



THE TRADE AND CLIMATE CHANGE INTERFACE

Initial Considerations for CARICOM



Dr. Jan Yves Remy, Rueanna Haynes, and Kaycia Ellis-Bourne

Special SDG Focus



THE GLOBAL GOALS

THE TRADE AND CLIMATE CHANGE INTERFACE POLICY BRIEF

Abstract

Climate Change and *International Trade* are two topics dominating the current global agenda, with the meetings of the highest decision-making bodies of each regime taking place in November and December 2021.¹ Given the parlous state of international co-operation, and with both struggling to achieve their own aims – i.e., reaching ambitious climate goals and securing open and fair multilateral trade relations – the task of creating mutually supportive linkages between the climate change and trade regimes is likely to be elusive.

Climate change has been billed as an existential threat to all of humanity. Recent findings by the Intergovernmental Panel on Climate Change (IPCC) confirm that global heat warming is widespread, rapid and intensifying, and that if carbon dioxide (CO₂) and other greenhouse gas (GHG) emissions are not cut, the world's climate change goals will be “beyond reach”.² It is therefore not surprising that for Member States of the Caribbean Community (CARICOM)³ – all of which are parties to the United Nations Framework Convention on Climate Change (UNFCCC)⁴ – climate change is a top priority in domestic policy.

But also important are obligations that CARICOM countries have as Members of the World Trade Organization (WTO).⁵ As COVID-19 has made clear, Caribbean economies are among the most open and trade-dependent in the world and they rely heavily on the rules of the multilateral trading system to secure access to markets and overcome their inherent disadvantages and resource constraints. While trade is therefore an essential to our economies, if left unchecked, it can also contribute to environmental degradation and fuel a “race to the bottom”, which harm countries, like CARICOM ones, on the front lines of climate change.

Being bound by international trade and climate change obligations, therefore, pressing questions loom that CARICOM Member States must answer: how can the advantages of engaging in both spheres of international cooperation be accentuated without one unduly constraining, or even harming, the other? (How) can the rules on climate change and trade mutually support each other to the benefit of the region? To date, these questions have not been interrogated or answered with nearly enough attention and rigour that this moment in time requires.

About This Policy Brief

This Policy Brief represents a first attempt to review the climate change and trade policies of CARICOM and its Member States with a view forging a CARICOM agenda that utilizes trade to advance our climate change goals. Through a review of multilateral efforts at the UNFCCC, as well as under multilateral, regional and bilateral trade regimes, the authors seek to illustrate the intersection, at various institutional levels, of the trade/climate change agendas. The

1 The 26th session of the UN Climate Change Conference of the Parties 26 (COP26) takes place at the beginning of November in Glasgow, Scotland; and the 12th Ministerial Conference of the World Trade Organization (MC12) takes place from the end of November to the beginning December, in Geneva.

2 The Full Report is available here: <https://www.ipcc.ch/report/ar6/wg1/#FullReport> See also Statement of the UN Secretary General upon issuance of the IPCC Report, available at: <https://news.un.org/en/story/2021/08/1097362> Accessed on 27 October, 2021.

3 There are 15 Members of CARICOM namely Antigua and Barbuda, Bahamas, Barbados, Belize, Commonwealth of Dominica, Grenada, Cooperative Republic of Guyana, Haiti, Jamaica, Montserrat, Saint Lucia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Republic of Suriname and Republic of Trinidad and Tobago.

4 See Annex 1.

5 Only The Bahamas, which is in the process of acceding to the WTO, is not a WTO Member.

Brief also provides a diagnostic survey of trade and climate change-related measures taken by CARICOM Member States to date, with a view to initiating discussions and spurring policies that are mutually enforcing.

