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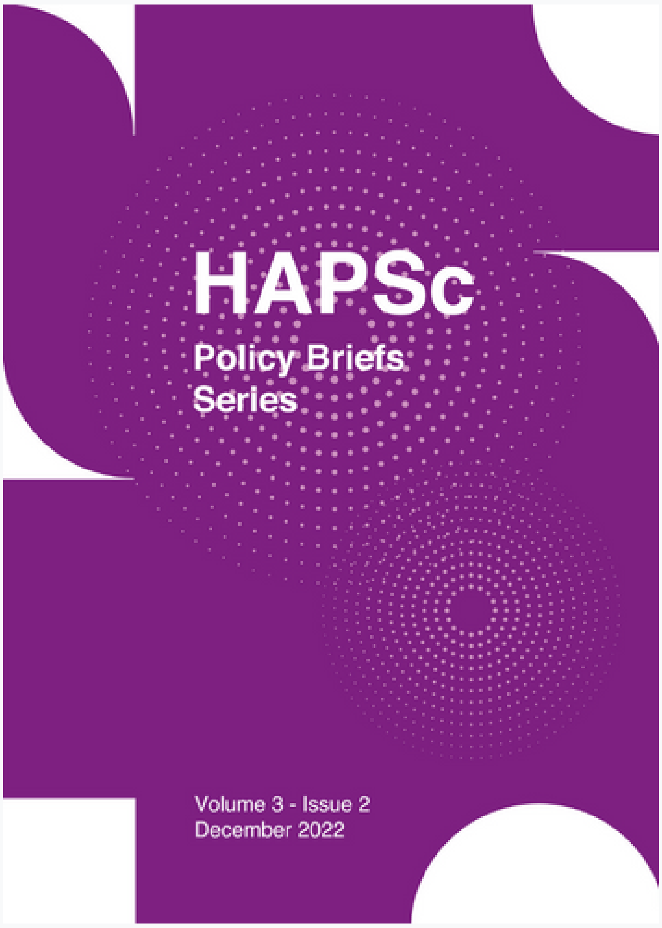


# Greening International Trade: Unilateral Tendencies and the Role of International Institutions

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# Greening International Trade: Unilateral Tendencies and the Role of International Institutions[1]

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**Abstract**

International climate and trade regimes are becoming increasingly interchangeably linked to each other. Over the last months' discussions about greening the international trade have rapidly increased, aiming to take concrete steps towards climate mitigation. Some countries such as the EU have come up with courageous unilateral measures such as the Carbon Border Adjustment Mechanism (CBAM), and Germany forwarded by introducing to the G7 the idea of a Climate Club. Bypassing international institutions might be flexible to move forward, but at the same time may create fragmentation of the international regimes. This policy brief maps the new unilateral tendencies towards climate-related measures on trade policy and also examines the internal dynamic within the international organization. Firstly, it starts by analyzing how the regime complexity of climate change has left space for non-multilateral tendencies to emerge. Second, it maps the new tendencies and then explores how we got there. And lastly, it draws some insights into the potential risk of a more fragmented international climate regime may pose for international cooperation.

**Keywords:** Climate governance; International trade regime; Informal initiatives; International Institutions.

## Introduction

The Paris Agreement signed in 2015 marked an important step towards decarburization of global economy and also served as a milestone of multilateral cooperation. It served to create a common framework, guidelines, and principles in order to move forward on a multilateral basis. However, the emergence of unilateral policies such as the Carbon Border Adjustment Mechanism (CBAM) introduced by the European Union (EU) has raised discussion about the effectiveness of these schemes for cross-border carbon pricing policies (European Commission, 2021; Council of the EU, 2021). According to latest (2022) National Determinant Contributions (NDCs) submissions under the Paris Agreement (Doelle, 2016), two-thirds of countries are considering using carbon pricing to achieve their emission reduction.

