



**Friends of
the Earth
Europe**



INTERNATIONAL
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TRADE AND CLIMATE CHANGE: PERIL OR PROMISE?

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Report

by Greenpeace and Friends of the Earth Europe

Abstract

Climate change is the greatest threat our world faces. However, the debate on trade and climate change is still new. Looking at trade's contribution to the problem as well as trade's potential role in combating climate change the session showed that trade liberalisation exacerbates climate change and that the WTO is ill-equipped to identify and provide flexible incentives for the most efficient technologies to combat climate change.

In order to provide maximum flexibility in implementing measures to combat climate change developed countries' efforts to impose a global energy regime upon developing countries must end. In the energy services negotiations, developed countries have to stop their liberalisation pressure on the energy markets of developing countries. Expanding the WTO's powers over energy and climate policy would be a bad policy choice.

I. Peril or promise?

Development, Trade and Climate Change Policy

The first speaker, Vicente Paolo B. Yu III, from the South Centre, noted that the climate change debate is fragmented. His presentation "Development, Trade and Climate Change Policy" provided context while highlighting a development approach.

Mr. Yu stressed that, if we talk about climate change, we must be aware that many developing countries are still marginalised in the global arena: economic imbalances are still prevailing, social distress and conflicts arising from poverty are a reality. There are great disparities in ecological footprints between the North and the South and the climate change debate must take account of these differences. A lot more needs to be done to achieve the Millennium Development Goals (MDGs) in terms of delivering on equity and poverty reduction.

We need global approaches to deal with global problems such as climate change. The actions on a national level also require an enabling international policy framework to be fully effective. The United Nations Framework Convention on Climate Change (UNFCCC) can be used as the foundation for multilateral action on climate change. But we have to ensure coherence for sustainable development in the international economic and social policy architecture on trade, finance, debt, employment, development cooperation, health, humanitarian assistance.

According to Vicente Yu, the key concepts for a development and climate change policy framework are first to operationalize the Rio principle of 'common but differentiated responsibilities' and, second, to build a supportive and enabling international economic policy architecture and framework for the sustainable development of developing countries. Developed countries should effectively reduce greenhouse gases (GHG) and go beyond Kyoto commitments (mitigation) to prevent global warming above 2 degrees Celsius (compared to pre-industrial levels); and help developing countries, especially Small Island Developing States (SIDS) and Least Developed Countries (LDCs), to cope with the impacts of climate change through compensatory adaptation financing.

To get this supportive and enabling international economic policy architecture the developed countries have to provide room for the sustainable development of developing countries by:

- allowing them the needed development policy space for industrial, trade, finance, and economic policy flexibility;
- supporting multilateral cooperation on, inter alia, development financing, debt relief, humanitarian assistance, disaster and risk prevention and mitigation, and technology transfer;
- addressing development and climate concerns of the SIDS and LDCs as an urgent global priority;
- enhancing South-South cooperation and integration on development and climate change.

Trade policy has to offer the development policy space and flexibility needed for development. The WTO negotiations currently are an intense debate between developed and developing countries over role, appropriateness and extent of trade liberalization vis-à-vis development policy space which could be used to put in place climate-friendly development

policies (e.g. appropriate tariff and subsidy structures to support economic diversification of developing countries, the development of their supply-side capacity and increased access to rich countries' markets). The regime of the WTO's Agreement on Trade-Related Intellectual Property Rights (TRIPS) limits the ability to maximize flows of climate-friendly technologies to developing countries under conditions which allow them to adapt, innovate, and produce such technologies. Vicente Yu urged that ways must be found to overcome these limitations.

Mr. Yu provided a long list of other policies for an integrated policy framework for development and climate change. These domestic and global adaptation measures for climate change should focus on minimizing the risks and enhancing the opportunities for development, especially in developing countries and their poorest communities. Policies should focus on grassroots and community-based approaches and use sustainable practices – energy, agriculture, natural resource management, environmental protection, etc. – to reduce unsustainable consumption and production. An international policy framework for the equitable use and sharing of global public goods such as water and energy should be developed. The development of domestic demand- and supply-side capacity for climate-friendly (including renewable energy) goods, technologies and services, in both developed and developing countries must be supported by appropriate policies. The non-commercial transfers of climate-friendly technologies, goods and services to developing countries, with an appropriate policy package for host developing countries to innovate on transferred technologies and make them more appropriate to local conditions has to be facilitated. A compensatory adaptation financing to developing countries, especially for SIDS and LDCs has to be provided. As a first step, we need:

- enhanced debt relief for developing countries;
- action from developed countries on their commitment to enhance development assistance, and
- increased South-South regional integration and cooperation.