The Policy Brief is organized as follows:

- **Section 1** gives an overview of the legal regime governing climate change, from UNFCCC through to the Paris Agreement,⁶ pointing out the (limited) direct references to trade policy therein. It highlights the main components of the ongoing climate change negotiations and the issues at stake for CARICOM countries in the COP26 Glasgow negotiations.
- **Section 2** focuses on the philosophical debate regarding the trade/climate change interface, before considering how climate change is currently accommodated under WTO rules, in ongoing trade negotiations and in past trade disputes. The Section also provides a review of climate-related trade policies of the top emitters of GHGs, which are also nations with which CARICOM States enjoy their predominant trade relations.
- **Section 3** then turns squarely to CARICOM regional and domestic policy, to consider the climate change related trade measures taken to date.
- **Section 4** concludes with some initial recommendations for CARICOM trade and climate change policymakers.
- **Annex II:** Includes a database of climate-change related policies (including from their Nationally-Determined Contributions) for each CARICOM Member State.

We hope that you enjoy this new SRC policy brief and we encourage you to regularly check the SRC's website at www.shridathramphalcentre.com for updates and new releases!

Acknowledgements

The authors wish to extend sincere appreciation to Mr. Joel Richards, Technical Attaché at the OECS Mission in Geneva, for his peer-review of this Brief.

About The Authors

Dr. Jan Yves Remy

Jan Yves Remy is Director of the SRC. In addition to her outreach and research activities at the SRC, she teaches trade law and Caribbean regional integration in the SRC's flagship Masters in International Trade Policy Programme. Jan Yves also serves as Chair for the University of the West Indies (Barbados) under the Chair Programme of the World Trade Organization (WTO). She has also served as a WTO panelist in a dispute between WTO Members. Jan Yves holds a Ph.D. in International Law (summa cum laude) from the Graduate Institute of International and Development Studies (Geneva, Switzerland), an LL.M (Hons) in Commercial and International Law from the University of Cambridge (UK) and an LL.B. (Hons) from the University of the West Indies, Cave Hill Campus (Barbados).

⁶ While other regimes sought to also prescribe climate-change related measures prior to it, the UNFCCC deals most comprehensively with measures to combat climate change and will be the focus of this Brief. CARICOM Member States are also party to the Convention for the Protection of the Ozone Layer, the Convention on Biological Diversity, the Convention on International Trade in Endangered Species of the Wild Fauna and Flora (CITES), the Montreal Protocol, the UN Convention to Combat Desertification, Basel, Stockholm, and Rotterdam.



Rueanna Haynes

Rueanna Haynes is an international climate law and governance specialist, and TEDx 2020 speaker, with over a decade of experience in the UN Climate process. A former Trinidad and Tobago diplomat, Rueanna has negotiated for the Caribbean Community as well as the Alliance of Small Island States, including in the

development of the sustainable development goals. At present, she is Senior Legal Adviser at Climate Analytics and Director of the Climate Analytics Caribbean office in Trinidad and Tobago. Rueanna provides strategic, technical and diplomatic advice to island states in climate change negotiations, as well as training for officials new to the UN Climate process.

Kaycia Ellis-Bourne

Kaycia Ellis-Bourne is a Guyanese attorney-at-law residing in Barbados. She recently graduated from the University of the West Indies, Cave hill campus after completing her Graduate Studies and attained a Master of Science (MSc) with Distinction in International Trade Policy. She was also the recipient of two top awards for her outstanding achievement - the MSc International Trade Policy Award and Graduate Student of the Year for the Faculty of Social Sciences Academic year 2020-2021 awarded to the graduate student with the highest aggregate mark in the faculty. She has worked as an intern at the SRC and at the Office of Trade Negotiations within the CARICOM Secretariat.