On the other hand, the emergence of informal modes of governance such as the German Presidency's idea on G7 for a Climate Club seems to have gathered consensus as well. What about international institutions such as the UNFCCC and the WTO? Why countries are bypassing international institutions to push forward the climate agendas? Why international institutions can't deliver? This

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policy brief will try to give an overview of the current state of emerging tendencies that are growing out of the institutions, and also explain the actual gridlock under the UNFCC and the WTO. This policy brief maps the recent policy approach on international climate policy and such as the EU CBAM or Climate Clubs, explore the relationship with the multilateral institutions. Furthermore, it seeks to explore what might be the consequences of unilateral approaches to climate policy and how these policy approaches can be back on track at the multilateral institutions.

**Instiutionalized and non-institutionalized modes of international cooperation**

The climate crisis is definitely a global challenge that required a comprehensive approach. In 1992 United Nations Framework Conference on Climate Change (UNFCC) was established as an international convention to create some common ground for the multilateral cooperation. But on the other side, the WTO regime has ambiguity closures on trade tariffs established to push forward environmental related agenda through trade policy (Droege et al., 2018; Laurens et al., 2022; Tosun & Lang, 2017). The interaction of the UNFCC and WTO regime is an example of “regime complexity”, defined as interaction of international regime on the conditions of the lack of hierarchy (Alter & Munier, 2009).

The implications of regime complexity have been driven in various modes. In some cases, the fragmentation of regimes may create conditions for smaller environment groups, where they can address more effectively their interest (Bulkeley et al., 2018). In others, regime complexity may create conditions for big players to leverage their power within international institutions and create cross-institutional political strategies where actors need to update with the international institutional environment and adjust their political strategies targeting different institutions to reach their objectives.

Likewise, the interplay of different authorities including their spheres of authority and their relationship with state and non-state members leave space for condensation and divergence preferences (Zurn, 2020). Additionally, the divergence preferences could be considered legitimate and provide a form deliberative participation on decision making within the international institutions, being increasingly present they leave space for politicization and norm contestations.

In that regard, the regime complexity of climate change has created space for emergence of informal forum take on role on climate agenda on non-governmental organizations (NGO). Between state lead international institutions and NGOs, a competition emerged to take a bigger space on policy area over the resource, legitimacy or role in coordinative processes (Westerwinter et al., 2021). As Alter and Meunier (2009) states, the international regime complexity reduces the clarity of legal obligation by introducing overlapping sets of legal rules and jurisdictional governing issues, what has been reflected on global climate governance. Various international institutions have been established to deal with issues that concern climate change (Ovedendko & Koehane, 2012), however the legitimacy and effectiveness questions are raised regarding the work that has been done.

The density and diffusion of international institutions is likely to lead towards contestation or other forms of engagement (Morse & Keohane, 2014). The contestation of global governance leads to other form of governance that tries to escape institutional channels and find counter-institutionalization (Zurn, 2018). Especially, during the times of gridlock in decision-making, the tendency of countries is to engage on informal initiatives and forums such as G7 or G20. These trends are becoming even more evident over the last years due to the slow progress made within the international institutions (Lake, 2013).

Despite the emergence of the informal modes of governance, the multilateral framework such as the UNFCCC, the WTO has a crucial role to play on adjusting the current international trade regime with the need to expand the coverage towards more environmental regulation. Density of issues and increasing of technical complexity should be a driver for deeper cooperation rather than fragmentation of the system itself.

**Mapping new trends of climate policy on international trade**

The recent trends are likely to produce new realities in global economic governance. In the current political context, even more, countries have raised their ambition to have a role on global climate governance. The emerging markets have already more powerful leverage of bargain power to pursue their policy objectives. They are asking for more power and trying to find their allies by grouping within international institutions, showing some new forms of a "competitive multilateralism" (Jones et al., 2019). As a consequence, the authority in global economic governance is being even more decentralized (Wouters et al., 2018). That does not necessarily mean the emergence of a bipolar world, rather than different models of globalization that are linked and interact with one another.

A new phase of multilateralism is emerging with no global leading power, which Jeffery Sachs (2020) calls the "Kindleberger moment". The post-pandemic area retreated states to think on their own to handle the consequences and left a gap in multilateral institutions to address the crisis (WTO, 2021). Emerging powers such as Brazil, India, and Turkey are trying to take advantage by asking for more recognition and will continue to do so. But on the other hand, some other optimistic scenarios might take place as a need to address challenges regarding the advancement of the agenda on climate change, by increasing policy coherence between international trade and climate regime.

