

NEW THINKING ON TRADE POLICY AND DEVELOPMENT

TRADE AND CLIMATE CHANGE



PSE

Socialist Group in the
European Parliament

With this new pamphlet, the Socialist Group continues its series of publications on the relationship between trade and development. Once again we have opened up the debate to contributions from external experts so that they can compare their views with those of our Group members and help us enrich our analyses and proposals.

This fourth pamphlet focuses on a currently much debated topic between rich countries and developing countries – the relationship between trade and climate change. The transport sector alone is responsible for a third of total greenhouse gas emissions. The EU's trade policy must therefore pay special attention to this problem and we must launch a dialogue with our partners on how to resolve it.

We certainly do not wish to curb the opening-up of trade and we understand the fears of developing countries that measures might be unfair or hard for them to bear. What we do want is for trade to be regulated and defined jointly, since it is our common interest as inhabitants of the same planet that is at stake.

The Socialist Group would like EU trade policy to be consistent with its environmental policy and with the international efforts being made in this area. It is calling for the Kyoto Protocols to be ratified by all countries, in particular the United States; but it is also calling for an ambitious post-Kyoto agreement involving the entire international community, including developing countries. In our view, WTO rules must be clearly subject to the requirements of the Convention on Climate Change.

For the Socialist Group, the European Union should also include the climate dimension in all its bilateral and regional trade agreements, by including ambitious environmental standards. The EU could also establish some incentives, such as granting duty-free access to products with low greenhouse gas production/consumption. It could transfer GHG-clean technologies at 'concessionary prices'. Moreover, Europe should carry out a survey on best practices in the international division of labour, with regard to the location of suppliers in relation to assembly plants and the location of the latter in relation to markets.

In this pamphlet, the contributions by David Martin (Socialist MEP, International Trade Committee and Temporary Committee on Climate Change), Nathalie Bernasconi (Center for International Environmental Law) and Meena Raman and Charly Poppe (Friends of the Earth International) have added substance to our discussions and nourished the debate on the complex relationship between trade and climate change. Please address any comments to the following address: pse-newtradethinking@europarl.europa.eu

Our next pamphlet will deal with 'Free-trade agreements and the incorporation of social and environmental standards'.

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“Trading Green”

David Martin

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The consensus exists - climate change is one of the greatest threats to sustainable development. The Socialist Group has already started its contribution to the reflexion with its 2006 publication on “A Sustainable Common Energy Policy for Europe. Recommendations to the European Council”¹. Here I want to tackle more specifically the trade and environment debate. Is International Trade part of the solution to climate change or part of the problem?

The easy answer is that the transportation of trillions of tonnes of goods around the world is one of the biggest causes of CO2 emissions and therefore clearly damages the environment. However, once you look at individual products the impact of trade on climate change becomes more complex. Here I look at three examples of how trade can play a positive role in tackling climate change and help promote sustainable development: food miles, trade in environmental goods and services and technical regulations and standards.

Food Miles

Some major supermarkets in Europe particularly in the UK have taken to labelling goods with “food miles”. The signal being given to environmentally minded consumers is that they should choose products made as locally as possible. This will clearly have an adverse impact on producers in Africa never mind New Zealand.

What these labels fail to advertise are the social and economic benefits of the product to the exporting country as well as any ecological advantages that the particular country might have over domestic industry. When consumers decide to buy Dutch roses instead of Kenyan ones, they may be unaware that 1 million people gain their livelihood in the agricultural and horticultural industry in Kenya. They may also be unaware of the fact that, even taking into account the transport emissions involved in bringing Kenyan roses to the UK, they still produce 80% less CO2 emissions due to the fact that they are grown naturally in the heat rather than in greenhouses in Holland. Similar arguments have been made about New Zealand lamb. One study suggested that producing lamb in NZ and transporting it to the UK generates around 70% less CO2 than when produced and transported within the UK.

Social benefits and production efficiency are impossible to calculate using the simplistic labelling schemes that many big supermarkets have adopted. Kenya has been a key advocate of “fair miles”, the concept by which social, economic and other ecological factors are taken into account when providing climate change information to supermarket shoppers. If such a label could find international agreement then consumers really would be empowered to make climate friendly choices.

¹ <http://www.socialistgroup.eu>

Trade in Environmental goods

The Doha Ministerial Declaration calls for “the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services”. While there is no clear definition of “environmental goods and services” (EGS) they would clearly include trade in renewable technologies (solar cells, wind turbines, etc.), energy efficient products (e.g. low energy refrigerators or TVs), and low carbon fuels.