TABLE OF CONTENTS

THE TRADE AND CLIMATE CHANGE INTERFACE POLICY BRIEF	1
Abstract	1
About This Policy Brief	1
Acknowledgements	2
About The Authors	2
TABLE OF CONTENTS	4
INTRODUCTION	6
SECTION 1: FROM RIO TO GLASGOW: THE EVOLUTION FROM THE UNFCCC TO THE PARIS AGREEMENT	8
(1) The United Nations Framework Convention on Climate Change (UNFCC)	8
(2) The Kyoto Protocol	9
(3) The Paris Agreement.....	9
Negotiations Under The UNFCCC: What's At Stake For CARICOM In Glasgow	10
Nationally Determined Contributions (NDCs).....	11
Long-term low carbon development strategies	12
The Katowice Committee of Experts on the Impacts of the Implementation of Response Measures (KCI)	12
SECTION 2: CLIMATE CHANGE AND ITS INTERFACE WITH TRADE.....	14
The Philosophical Debate	14
Climate-Change at the World Trade Organization (WTO)	15
The Existing WTO Rules	16
Ongoing WTO Negotiations and Initiatives	17
Other non-WTO Trade Initiatives on Climate Change	22
(1) Agreement on Climate Change, Trade and Sustainability (ACCTS)	22
(2) Statements of the G7	23
(3) The Organization for Economic Cooperation and Development (OECD)	23
(4) The Commonwealth Secretariat	24
(5) United Nations Conference for Trade and Development (UNCTAD)	24
WTO Disputes Involving Climate Change Policies	26
Trade -Related Climate Change Policies of the World's Top Three Emitters	29



(1) China 30

(2) The United States of America 31

(3) The European Union (EU)..... 32

Climate Change Provisions in Free Trade Agreements 36

 CARICOM Agreements with Climate Change Related Provisions..... 37

 CARIFORUM-EU EPA 37

SECTION 3: CARICOM TRADE AND CLIMATE CHANGE POLICY 40

 Regional Approaches to Climate Change and Trade 40

 Climate Change-Related Entities and Initiatives across CARICOM..... 40

 Energy Policy Initiatives..... 42

 Individual CARICOM Country Approaches to Climate Change 43

SECTION 4: THE WAY FORWARD? 49

BIBLIOGRAPHY 52

ANNEX I 58

ANNEX II..... 59



INTRODUCTION

The phenomenon of “climate change” is linked to direct or indirect human activity which alters the composition of the global atmosphere over and above natural climate variability observed over comparable time periods. It results from a gradual increase in average global temperatures caused by the accumulation of greenhouse gases (GHG)⁷ in the atmosphere.⁸ The principal GHGs are carbon dioxide (CO₂), methane, nitrous oxide, and fluorinated gases. CO₂ comprises 64.3% of GHGs and enters the atmosphere through the burning of fossil fuels, solid waste, trees and wood products, and certain chemical reactions. The adverse impacts of global warming and the resulting changes in the climatic conditions are formidable stumbling blocks to sustainable development, in particular, for small island developing states (SIDS) of which most Caribbean states are a sub-set.⁹

Climate change is at the forefront of international policy-making and is reflected in Goal 13 of UN Sustainable Development Goals (SDGs) which calls for urgent action to combat climate change and its impacts and specifies several targets and indicators to guide climate action.¹⁰ In sum, the global agenda aims to stabilize atmospheric GHG concentrations through the reduction of anthropogenic GHG emissions as prescribed under the United Nations Framework Convention on Climate Change (UNFCCC) – the main international legal instrument responsible for mitigating the impact of climate change.

As low-lying coastal states, Caribbean countries are inherently vulnerable to the effects of climate change, including rising sea levels, persistent disruptions in weather patterns leading to flooding and droughts and, increases in occurrences and the intensity of natural disasters, all of which threaten the access to necessities and supply chains.¹¹ As a contributing factor to desertification and deforestation, climate change has also been linked to loss of biodiversity and pollution which compromises the availability of safe drinking water, clean air and food. The effects of climate change also increase catastrophe risk, compromise infrastructure that is vital for production and trade, and carry substantial economic costs for regions, like ours, whose main revenue and export earnings are concentrated in oil and gas, agriculture, tourism, and transport.

Transformation to climate resilient and sustainable economies will require investment in energy diversification, human capital skills and environment-friendly technologies, all of which can be facilitated by supportive trade and investment relationships with developed and developing countries. But the necessary transition to low carbon economies is expensive and comes at a time when the Caribbean region is experiencing record levels of debt, stagnant growth rates, declining levels of foreign direct investment (FDI) and undiversified economies. As Caribbean SIDS move into full implementation of the Paris Agreement and toward long-term low-carbon development, national policies will undoubtedly impact trade measures and vice versa.

