developing country Parties to meet the agreed full incremental costs of advancing the implementation of existing commitments.”
25. Despite the clarity of these commitments, developed countries have not fully implemented their technology transfer obligations. Indeed, the opposite seems to be occurring. In the Bali conference, developed countries have opposed the addition of technology transfer to the agenda of the Subsidiary Body on Implementation (SBI), the body that reviews the implementation of treaty commitments by UNFCCC and Kyoto Protocol Parties. After agreement in the COP to the consideration of technology transfer within the SBI, developed countries sought to reopen the debate in the SBI. A legal opinion by the UNFCCC Secretariat was required to resolve the issue in favour of the addition of the agenda item to the SBI. Developed countries subsequently sought unsuccessfully to block the establishment of the contact group to discuss implementation by developed countries of their technology transfer commitments.
26. These are treaty obligations that are legally binding but, unfortunately, have not yet been fully implemented. In this regard, among other things:
- (i) As agreed in Bali, the implementation of technology transfer commitments should be addressed under the SBI, and technology transfer issues should not be used as a means for extracting further commitments from developing countries in any discussion on Long-Term Cooperative Action or elsewhere under the UNFCCC or the Kyoto Protocol;
  - (ii) Concrete mechanisms should be established in the SBI to oversee the full implementation by developed countries of their technology transfer obligations including the provision of financial resources to meet the agreed full incremental costs of implementing existing developing country commitments. Any such financing mechanisms should, among other things, provide financial support to developing countries for the research, development, deployment and transfer of climate-friendly technologies, including the use, innovation and adaptation of such technologies;

- (iii) Any transfers of climate-friendly technologies to developing countries occurring outside of such UNFCCC/Kyoto Protocol mechanisms should be under preferential rather than full market-based commercial conditions.

### ***B. Introduction of “international competitiveness” considerations***

27. A number of developed countries have sought to add new agenda items to future discussions under the UNFCCC relating to international trade and competitiveness. A Japanese proposal in Bali, for example, has called for negotiations that would, among other things, create a “level playing field in terms of international competitiveness” as part of a post-2012 regime.
28. Issues of international trade are already addressed in the UNFCCC and Kyoto Protocol. The Convention provides that “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”(UNFCCC Art. 3(5)).
29. The Protocol, similarly, states that “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...”(Kyoto Protocol, Art. 2(3)).
30. Issues relating to international competitiveness presumably arise out of measures that Parties are implementing. In this context, existing treaty text and mechanisms, such as those above, already provide for sufficient basis for the consideration of implementation-related competitiveness issues, and existing forums such as the SBI should be sufficient to discuss these. Hence, there is no reason to further burden the discussion agenda for a post-2012 regime with concerns relating to international competitiveness when such concerns could be better and more logically discussed in the SBI.
31. Similarly in the WTO, a range of bodies exists to address trade and competitiveness concerns relating to tariff and non-tariff barriers. The Committee on Technical Barriers to Trade is provides a form for discussing the impact of technical regulations, standards and labels established for environmental and other purposes. The Committee on Trade and Environment is mandated to examine impacts on market access of environmental requirements. There is nothing to suggest that these forums would be insufficient to address emerging environmental issues.

## **IV. Conclusion**

32. Developed countries in both the trade and climate regimes have committed to supporting development-oriented outcomes. There is, however, still some distance to go in terms of matching the reality of their actions with their development rhetoric.

33. Nevertheless, there are a number of concrete actions – some of which are identified in this paper – that developed countries could take to ensure more developed-oriented outcomes in both the trade and climate forums, in collaboration with their developing country partners.
34. Delivering on development promises is an essential foundation in building the trust required to realize the development objectives of both the WTO's Doha Development Agenda and the UNFCCC Bali process.

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