Up to now energy, trade, migration and agriculture have been treated as different regimes. According to Vicente Yu it is critical that we step back and find a way to integrate these regimes so that climate change policy and development policy are at the centre of the debate. A global problem such as climate change requires global solutions. Developed countries must take immediate, effective measures to combat climate change while developing countries should take efforts based on the principle of common but differentiated responsibilities. For example, developing countries should focus their efforts towards decreasing energy intensity while developed should focus on reducing total GHG emissions drastically.

Market Liberalisation of Environmental Goods and Agrofuels - A Panacea for Measures to Combat Climate Change?

Tobias Reichert, from Germanwatch, presented a contribution entitled “Market Liberalisation - A Panacea for Measures to Combat Climate Change? The Case of Environmental Goods and Agrofuels”. He directly addressed the issues of whether international trade exacerbates climate change and looked at the problems inherent in defining an ‘environmental good’. He noted four links between trade liberalisation and climate change: transportation, economic growth, relocation of production, and access to technology and cleaner products:

- Transport accounts for 1/3 of global carbon emissions, more trade normally means more transport, and the effects of trade liberalisation are likely to be negative from a transport perspective;
- Economic growth is historically linked with increasing carbon emissions, via higher energy consumption. There is no systematic decoupling, let alone reversal yet, and the effect of growth through further liberalisation is likely to be negative;
- The effect of the relocation of production on climate change depends on relative energy/GHG efficiency between domestic production and imports. Pure market mechanisms do not ensure that environmental costs are taken into account – on the contrary: shift of manufacturing to China with relatively low energy efficiency is negative from the perspective of GHG emissions. So trade liberalisation is only positive if the right conditions are in place;
- Currently, trade barriers for climate-friendly energy production technologies can increase prices for these goods. Liberalisation of climate-friendly goods, or environmental goods, could therefore help mitigate climate change.

Elaborating on the last point Tobias Reichert then addressed the question: How do we define environmental goods in a manner that promotes trade of environmentally friendly products? Liberalising trade in “climate friendly” goods and technologies faces various challenges in the WTO. The tariff reduction negotiations are based on the “Harmonised System” of the World Customs Organisation and the used categories are usually too broad to identify specific climate-friendly technologies. Furthermore, many components for environmentally-friendly technologies, e.g. for power plants, can also be used for conventional technologies (e.g. coal fired plants). Also, the goods classification is based on physical characteristics, not on the end-use or method of production. Especially problematic is the generic definition of environmental/climate goods, which goes beyond looking at a few technologies. Considering the end use of a product is relevant for “dual use” goods (such as turbines, which can be used in many energy technologies). Considering the production process is key to define “eco” or climate-efficient products, but the WTO system does not allow for “process and production methods” (PPMs) to be taken into account by trade negotiators. Another problem is technological progress: efficiency is also a “moving target” – the most energy efficient fridge or TV may be only average in 5 years, which means that the criteria of environmental efficiency need to be constantly updated. In other words, tariff reductions implemented for climate-friendly products will soon be outdated as new technology emerges, but the WTO system makes it very difficult to repeal tariff reductions, since the WTO is a static system. Nevertheless, as technology and knowledge on climate effects and efficiency evolve rapidly, there is a growing need for adaptation of incentives and preferences based on a flexible regime.

Agrofuels (often misleadingly named “biofuels”) provide an excellent example of environmental goods that have turned out to be less climate-friendly than initially thought. Plant-based fuels have been touted as a clean burning alternative to fossil fuels and there has been significant investment in agrofuel production operations. However, as recent studies suggest, the energy and GHG balances of agrofuels can actually be negative. For instance, one recent study shows that the production of agrodiesel from rapeseed can release more GHG than using fossil diesel. In any case they are less efficient than other forms of agro-energy. Liquid fuels are more “tradable” than other agro-energy forms – therefore trade liberalisation may lead to demand being shifted to less climate efficient use. The scientific uncertainty and constant evolution involved in environmental goods makes a flexible adaptive system a necessity.

He concluded that liberalisation has beneficial effects only if efficiency gains outweigh negative growth and transport effects of trade. WTO is ill-equipped to identify and provide flexible incentives for the most efficient technologies. Trade in selected technologies (wind, solar) should be liberalised - but not necessarily in the WTO.

Intellectual Property Rights: A Barrier to Technology Transfer?

Dalindyebo Shabalala, from the Center for International Environmental Law (CIEL), focused on the role of Intellectual Property Rights (IPRs) in the technology transfer of climate-friendly technologies. The framing question of his presentation was: presume that climate change is a global emergency of potentially catastrophic dimensions and government and firms are willing to take measures addressing climate change – are or will IPRs be a barrier to technology transfer? In other words, are environmental products available at a price that most people are willing and able to pay, and if not, is this market failure due to the international patent system?