7 Article 2 of UNFCCC, 1992. Anthropogenic greenhouse gas emissions refer to emissions of greenhouse gases caused by human activities.

8 World Resources Institute. “What is Climate Change?” October 2, 2009. Accessed on July 10, 2021. <https://www.wri.org/data/what-climate-change>

9 SIDS have been identified as a special case for environment and development at the UN Conference on Environment and Development in 1992, a recognition that to this day is carried forward through the UN SIDS sustainable development process.

10 United Nations, Sustainable Development Goals: Goal 13 Take urgent action to combat Climate Change and its impacts. Accessed on July 10, 2021. <https://www.un.org/sustainabledevelopment/climate-change/>

11 For more information about the threat of climate change to the Caribbean, see *The State of the Caribbean Climate 2020 Report* available at <https://uwi.edu/climateaction/research/landmarkpublications.php>



While many would agree that there must be a greater synergy between the trade and climate change agendas to reduce carbon emissions, trade has not, to date, featured prominently on the UNFCCC negotiations, nor has climate change been at the forefront of the trade agenda. To the contrary, current trade practices are often blamed for *contributing* to GHG emissions globally, even though recent work trade publications demonstrate ways in which trade can support environmental resilience and climate goals.¹²

12 For instance, the World Bank and the United Nations Conference on Trade and Development (UNCTAD) suggest that the most direct way to reduce GHG emissions lies in formulating policies, regulations, and institutions that progressively 'green' a nation's productive activities. For instance "Climate change and trade agreements: Friends or foes?", *The Economist Intelligence Unit*, See at: <https://iccwbo.org/content/uploads/sites/3/2019/03/icc-report-trade-and-climate-change.pdf>, "Making the International Trade System work for Climate Change: Assessing the options" see at: https://climatestrategies.org/wp-content/uploads/2018/07/CS-Report-_Trade-WP4.pdf, "The Trade and Climate Change Nexus: the urgency and opportunities for developing countries" See at: <https://openknowledge.worldbank.org/bitstream/handle/10986/36294/9781464817700.pdf?sequence=5> and "Greening International Trade: Pathways Forward" See at: https://trahub.earth/wp-content/uploads/2021/07/Greening-International-Trade_18.07.2021.pdf

SECTION 1: FROM RIO TO GLASGOW: THE EVOLUTION FROM THE UNFCCC TO THE PARIS AGREEMENT

(1) The United Nations Framework Convention on Climate Change (UNFCCC)

The United Nations Framework Convention on Climate Change¹³ was adopted in 1992 as one of three 'Rio Agreements' at the United Nations Conference on Environment and Development held in Rio de Janeiro, Brazil in 1992. The agreement resulted from calls by the then recently created Intergovernmental Panel on Climate Change (IPCC) and the Second World Climate Conference for a global treaty on climate change. Negotiations were launched in December 1990 by the United Nations in the context of the Intergovernmental Negotiating Committee (INC) for a Framework Convention on Climate Change. All CARICOM Member States are parties to the UNFCCC. (See Annex 1)

In keeping with the findings of the first assessment report of the IPCC, the ultimate objective of the UNFCCC "and any related instruments that the Conference of the Parties may adopt" is to achieve, "stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner".¹⁴

In order to achieve this objective, the Convention set out commitments, in the first instance, for all Parties in light of their common but differentiated responsibilities and their specific national and regional development priorities to, inter alia, cooperate in certain areas, submit reports and prepare national inventories on greenhouse gas emissions. The Convention also set out a specific set of commitments for "developed country Parties" and "other Parties included in [its] Annex 1". Some highlights of these commitments include: (i) the adoption of national policies and taking measures to mitigate climate change; (ii) communication (within a specified timeframe) of detailed information on its policies and measures – such communication being subject to review by the Conference of the Parties; (iii) the provision of new and additional financial resources to developing countries.