The EU was the first mover to initiate a legislative proposal, the CBAM as an autonomous measure aiming to avoid carbon leakage. The CBAM is the first cross-border pricing scheme, aiming to start implementation by 2027 and be fully implemented by 2033 (European Commission, 2022). Among the political concerns from emerging economies such as Brazil or South Africa, the CBAM has opened discussions and scenarios about the future of cross-border carbon pricing schemes regarding the economic cost that the emerging economies need to take, technical and regulatory feasibility, compatibility with the WTO and the EU ambition to create a level playing field.

The EU CBAM seems that just has broken the ice of international carbon pricing. As the CBAM is moving forward, many discussions have been accompanied for its comparability with the WTO. Emerging countries like Brazil, China, and India have not been friendly and welcoming towards the EU CBAM (Eicke, et al, 2021). As a response to climate governance, the German Presidency of G7 has proposed a Climate Club as a flexible forum to discuss and increase the comparability of climate regulation policies and push forward the climate agenda at the international level (German Presidency, 2022) among G7 countries in order to advance faster on the implementation of the Paris Agreement.

In addition, based on the last (2022) National Determinates Contributions (NDCs) the list of countries that are willing to take into consideration implementation of the carbon pricing schemes is rising. The willingness to implement carbon pricing raise further challenges regarding the regulatory environment and the comparability level among different legislations. The United States is also taking into consideration designing a carbon border tax and other countries such as China are preparing implementation of nation-wide carbon pricing policies.

New environmental related measures have appeared not only through cross-border mechanism, but also through the existing trade deals that for many years has reduced barriers and boost trade among countries might be subject to the extension of environmental clauses. Recently the EU has announced the revision of the EU-Mercosur trade deal. Furthermore, the increasing number of countries taking into consideration or have already implemented carbon pricing schemes increase the regulatory risk for companies operating overseas. As the legislative regime is in the early phases of implementation or about to be implemented, the comparability of legislation has still considerable gaps, and further work needs to be done on that regard.

**Internal dynamics within the international institutions**

The recent developments within international institutions such as UNFCC and WTO are demonstrating that countries are still far from having a consensus on issues related to trade and climate. Group alliances among the countries around the COP become even more important drivers of the divergence within international institutions. Constantly, the pressure for emerging countries on the WTO, by requiring better access to international markets, has been intensified by creating alliances and groups around emerging powers such as Brazil, India, and China. Divergences in position have raised the pressure at the COP on more developed economies. And on the other side, group alliances around South Africa for instance are challenging of multilateral pledge part of the Paris Agreement such as NDCs arguing for divergences in capacities to turn pledges into action and meanwhile asking for more flexibility (van Asselt, 2014; van Asselt & Zelli, 2018).

The WTO has launched a work plan to work on trade-related climate measures and policies. These discussions are part of the informal working group Trade and Climate Change aiming to dig deeper into understanding and bringing into the WTO best practices of countries related to trade and climate measures, maximizing environmental benefits without compromising economic ones (WTO, 2022a). In 2020, members of the WTO launched a discussion under the trade and environmental sustainability work plan "Trade and Environmental Sustainability Structured Discussions" (TESSD). TESSD provides a forum within the WTO to facilitate the dialogue and create a common understating of the emerging issues that all the members are currently facing.

According to the WTO, environmental-related notifications have been growing constantly over the last decade, showing a higher sensibility consciousness to leverage trade policy for the environmental-related objective. Especially over the last 6 years, the number of environmental related measures has been steadily increasing. Most of the environmental-related measures from 2009-2019 have been in energy efficiency. On the sector-specific basis, most of the measures taken are related to the manufacturing industry. However, the emergence of environment-related measures may create a fraction between domestic regulatory regimes which are associated with higher costs and bureaucracy. Additionally, they often serve as a tool to leverage market preferences or exclude certain products from other competitive markets. Those divergent patterns of regulation have also somehow been legitimated by the principle of "*common but differentiated responsibilities*" in the Paris Agreement, which might be subject to interpretation even on the regulatory approach to certain policy instruments.

