

INTERNATIONAL



Climate, Trade, and Equity: Considerations and Options

Discussion Paper

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Some policies countries employed to advance climate and related economic objectives have cross-border effects with the potential to raise equity-related concerns, particularly when they are viewed as disproportionately impacting developing countries. Such trade-related climate measures (*TRCMs*) include border carbon adjustments, green subsidies, and green product standards. Many of the equity-related concerns arising center on the degree to which a given policy takes into account or provides flexibility for different national circumstances, poses undue technical or cost burdens, or reflects meaningful consultations with affected countries.

This discussion paper seeks to inform discussion of equity-related considerations arising at the intersection of climate and trade by:

- recapping relevant principles and practices in the international climate and trade regimes
- outlining preliminary ideas for concrete measures that could be built into or undertaken in concert with TRCMs to help address equity-related concerns.

A. Principles and Practice in the Climate and Trade Regimes

1. Neither the climate nor the trade regime defines equity (the former employs the term, while the latter does not). But both regimes include principles that are generally understood as addressing the needs and interests of historically disadvantaged developing countries by allowing them differentiated treatment under the provisions of the regime and/or promoting the provision of support to assist them in fulfilling their commitments.

UN Framework Convention on Climate Change

2. A core principle of the 1992 UN Framework Convention on Climate Change (*UNFCCC*) is “common but different responsibilities and respective capabilities” (*CBDRRC*), reaffirmed in the 2015 Paris Agreement, with the addition “in the light of different national circumstances” (*ILDNCs*).¹ *CBDRRC* has figured into virtually all aspects of *UNFCCC* negotiations, with its form of application evolving through successive agreements.
3. The Convention differentiated commitments for climate action between countries by employing Annexes that categorized Parties as developed, developing, or in transition. In updating commitments and practices under the climate regime, the Paris Agreement retains the distinction between developed and developing countries but without reference to the Convention’s Annexes.

The following are key examples of the way CBDRRC is reflected or operationalized across the Paris Agreement:

Mitigation

- A core obligation of *all* Parties is to prepare, periodically update, and strive to implement a “nationally determined contribution” (**NDC**). While Paris calls for developed countries to continue to lead on mitigation, the content of a Party’s NDC is self-defined, so inherently self-differentiated.
- In elaborating its long-term temperature goal, the Agreement says Parties should “aim to reach global peaking of greenhouse gas emissions as soon as possible, recognizing that peaking will take longer for developing countr[ies].”² In practice, countries have set different target dates for achieving net zero.

Finance

- Like the UNFCCC, Paris says developed countries “shall provide” financial resources to assist developing countries with climate mitigation and adaptation.³ It for the first time also says other Parties are encouraged to provide such support voluntarily.
- The new collective quantified goal on finance agreed at COP29 includes climate-related finance from multilateral development banks (to which some developing countries are donors) among the sources to be counted toward the 2035 goal of at least \$300 billion annually.⁴

Transparency

- In place of the strictly bifurcated transparency system under the UNFCCC (with different requirements for developed and developing countries), the Paris Agreement’s Enhanced Transparency Framework combines common standards for mitigation-related reporting with capacity-based flexibility for developing countries needing more time to meet them. (Developed countries are in addition required to report on support they have provided.)
- The Paris implementation rules elaborate the types of flexibility available and allow developing countries to determine for themselves which they need. They must indicate the relevant capacity constraint and a timeframe for capacity improvement.

Flexibilities for Developing Countries

- As in the UNFCCC, special consideration for small-island developing states (**SIDS**) and least - developed countries (**LDCs**) is provided throughout the Paris Agreement, for example, in the areas of finance, capacity building, and transparency.

The International Court of Justice’s Advisory Opinion on the Obligations of States in Respect of Climate Change

- The International Court of Justice (**ICJ**) advisory opinion reaffirms the principle of CBDRRC-ILDNCs.⁵ It also holds that developed countries have obligations in line with those outlined above, including: provision of financial assistance; technology transfer; and other forms of support to developing countries, particularly those more vulnerable to climate change impacts, in line with collective goals.

World Trade Organization

4. The preamble to the Marrakesh Agreement establishing the World Trade Organization (**WTO**) lays out a vision of trade liberalization that promotes sustainable development and protects the environment in a manner consistent with countries’ “respective needs and concerns at different levels of economic development.”⁶