The WTO has invited members to submit a list of products for inclusion as an EGS. Those submitted so far range from bicycles and spare parts (Switzerland) to electric rail locomotives (European Union), from glass insulation (Japan and New Zealand) to fluorescent lamps (Canada and the United States).

EGS trade liberalisation could be supportive of climate change objectives by encouraging the export of environmentally friendly technology and lowering the cost of access to low carbon products by the elimination of tariffs and other barriers.

Significant work is required to come up with an agreed definition of EGS and mechanisms for amending such a list (technologies change and today’s energy efficient product might soon be comparatively inefficient). The World Bank, in their recent report on *Trade and Climate Change*, argued that developing countries should strengthen intellectual property protection in order to stimulate the diffusion of clean technologies. Carefully defined and sensitively managed EGS has the potential to play a positive role in tackling climate change.

Technical regulations and Standards

Most countries that belong to the Organisation for Economic Co-operation and Development (OECD) use voluntary labelling to promote energy efficiency and reduce emissions. This labelling scheme is backed up in virtually all OECD countries with regulation on the minimum energy performance of some household appliances. The consequence of these regulations is to remove from the market the least efficient appliances.

While the WTO agreement on technical barriers to trade prohibits discrimination through technical regulations provided the rules are applied in a non discriminatory way there is no reason for countries not to expand their use. Indeed over time they should seek to tighten standards to drive manufacturers to produce ever more efficient products.

The advantage of using technical regulation is that it drives up standards not just in the importing country but in the manufacturing country. Producers are unlikely to want to produce different products for home and overseas markets. A single factory in China produces 40% of the world’s microwaves so any energy efficiency rules are likely to be applied to the whole of its output. The ideal would be to have the standards set internationally but in the absence of global standards there is nothing to stop the European Union taking the lead and demanding greater efficiency in everything from dishwashers to steam irons. 500 million consumers using more efficient household items could make a real difference to the levels of CO₂ emissions.

Conclusion

Cutting CO2 emissions from the transportation of goods through the reduction in unnecessary trade (e.g. Scottish prawns sent to Thailand to be peeled, then sent back to Scotland), using the most efficient mode (i.e. rail and shipping) and improving the fuel efficiency of means of transport may be seen as the most obvious ways trade can contribute to the fight against climate change.

Nevertheless, the Socialist Group believes that by empowering consumers, through the flow of reliable information that allows them to make climate friendly choices, can both reduce CO2 emissions and show solidarity with developing countries. We also believe that by setting high energy efficiency standards and regulations the EU can help drive out inefficient products. We believe that giving encouragement through reduced tariffs to the trade in “environmental goods and services” enables us to show solidarity with all those fighting against climate change.

Socialists believe that the fight against climate change will only be won if it's based on global solidarity. The developed world must do more to help developing countries reduce emissions. The EU aid for trade budget should give priority to “green” projects, the Clean Development Mechanism within the Kyoto protocol should be enhanced and resources available through the Global Environmental Facility should be increased.

In the light of a post Kyoto agreement we will need to look at WTO rules to see what changes are required to ensure that environmental considerations are adequately reflected in them. We might also have to visit the issue of “border tax adjustments” to ensure that free riders are not rewarded and that production is not switched to countries with unacceptably low environmental standards

The Socialist Group is convinced that the EU should sign, up post Kyoto, for a target of an 80% reduction in CO2 emissions. The above measures only set us on the path to that goal and have to be seen in conjunction with other measures such as the expansion and tightening of the Emissions Trading Scheme, the switch to renewable energy sources and the protection of our Forests.

Just as trade is only part of the problem it can only be part of the solution. However, the Socialist Group believes that well targeted trade measures have an important role to play in the fight against climate change.



Climate Change and International Trade: The Need for a Paradigm Shift

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'Live simply so that others may simply live'

Mahatma Gandhi

The awarding of the Nobel Peace Prize to Al Gore and the IPCC is nothing groundbreaking: it is merely the culmination of a movement that started forty years ago. Forty years ago, environmental organisations like Friends of the Earth groups all over the world started campaigns at a grassroots level to raise awareness of the urgency of the environmental crisis, the irreversible damage that was being made to the Earth's biosphere and atmosphere and specifically, of the rising concentration of atmospheric pollutants such as CO₂. Until not so long ago, our movement has been labelled as exaggeratedly "alarmist" and "catastrophist". Today, as we all know, the climate catastrophe has already started to unravel.