Furthermore, apart from political pressure on international institutions, the regulatory burden is shifting to international trade. Being considered among the actives of carbon emission, the carbon footprint embedded in international trade is identified in different forms such as transportation etc. In that regards, OECD, has given an important contribution by working specifically on cross-border institutional regulatory cooperation and providing the experience of countries with the design and

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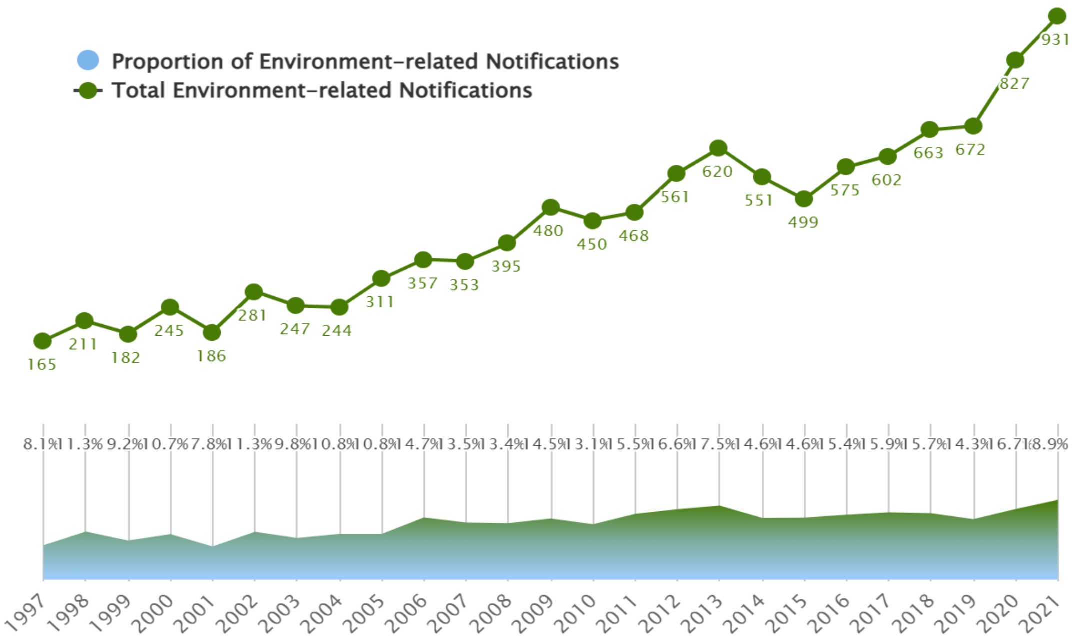
implementation of carbon pricing policies. International Monetary Fund (IMF) has opened a dialogue about an international carbon price floor, aiming to facilitate and create the basis for further inter-institutional cooperation regarding the emergence of carbon pricing schemes (IMF, 2021). However, the dialogue is still in its early beginnings and yet far from reaching a common ground.

**Figure 1: WTO Environmental Database**




Source: WTO (2022b).

## Discussion

The role of international institutions should be at the core of policy preferences in order to maintain a rule-based international trade regime. They need to be more active and increase their role in adjusting regime divergences between international trade and climate regimes. The recent trends of unilateral policies have created more space for the fragmentation of environmental governance.

Second, the emergence of different carbon pricing policies in developed and developing economies. Informal modes of governance such as the Climate Club or Coalition of Trade Ministers for Climate change should serve as discussion forums aiming to find common ground for further international cooperation and avoid harm to the economy by a continuous change of climate regimes.

Third, the role of international regulatory organizations such as the OECD in providing the best international regulatory practices will become even more important. The need to reform several aspects of the existing regime and to make more space for sustainable measures is significant. However, the new climate-related policy measures need to be coordinated among stakeholders and should aim to reduce the risk of regime fragmentation.

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