In order for these commitments to be achieved, the UNFCCC also sets out key guiding principles in its Article 3 which are still relevant today in the context of the Paris Agreement. These principles can be broadly described as follows:

1. equity and common but differentiated responsibilities and respective capabilities
2. special needs and circumstances of vulnerable developing countries or those that would bear a disproportionate burden to implement the Convention
3. the precautionary principle
4. promotion of sustainable development
5. cooperation to promote an open international economic system

Trade is mentioned only once in the context of the UNFCCC with an undertaking by all Parties in Article 3.5 in the context of "promoting an open international economic system". The Article sets out that "measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination

13 See https://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf

14 Article 2, United Nations Framework Convention on Climate Change, 1992.

or a disguised restriction on international trade”, language which as we will see below is typical of trade agreements. The inclusion of this principle is neutral in its effect as it does not go onto specify what may constitute a measure that is ‘arbitrary’ or ‘unjustifiable’.¹⁵ The broader implications of climate change and its impacts on trade are not considered or addressed in the UNFCCC.

(2) The Kyoto Protocol

As a framework convention, the UNFCCC was always intended to be supplemented by “related legal instruments” as referenced in its Article 2. The Kyoto Protocol (KP) is one such related legal instrument adopted in 1997. It “operationalizes the [UNFCCC] by committing industrialized countries and economies in transition to limit and reduce greenhouse gases (GHG) emissions in accordance with agreed individual targets”. This is contrasted with the Convention itself that contains commitments that are generally collective and considerably less specific.

Notably, the KP setup the first international emissions trading scheme through the clean development mechanism and developed programmes, such as joint implementation, that would allow for countries to cooperate in meeting their emission reduction commitments. The KP also established the first compliance regime under the UNFCCC with its Compliance Committee comprising of an Enforcement and a Facilitative Branch. The Adaptation Fund was also established under the KP to allow for a share of the proceeds from emissions trading to be allocated to assist developing countries in their adaptation efforts. This fund remains the only direct access fund in the UNFCCC regime. A proposal made by island states for an implementing Protocol for the UNFCCC heavily influenced the structure of the eventual KP agreement.

Following the KP, there were other agreements attempted through the controversial Copenhagen Accord (2009) and subsequent Cancun agreements (2010) and eventually the Paris Agreement (2015). Although the Kyoto Protocol does establish the first international carbon trading scheme in the form of the Clean Development Mechanism (CDM), in terms of international trade more broadly, it does not go beyond the reference already contained in Article 3 of the UNFCCC. Article 2.3 of the Kyoto Protocol sets out that “[t]he 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...”.

(3) The Paris Agreement

The Paris Agreement has been vilified as much as it has been celebrated as the culmination of global resolve to address the climate crisis. It has been hailed as “historic”¹⁶, and the “world’s greatest diplomatic success”¹⁷, however, it is well understood that if these claims are true it is not because the Paris Agreement either decisively resolves the climate crisis or is novel in its approach, but because the agreement represents a considerable achievement in multilateral diplomacy.¹⁸ One of the signature agreements achieved at Paris was a commitment by Members holding

15 Daniel, Bodnasky, “The United Nations Framework Convention on Climate Change: A Commentary,” *Yale Journal of International Law* Vol.18, 451 (1993): 107.

Retrieved from digitalcommons.law.yale.edu: <https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1626&context=yjil>. Accessed 14 April 2021.

16 Joby Warrick and Chris Mooney, “196 countries approve historic climate agreement”, *The Washington Post*, 12 December 2015,

<https://www.washingtonpost.com/news/energy-environment/wp/2015/12/12/proposed-historic-climate-pact-nears-final-vote/>. Accessed 14 April 2021

17 Fiona Harvey, “Paris climate change agreement: the world’s greatest diplomatic success”, *The Guardian UK*, 14 December 2015,

<https://www.theguardian.com/environment/2015/dec/13/paris-climate-deal-cop-diplomacy-developing-united-nations>. Accessed 14 April 2021

18 Daniel Bodansky, Jutta Brunnée, and Lavanya Rajamani, *International Climate Change Law*. (Oxford: Oxford University Press, 2017).

the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change.