In Friends of the Earth's philosophy, the climate crisis cannot be separated from the development crisis. Global warming and sustainable development are both global challenges which need to be tackled side-by-side, as two faces of the same coin.

Another of our convictions is that tackling global warming is not just a matter for environmental policy-makers. It requires drastic changes in ALL policies, and this is where trade comes to play.

The "trade & climate change" debate started in Europe in 2006 when some very different stakeholders² argued for the establishment of a "Kyoto tariff" at the EU border, both on competitiveness and moral grounds.

Since then, the EU Trade Commissioner ruled out the proposal as "bad politics" and much of the climate & trade debate has been focussed on the "mutual supportiveness" of the trade and climate regimes.

It has been emphasized how the liberalisation of "environmental goods and services" and "green technologies" could play a role in climate mitigation and adaptation. It has also been argued that the liberalisation of energy resources will bring more energy security,

² These stakeholders include: the French government, the cement industry, the European Commission's High Level Group on Competitiveness, Energy and the Environment, NGOs, etc.

more efficiency, and the necessary stimulus for the development of the renewable energy market. Strong pressures have also been made for the liberalisation of agrofuels as a means for cutting carbon emissions from transport (although this idea has suffered from major setbacks in the last months).

In the same vein, the old theory that trade liberalisation leads to growth which leads to increased welfare and in turn, to more environmental consciousness and, ultimately, to environmental policies, is making its come-back, although it has proven to be fallacious and factually wrong³.

So let us leave theory and the good thoughts about “mutual supportiveness” aside for a moment, and talk about the real crunching issues. Let us face it: policy-making is rarely coherent, and there are a number of potential or existing tensions and conflicts between climate and trade policies.

Trade and Climate: Tensions and Conflicts

To begin with, we would like to emphasize that in Friends of the Earth’s view, the current trading system and the push for liberalisation is a “*driver*” of climate change. The dominant trading system, and its emphasis on the ‘free market’, promotes a model of development based on unsustainable patterns of production and consumption dependent on a fossil fuel-based economy. The model is premised on unfettered growth and consumption, including growth of exports and imports, and the deregulation of markets, where nature has no limits and pollution costs are externalised.

While scarce resources are used to feed the greed of a few rich, the poor majority is denied a decent standard of living. By the same token, the rich have emitted so much of greenhouse gases (GHG) already to feed their irrational wants that the poor who are least responsible for climate change have to pay the price in terms of climate catastrophes.

The EU is a frontrunner in global climate negotiations; this should be acknowledged. In the last few years, the EU (comparing to other governments) has committed itself to strong and binding GHG reductions targets, setting a positive trend for other nations and giving positive market signals. Yet many other EU policies are undermining these efforts.

What are these contradictions?

“Global Europe” is the new framework for the EU’s trade policy. The Global Europe strategy is placing “competitiveness” and market access above all other concerns. Global Europe is fundamentally a pro-deregulation and market-opening approach. With its push for eliminating ‘non-tariff barriers’ and particularly export taxes, the EU is threatening to undermine or chill any domestic legislation, measure or standard that intends to mitigate or prevent climate change (for instance: subsidies to renewable energy programmes, energy efficiency standards, export restrictions on ‘climate-sensitive’ products such as illegal timber, etc.). This is not only jeopardizing climate policies but also undermining the ‘development space’ of poor countries.

³ This theory, as linear as it is, is merely there to bring a moral justification to trade liberalisation, but it has no connection with reality. Look at our network: the majority of Friends of the Earth groups are located in “Southern” developing countries: isn’t this a sign of environmental awareness? And look at the real world: some of the biggest polluters and less environment-friendly countries are also the wealthiest ones in terms of GDP.

By now, we have learned how climate mitigation is linked to the preservation of natural resources, particularly forests. Yet the EU is jeopardizing sustainable resource management by liberalising trade in natural resources under the NAMA chapter of the WTO negotiations and, increasingly, in bilateral trade agreements.

Similarly, through the GATS negotiations, the EU is pursuing a market access agenda to secure access to the energy markets of developing countries. Such an agenda, sometimes labelled as “energy security”, is not helping the EU reducing its dependence on fossil fuels and curbing its energy intensity, in fact it goes pretty much in the opposite direction. And the same goes for other negotiating areas: investment, public procurement, agriculture, intellectual property rights (IPRs), etc. All those negotiations are about strengthening the rights of investors and private companies and weakening the role of the State.