5. The trade regime is governed by the principle of non-discrimination, reflected in the “most favored nation” (**MFN**) and national treatment rules outlined in Articles I and III of the General Agreement on Tariffs and Trade (**GATT**).⁷ Generally, these rules bar discrimination in trade between countries and between like products.
6. The WTO’s Enabling Clause does, however, allow members to provide more favorable treatment to developing countries and LDCs than to other trading partners.⁸ This special and differential treatment (**SDT**) must facilitate the trade of developing countries, not impede trade liberalization on an MFN basis, and be able to be modified as needed to respond positively to the needs of developing countries. SDT has been applied unilaterally, plurilaterally, and multilaterally.
 - Unilaterally, the EU and the United States have each established a Generalized System (or Scheme) of Preferences (**GSP**) providing duty-free market access to specified products from developing countries. The EU’s three-tiered GSP provides preferential market access for select products from vulnerable developing countries based on their level of development.⁹ (LDCs receive duty- and quota-free market access on all products except arms and ammunition. Others receive reduced privileges subject to conditions, including the implementation of international climate and environmental agreements.) The U.S. GSP, which expired in 2020, covered a range of products from 118 countries.¹⁰ Another example is the U.S. African Growth and Opportunity Act (**AGOA**), granting duty-free access to the U.S. market for specified products from eligible sub-Saharan African states, with conditions that include reducing barriers to U.S. trade and investment.¹¹
 - An example of SDT applied in bilateral and plurilateral trade agreements include the Association of Southeast Asian Nations (**ASEAN**)–Australia–New Zealand Free Trade Agreement (**FTA**) (**AANZFTA**). This agreement grants developing countries a more gradual phase-in of obligations and commits Australia and New Zealand to provide financial support for implementing economic cooperation between the Parties.¹²
 - At the multilateral level, the WTO’s Trade Facilitation Agreement (**TFA**) and Agreement on Fisheries Subsidies (**Fisheries Agreement**) include SDT-related provisions.¹³ The TFA establishes graduated flexibilities for developing countries and LDCs based on level of development. The Fisheries Agreement requires members to provide due consideration, as well as technical and capacity building assistance, to developing and least-developed countries. It also establishes the WTO Fish Fund, a member-funded financial instrument to provide support for developing members as they implement the Agreement within their jurisdictions.
7. Finally, of relevance in the climate context, GATT Article XX allows an exemption from GATT rules for policies protecting health or the environment provided “such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination...or a disguised restriction on international trade.”¹⁴ (The UNFCCC likewise applies virtually identical language to “measures taken to combat climate change, including unilateral ones.”)¹⁵

B. Potential Means of Addressing Equity-Related Concerns in Climate–Trade Policy

8. Climate–trade issues are arising in an array of multilateral, plurilateral, and bilateral contexts and will likely continue to unfold across all of them. As countries continue to develop and adapt green industrial and other climate-related policies, there will be opportunities to consider measures that can be built into or undertaken in concert with TRCMs to help address equity-related concerns. One important consideration is how such measures can be employed to strengthen overall incentives for collective decarbonization.



9. The following is a preliminary set of ideas for potential approaches to:
- provide for recognition of differing national circumstance in the design or application of TRCMs
 - provide or mobilize technical, capacity building, and investment support for compliance and decarbonization in developing countries
 - provide avenues for inclusion of affected countries in TRCM design or administration
 - provide policy space for developing countries to pursue green industrial policies.

Accounting for National Circumstance

10. Both in their design and in their application, TRCMs can incorporate features allowing flexibility or differentiation to account for differences in national circumstances. Such flexibility could be on the basis of set criteria; the form of flexibility would vary across different types of TRCMs.

Potential Criteria

11. Flexibility could be provided on the basis of criteria such as:
- GDP per capita (adjusted for purchasing power parity)
 - a country's share of global trade or production of a specified commodity
 - a country's share of global emissions at the national or industry level.

Forms of Flexibility

12. Methods of providing flexibility could include:
- **Exemptions:** Exempting a country or group of countries from a TRCM's requirements based on these or other criteria. An implementing country could retain the ability to create safeguards in the event, for instance, of an exempt country has a surge of exports of relevant goods.
 - **Transition periods:** Providing countries meeting predetermined criteria grace periods for TRCM compliance.
 - **Tiered pricing:** Establishing **tiered** or **graduated** duties under a carbon border measure, accepting lower domestic carbon prices within lower-income countries as equivalent to the importing country's carbon price.¹⁶ Another option is a **dual carbon price** approach: an exporting country with a lower carbon price is credited for a higher export-only carbon fee applied at the border.¹⁷
 - **Tiered benchmarks:** Establishing different emissions intensity or other climate-related thresholds in policies that feature green standards, depending on whether the exporting country meets set criteria. These thresholds could become more stringent over time.
 - **Tiered Monitoring, Reporting, Verification (MRV):** Allowing the use of default values or other simplified methods of calculating data or providing more flexible reporting schedules for exporting countries that meet set criteria to reduce administrative burden and recognize different levels of technical capacity.