The Agreement represents the best compromise that could be reached by Parties to put the global governance of climate change back on track after the 2009 failure of the Copenhagen Conference. The agreement is structured around the idea that Parties submit a voluntary pledge for emissions reductions (now referred to as **Nationally Determined Contributions (NDCs)**) which they would then be politically, but not legally, bound to implement. The Paris Agreement also features internationally legally binding obligations for all Parties in the area of reporting and review. This structure of the Paris Agreement referred to as both ‘top-down’ and ‘bottom-up’ can be seen as a hybrid type of international agreement with features that allow for Parties to improve their efforts over time without the need for amendment. The structure and content of the agreement were heavily influenced by the trade-off between stringency and universal participation – in favour of the latter.

The principles of the Convention have been carried forward to the Paris Agreement with a refinement to the principle of common but differentiated responsibilities agreed between the US and China in 2014. The Paris Agreement in its Article 2.3 sets out that “This Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances”. The latter reflects the idea that Party circumstances may not be fixed and therefore their level of effort on climate action should be consistent with their actual national circumstances.

Unlike the UNFCCC and the Kyoto Protocol the concept of trade does not feature at all in the context of the Paris Agreement – although relatedly, Article 6 provides a framework for voluntary cooperation through international markets for carbon emissions and offsets. The Paris Agreement is however guided by the principles of the UNFCCC and so it can be said that Article 3.5 is incorporated by implication. More importantly, the Paris Agreement contains 3 features that will likely heavily impact and be heavily impacted by the rules of international trade as follows, namely (i) Nationally Determined Contributions; (ii) long-term low carbon development strategies and (iii) recognition of impacts of the measures taken to respond to climate change (response measures).

Negotiations Under The UNFCCC: What’s At Stake For CARICOM In Glasgow

After some delay, the 26th session of the Conference of the Parties (COP26) to the UNFCCC takes place from 31 October to 12 November in Glasgow. COP 26 is undoubtedly the most significant COP since the Paris Agreement in 2015. The advent of the COVID-19 pandemic derailed a number of discussions that should have concluded in 2020 and exacerbated the precarious situation of countries already feeling the impacts of climate change. At the same time global attention has been focused on climate change and the intersections with human rights and social justice issues in a way that it has never been before.

For CARICOM countries, the priorities at COP26 are clear, and include, first and foremost, making the case for support and solidarity from the international community, and in particular, for compliance with legal and financial obligations by developed countries.

Textbox 1: CARICOM Priorities at COP26 in Glasgow

CARICOM Priorities at COP26 in Glasgow

1. The highest levels of mitigation ambition, in particular from major emitters through the delivery of enhanced NDCs aligned with a 1.5 degree Celsius pathway and credible net zero 2050 targets and plans
2. Donor countries to meet the goal of mobilising USD100 billion per year through to 2025 and to address the finance gap for 2021
3. Scaling up of climate finance for adaptation to provide more predictability
4. Climate finance access issues for SIDS to be addressed
5. More concessional financing to be made available to SIDS to help to alleviate the debt crisis being faced by Caribbean SIDS
6. Reconsideration of the GDP per capita classification that is a hindrance to many Caribbean SIDS in accessing concessional climate finance.
7. Financing to be made available to address Loss and damage
8. Completion of the remaining elements of the Paris Agreement Rulebook in line with the highest levels of environmental integrity for the market mechanism and in accordance with the principles of transparency, accuracy, consistency, comparability, and completeness for the Enhanced Transparency Framework.