Another impediment to promoting climate-friendly technologies in the developing world is the EU's insistence on the enforcement of IPRs. If the developing world is to be enabled to undertake a low carbon pathway, it crucially needs technology transfer and, even more importantly, technology appropriation. But with a high IPR regime, products and processes are now patented and less accessible. So to really achieve the transfer of climate-friendly technologies, the biggest incentive would be to eliminate IPRs related to these technologies and negotiate “TRIPs-minus” agreements.

The EU's neo-mercantilist approach to trade policy, combining forced liberalisation in the sectors where it has an offensive interest and protection in the sectors where it is vulnerable to global competition, has clearly fuelled widespread mistrust among developing countries, and this affects climate negotiations where developing countries' reluctance to make binding commitments is partly due to the EU's double standards. Lastly, trade liberalisation brings no solution to the unfair distribution of environmental space, which has historically been biased in favour of rich nations.

Alternative Options

So what should be done by EU trade policy-makers?

We need a paradigm shift in Europe. It is time that the EU shifts away from short-sighted corporate-friendly “development-as-usual”. The EU must recognise its historical ecological and carbon debt towards poor nations and take the lead in cutting its own emissions. It is not appropriate for the EU to talk about “decoupling carbon emissions from economic growth”, since this would not fundamentally change anything to Europe's unsustainable development path. The real change would be to “decouple” economic growth from resource and human exploitation. This is not necessarily utopia: recent research by Friends of the Earth and the New Economics Foundation shows that, in Europe, wellbeing has little to do with our level of consumption⁴. Scandinavian societies, typically, have cleverly combined resource efficiency and human wellbeing. In other words, the heart of the problem in Europe lies in its general over-consumption. People in Europe need to shift to low resource-dependent lifestyles. For policy-making, this means a truly cultural revolution which goes way beyond mere technological fixes.

⁴ Tompson S., Abdallah S., Marks N., Simms A. and Johnson V., *The European Happy Planet Index*, Friends of the Earth and New Economics Foundation, 2007, www.happyplanetindex.org

As far as trade policy is concerned, the EU must abandon 'Global Europe' and promote *fairer* and *better* trade. This means that the EU must *qualify* trade flows and make sure European companies internalise climatic, environmental and social costs into the price of the products they sell. Cutting emissions should take place all along the supply chain, from production to transport to consumption and disposal. But *better trade* means also *less trade*. Instead of promoting more and more international trade at any cost, we believe the EU should strengthen local economies, in Europe but also in the developing world. This would be a clever contribution to the building up of truly self-reliant, low-resource sustainable economies.

Climate Change and Trade: How trade rules must support efforts to combat climate change

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The trade and environment debate has received new momentum with the rise of consciousness about the potentially disastrous effects of climate change. As if by magic, climate change has suddenly reached center stage of international politics, law and institutions. Since the adoption of the UN Framework Convention on Climate Change in 1992 and the Kyoto Protocol in 1997, several governments have resisted efforts to seriously tackle this global problem. This resistance has also detrimentally affected international trade negotiations relating to the inter-linkage between trade and environment. The fear that climate change mitigation and adaptation measures might have important repercussions on trade flows and the international trade regime more generally resulted in negotiators' being unable to find common ground as to clarifying the linkage between trade and environment policies, including between trade and climate change. In order for the trade regime to support – or even to avoid hindering – effective policies across the globe to tackle climate change, this inter-relationship between trade and environment must be addressed head-on.

Strengthening the principle of mutual supportiveness

At the Doha Ministerial Conference in 2001, trade ministers launched negotiations regarding the relationship between WTO rules and Multilateral Environmental Agreements (MEAs) with a view to clarifying that relationship and safeguarding MEA-related measures from being found inconsistent with WTO rules. The negotiations, however, ended up heading in a direction opposite from what many had hoped and began to be narrowed, with many negotiators seemingly primarily concerned about the potential effects of MEAs on the international trading system. This has led to considerable frustration in the environmental community.