He provided some understanding of the IP mechanism and the IP landscape for mitigation and adaptation measures of climate change. Intellectual property creates a monopoly (of a kind), reduces competition, maintains high prices of a product above normal competitive market value and allows licensing and transfer of knowledge securely and predictably. But it is important to distinguish between the price of a product and the price of the knowledge embodied by the product. Goods are easy to sell and can include the price paid for the access to the knowledge. So the question is: what are we talking about when we talk about technology transfer? Access to the goods or access to the knowledge? And to what end? Regarding the IP landscape he differentiated between existing and future technologies. How many of the existing technologies are patented and how many are unpatented? Are existing incentives for future technologies enough and do developing countries present sufficient markets such that private investment will create technologies suited to them and do we have alternative (public) incentive and funding mechanisms not reliant on IP?

Dalindyebo Shabalala called for further research to answer these questions and offered two "branching trees" for consideration in the meantime:

- 1) Patents are a problem: If the majority of existing products are patented (in developing countries especially) and they are not available at a low enough price in the international market to ensure speedy and broad adoption of climate-friendly technologies, then we look at the international IP system to examine the interplay between technology transfer and IP Branch
- 2) Patents are not an issue: If the majority of products are not patented (in developing countries) and they are not available at a price in the international market to ensure speedy and broad adoption, then we need to think about the other reasons for this market failure and what solutions present themselves.

If existing environmental technologies are patented and unavailable at a reasonable price on the international market then the international IP system must be re-evaluated. If the technologies are unpatented then the WTO may be the wrong forum to pursue reform. But then we have to ensure availability of goods and processes embodying technologies as well as knowledge embodied in technologies. And we have to deal with the information problem (do technologies exist and if they do are they in a form useful to developing countries?), the incentive problem to take mitigation and adaptation measures and the competition issue

(climate change seen as new market in which technology transfer is arming your competitors).

His conclusion: It is clear that more work needs to be done. In particular the patent landscape needs to be determined so that energy is not wasted on the WTO if we do not need to and we do not focus on fighting licensing battles where licensing is not an issue.

WTO Energy Services Negotiations and Fuel Efficiency Standards - What's at Stake for Stable and Sustainable Energy Supplies and Climate Policies?

Victor Menotti, from the International Forum on Globalization, made a presentation on WTO Energy Services Negotiations and Fuel Efficiency Standards debating the question “What’s at Stake for Stable and Sustainable Energy Supplies and Climate Policies?”. He views globalization as the globalization of corporate power, and the WTO as the multilateral mechanism by which corporations reduce the ability of governments – whether democratically elected or not – to shape their economies to achieve social and environmental goals. Implementation of the policy tools most useful for putting a price on carbon are not only being delayed by our hyper-competitive global economy but in fact the very rules of world trade can and are being used to either chill or challenge climate measures. Risks from catastrophic climate change present unprecedented challenges to the world trading system. The global imperative to shift to socially stable and ecologically sustainable energy sources will force changes in today’s trade rules. World trade rules must change to adequately and equitably address concerns about climate chaos and energy security.

Victor Menotti explained how the term “technological neutrality”¹ (coming from the Singapore Communication Technology Agreement of the WTO) might be used to hamper measures needed to combat climate change. Essentially, developed countries do not want to pin down the energy sector into specific energy sources or technologies. The belief is that a deregulated energy sector will promote clean energy in the most efficient manner. However, the reality is that technological neutrality prohibits countries from providing incentives and restricts sources and technologies for energy. The more equitable view is that we should defer to every country’s right and ability to choose.

The second topic of Mr. Menotti’s presentation dealt with the WTO negotiations on energy services² and the comprehensive requests made by the United States and the European Union within these negotiations. Seventy percent of proven petroleum reserves are “restrained” by state-owned energy companies. The International Energy Agency claims that the major obstacles to global energy security are the barriers to foreign investment and services suppliers in energy-exporting countries. Energy-importing countries want to bring energy-exporting countries under a system of global rules to limit the rights of governments to determine which energy resources to exploit, how much to exploit, which technologies to use, which workers can work, and other basic policy decisions. The United States Trade Representative has declared the liberalization of Energy Services to be one of the breakthrough issues in the negotiations. Certainly for the Bush-Cheney administration, which