Support for Developing Economies

13. Whether or not a TRCM provides flexibility based on national circumstance, an implementing country or group of countries could provide different types of support to help developing countries meet TRCM requirements and decarbonize their industries. Possibilities include:
- **Capacity-building:** Support for countries building the technical capacity for transitioning to cleaner production and for establishing policies related to the data collection and verification infrastructure needed to comply with TRCMs

- **Investment:** Efforts to provide investment or to leverage stronger private investment in developing country decarbonization
 - **Partnerships:** Partnership arrangements that could offer preferential treatment under a TRCM and/or targeted investment support, possibly conditioned on some form of trade concession.
14. Such approaches could in some cases be funded by a TRCM, for instance, by recycling revenue generated under a carbon border measure for these purposes.
15. These policy options are in line with the principles affirmed in the ICJ's advisory opinion, which holds that states are obligated to cooperate to achieve emissions reductions and to provide financial and technical assistance and capacity-building measures in line with states' relative capacities and needs.

Inclusive Decisionmaking

16. Affording affected countries sufficient opportunity for input on the design or administration of a TRCM could help ease some equity-related concerns. Possibilities include:
- **International bodies:** Stronger support for developing countries to access international standard-setting bodies such as International Organization for Standardization (*ISO*) and World Customs Organization (*WCO*)
 - **Policy design:** Mechanisms to provide developing countries formal input into the design and/or implementation of a country's TRCM
 - **Appeal:** Mechanisms under TRCMs providing an affected country an explicit avenue to appeal a determination (e.g., a default value for a carbon border adjustment), possibly to a third party.

Policy Space

17. As developing countries continue to develop green industrial policies of their own, they will be better positioned to comply with other countries' TRCMs. However, they may hesitate to employ some policy levers that could risk retaliatory trade action if challenged under WTO rules. Such green industrial tools could include export bans and local-content, intellectual property licensing, and joint venture requirements. Agreeing on boundaries for the use of such tools could help address equity-related concerns while strengthening developing country decarbonization.

C. References

¹ UN Framework Convention on Climate Change [hereinafter UNFCCC], "Paris Agreement," Annex, Art. 14.19, December 12, 2015, T.I.A.S. No. 16-1104, <https://unfccc.int/resource/docs/2015/cop21/eng/10a01.pdf>.

² UNFCCC, "Paris Agreement," Art. 4.1.

³ UNFCCC, "Paris Agreement," Art. 9.1.

⁴ UNFCCC, *New collective quantified goal on climate finance*, Decision 1/CMA.6, ¶ 8 (March 27, 2025), https://unfccc.int/sites/default/files/resource/cma2024_17a01_adv.pdf.

⁵ International Court of Justice [hereinafter ICJ], *Obligations of States in Respect of Climate Change*, Advisory Opinion, 2025 I.C.J. Rep. (July 23 2025), <https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf>.

⁶ Marrakesh Agreement Establishing the World Trade Organization [hereinafter Marrakesh Agreement], April 15, 1994, 1867 U.N.T.S. 154, https://www.wto.org/english/docs_e/legal_e/downloads_e/WTO_en.pdf.

⁷ General Agreement on Tariffs and Trade 1994 [hereinafter GATT], Apr. 15, 1994, Marrakesh Agreement, Annex 1A, 1867 U.N.T.S. 187, 33 I.L.M. 1153 (1994), https://www.wto.org/english/docs_e/legal_e/06-gatt.pdf.

⁸ World Trade Organization [hereinafter WTO], *Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries* ('Enabling Clause'), Decision of 28 November 1979, L/4903, https://www.wto.org/english/docs_e/legal_e/enabling1979_e.htm.

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¹² "Special and Differential Treatment Under AANZFTA," AANZFTA ASEAN, accessed April 7, 2026, <https://aanzfta.asean.org/special-and-differential-treatment/>.

¹³ WTO, *Protocol Amending the Marrakesh Agreement Establishing the World Trade Organization*, November 27, 2014, WT/L/940, <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/L/940.pdf&Open=True>; WTO, *Agreement on Fisheries Subsidies*, June 22, 2022, WT/MIN(22)/33, <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/33.pdf&Open=True>.

¹⁴ GATT, Art. XX.

¹⁵ UNFCCC, Art. 3.5, May 9, 1992, S. Treaty Doc No. 102-38, 1771 U.N.T.S. 107, <https://unfccc.int/resource/docs/convkp/conveng.pdf>.

¹⁶ Ian W.H. Parry, Simon Black, and James Roaf, Proposal for an International Carbon Price Floor Among Large Emitters (Washington, DC: International Monetary Fund, 2021), <https://www.imf.org/-/media/files/publications/staff-climate-notes/2021/english/cinea2021001.pdf>; Global Climate Policy Project Working Group on Climate Coalitions, *Building a Climate Coalition: Aligning Carbon Pricing, Trade, and Development* (Cambridge, MA: Global Climate Policy Project at Harvard and MIT, 2025), <https://salatainstitute.harvard.edu/building-a-climate-coalition-gcpp-flagship-report/>.

¹⁷ Milan Elkerbout, Katarina Nehrkorn, and David Kleimann, For Climate-and-Trade Policies, the Principle of "Common but Differentiated Responsibilities" Cuts Both Ways (Washington, DC: Resources for the Future, 2025), https://media.rff.org/documents/IB_25-08_updated.pdf.