The question is whether the new wave of environmental consciousness will bring fresh wind into this stale trade-environment debate. Unfortunately, there is little pointing in that direction. Although trade officials and the WTO Secretariat proclaim that the WTO wants to be an important supporter of efforts to combat climate change, there seems to be little movement towards giving deference to the climate regime and formalizing and implementing the principle of mutual supportiveness. Instead, trade officials are looking into so-called win-win solutions, such as the elimination and reduction of trade barriers with respect to climate-friendly products and technologies, and ignoring problems relating to the

potential chilling effect of WTO rules on climate policy-making. If the WTO wants to seriously support international efforts to combat climate change, Members of the WTO must officially declare that they acknowledge the seriousness of climate change, that trade and climate rules are mutually supportive, and that as a consequence WTO rules should not be understood to inhibit global efforts to mitigate or adapt to climate change.

The WTO for climate change: Support or stumbling block?

There is too much uncertainty as to whether WTO rules permit many of the measures governments may take to fulfill commitments under the climate regime – a tension that is unlikely to be resolved with any future post-2012 deal either. A technical and legal debate is taking place examining the WTO consistency of many types of climate-related measures. For example, some trade experts question the legality of standards or labeling relating to how a product is produced (e.g., relating to carbon footprint), while others believe nothing in the WTO prohibits such schemes. Indeed, WTO jurisprudence is favorable to allowing standards and labeling based on production processes. Nevertheless, the fear of potential WTO liability remains. Uncertainty also exists with respect to the WTO consistency of so-called border tax adjustments that are used to offset competitiveness losses from carbon taxes. These are just two examples, and there are many more. At the same time, even if rules are considered *a priori* inconsistent, there are exceptions included in the WTO framework which allow Members to violate WTO disciplines when measures are aimed at environmental protection, thus providing refuge for climate measures.

WTO consistency only becomes a problem if a WTO Member challenges another Member's climate-related measure, in which case a WTO dispute settlement panel would have to interpret WTO rules. As explained above, there is often leeway to go one way or the other. A declaration reaffirming that trade rules are to support efforts to combat climate change would guide the treaty interpreter to adopt an interpretation supportive of international efforts to combat climate change, rather than striking them down. This approach was already laid down in *US – Shrimp* where the WTO Appellate Body interpreted WTO norms in light of the Members' adherence to the goal of sustainable development and the international community's aim to protect the environment. However, the Appellate Body's approach is insufficient to guarantee that future panels will aim at finding a solution supportive of international efforts to protect the environment. The fragility of the Appellate Body's approach was quite clear in the *EC-Biotech* case, where a panel decided that it would only have to consider another international instrument if all the disputing WTO Members were also parties to that treaty. Since Membership to the WTO and to MEAs (including on climate change) are never congruent, this would mean that WTO panels can effectively ignore multilateral efforts dealing with global environmental problems – an approach that would contradict not only the Appellate Body's jurisprudence but also the principle of mutual supportiveness.

The way forward: leaving all the options open

In conclusion, the critical tension between climate change policies and international trade policies must be resolved in a way in which trade rules end up supporting efforts to combat climate change and its potentially catastrophic effects. It will not suffice for trade officials to negotiate solutions that would lead to greater market access in “climate friendly” goods and technologies. After all, any country can open its borders unilaterally to these. Instead, trade officials must ensure that current WTO rules truly do support climate change mitigation and adaptation measures by eliminating potential stumbling blocks and uncertainties inherent in the current WTO framework.

Our first goal must be to create a strong and sustainable global climate regime. Climate negotiators at this stage should not worry about some of the uncertainties inherent in the present trade rules. Rather, they should agree on the best possible plan to tackle the supposedly biggest global environmental problem humanity has ever faced. This plan will undoubtedly involve measures affecting international trade, but there is no reason to believe that just because trade-related measures are involved, the plan will automatically be WTO inconsistent. On the contrary: WTO rules are flexible enough to accommodate measures aimed at environmental protection. Moreover, the UNFCCC already incorporates safeguards against the use of climate measures for purely protectionist purposes by providing that climate change measures should not constitute “a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade”. That is also the line that the WTO sets out to distinguish those environmental trade-related measures that are permitted and those that are not. There is no need to try to go much further just now, and to get into complicated legal arguments about WTO text and jurisprudence regarding WTO compliance. Climate negotiators have enough on their hands, so they should not use their precious time fretting about the WTO.

Trade negotiators, on the other hand, could support the climate negotiations by clarifying the relationship between the trade and climate regime. They could strengthen the mutual supportiveness principle by making clear that WTO dispute settlement panels may not simply ignore multilateral efforts to combat climate change when interpreting WTO law, but that instead they should show deference towards the climate regime. Trade negotiators could also complement this approach by establishing presumptions in favor of measures taken pursuant to multilateral environmental agreements, including the climate regime.

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