¹ The principle of “technological neutrality” was first established in the GATS Telecommunications Annex of 1996 to prevent governments from treating one communications technology differently than another, such as cable versus wireless. See: Victor Menotti, *The Other Oil War: Halliburton's Agenda at the WTO*. See also: International Forum on Globalization, *Policy Brief on the Energy Services negotiations in the World Trade Organization*, June 2006, available at <http://www.ifg.org/reports/WTO-energy-services.htm>

² Energy services are included in the new WTO services negotiations, which began January 2000. For details see http://www.wto.org/english/tratop_e/serv_e/energy_e/energy_e.htm

views the world through the lens of access to energy, opening markets is one of the biggest priorities. Seven OPEC members are already in WTO. With Saudi Arabia recently joining, Russia finalizing its terms of entry, Iraq's membership being fast-tracked, and Iran entry offered as the main incentive in exchange for ending its enrichment of uranium, we see the prospect of new global rules on energy-exporting economies to control their energy decisions. In addition to energy-exporting nations, emerging economies, such as China, India, Brazil, Malaysia, South Africa and others are being targeted. The current state of play shows collective requests by 22 nations sent to 29 target nations. The reactions of the targeted nations will depend essentially on what the US and the EU are offering in agriculture negotiations.

Victor Menotti also mentioned efficiency standards for cars like the US "corporate average fuel efficiency (CAFE)" standards, which are important for conserving energy use, but could be seen as a non-tariff measures (barriers) by the WTO dispute settlement system. This climate measure of the world's largest emitter can increase the fuel efficiency of cars, but risks a challenge by European luxury auto exporters who already challenged the CAFE standards in 1994 under the GATT dispute settlement system.

Expanding WTO's powers over energy and climate policy poses real risks. Regarding the energy services negotiations Victor Menotti urged demandeur governments to stop pressurizing the requested governments to submit offers. He also called for an assessment of trade policy constraints on climate measures to be part of the Bali Mandate to be agreed at the UN climate negotiations in December 2007. He concluded with a clear statement that world trade rules must change to accommodate climate and energy sovereignty concerns. The trade regime has two options: get a new mission or being replaced. Another multilateralism is possible, but not one that reduces peoples' sovereignty.

II. The views from the floor

The contributions from the floor covered a bright range of issues and comments. One participant expressed concerns with introducing energy in WTO negotiations and another saw a contradiction between the lifecycle assessment mentioned by Tobias Reichert and the concept of food miles which is now popular in some European countries (like the United Kingdom and the Netherlands). Another participant pointed to the problem of the bilateral route being the existing alternative to multilateralism. The existence of investor-to-state-dispute settlement mechanisms in these bilateral free trade agreements (FTAs) has proven to be much worse for the people and the environment than the WTO DSB. An expert working on trade and climate confirmed that with environmental technologies there are no real IP problems in their transfer to key countries such as China and India, adding however that this only fully applied to solar, but not to wind technologies. Another participant mentioned that not only environmental issues but also human rights have to be considered. He said there is a need for studies on the relationship between trade rules and human rights. A former trade negotiator mentioned that the concept of technological neutrality was not left unchallenged and asked what is the critical mass for energy services? A political adviser in the European Parliament reminded the audience of the example of Latin America governments which are experimenting alternative development strategies outside of the Washington Consensus, notably trade agreements based on other principles than market access, competition and "free trade".

III. Conclusion: World trade rules must change to accommodate climate and energy sovereignty

This session emphasized the need for an integrated approach to the trade and climate change debate. Up to now energy, trade, migration and agriculture have been treated as different regimes. But it is critical to find a way to integrate these regimes so that climate change policy and development policy are at the centre of the debate. A global problem such as climate change requires global solutions. Developed countries must take immediate, effective measures to combat climate change while developing countries should take efforts based on the principle of common but differentiated responsibilities.

Trade liberalisation generally exacerbates climate change and the market liberalisation of environmental goods and agrofuels are no exceptions but a confirmation of this finding. The WTO is ill-equipped to identify and provide flexible incentives for the most efficient technologies to combat climate change. Trade in selected technologies (wind, solar) should be liberalised but not necessarily in the WTO. There is a need for a serious inquiry into the patent landscape in order to determine whether the intellectual property regime is serving as a barrier to climate mitigation.

Another and also urgent need is to challenge developed countries' efforts to impose a global energy regime upon developing countries in order to provide maximum flexibility in implementing measures to combat climate change. Regarding the energy services negotiations demandeur governments are urged to stop pressurizing targeted countries and the requested governments are asked to not submit any offers.

The moderator, Daniel Mittler, concluded that the trade regime has two options: get a new mission or be replaced. Another multilateralism is possible, but it needs to be one that has addressing the climate emergency at its heart.

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