See also: CARICOM Ministers of Climate Change Declaration Ahead of COP26: <https://caricom.org/caricom-climate-change-ministers-demand-climate-justice-in-declaration-ahead-of-cop26/>

Nationally Determined Contributions (NDCs)

All Parties under the Paris Agreement agreed to “prepare, communicate and maintain successive nationally determined contributions that it intends to achieve”.¹⁹ These NDCs must be communicated/re-communicated on five yearly cycles and may be of a 5- or 10-year duration for implementation by Parties. The implementation of these NDCs goes “towards achieving the objective of the Convention as set out in its Article 2²⁰”. Parties could not agree on whether NDCs would be primarily a tool for communicating mitigation action or also include other areas such as adaptation.

As a result, the scope of NDCs has never been settled with the Paris Agreement in paragraph 27 of decision 1/CP.21 on some categories of information to be included in the NDC. To date, most Parties to the Paris Agreement have now submitted a second round of NDCs in response to the need to ramp up climate action to address the gap in particular in mitigation action and place the world on a pathway to limiting global warming to 1.5°C by the end of the century. The character of NDCs continues to evolve and for some countries have started to include/address many development related issues incorporating many aspects of the sustainable development goal framework.

In terms of their relevance for trade, the NDCs give an indication of the sectors countries will target for emissions reductions. Many CARICOM countries have only produced one NDC document to date although some have also submitted new NDCs in time for Glasgow.²¹ As countries the world over begin to implement the policies included in their NDCs, it is clear that goods and services which do not meet the standards set at the domestic level for emissions reductions may be negatively impacted. One clear example of this can already be seen in the context of the European

¹⁹ Article 4.2 Paris Agreement (UNFCCC, 2015)

²⁰ Paragraph 13 Decision 1/CP.21 (UNFCCC, 2015)

²¹ See Annex II.

Union's Carbon Border Adjustment Measure (CBAM) that has already informally attracted much criticism²² (see **Text box 6 below**), including in the context of discussions in the UNFCCC, because of its likely negative impact on goods originating in developing countries. Similarly, discussions concerning airline taxes for jet fuels/emissions have raised concerns in the Caribbean over their impact on tourist arrivals.

Long-term low carbon development strategies

Under the Paris Agreement (Article 4.19) Parties are also encouraged to submit long term low greenhouse gas development strategies in line with the objectives set forth in Article 2 of the Agreement. This encouragement has resulted in Parties adopting or supporting net-zero 2050 strategies or targets whereby Parties undertake to achieve net negative emissions of primarily carbon dioxide. Although this is not a strict obligation the Climate Action Tracker reports²³ that, as of June 2021, 31 countries and the European Union have committed to net zero targets either in law or policy and that more than 100 countries have proposed or are considering such a target. Where these net-zero targets are adopted into law or policy they provide a very strong basis for climate action. In fact, the EU CBAM policy has emerged out of its net-zero/climate neutrality legislation. It is very likely that challenges to legislation enacted in line with net-zero policies on trade related grounds will become commonplace in the near future. All fourteen member states of the CARICOM have signed onto the Carbon Neutrality Coalition, pledging to reach carbon neutrality by 2050. No country in the region has yet progressed to enshrining this political undertaking into law or policy, although some have taken the additional step of declaring that it will achieve net zero emissions by 2030. For instance, in their updated NDCs of 2021²⁴, Barbados, Antigua and Barbuda and Belize have stated that they intend to be net zero by 2030, 2040 and 2050 respectively.²⁵

The Katowice Committee of Experts on the Impacts of the Implementation of Response Measures (KCI)

In 2018 the UNFCCC adopted a package of decisions dubbed the Katowice Work Programme at its 18th Conference of the Parties held in Katowice Poland. Decision 7/CAM.1 of that package established the Katowice Committee of Experts on the Impacts of the Implementation of Response Measures (KCI). Reaffirming the need to continue to “cooperate to promote a supportive and inclusive international economic system that will lead to sustainable economic growth of all Parties”. The KCI serves as a forum for Parties to *inter alia*, share information and best practices, to facilitate assessment and analysis of the impact of the implementation of response measures; provide recommendations on actions to the Conference of the Parties including on implementation measures under the various Agreements; provide concrete examples, case studies and practices in order to enhance the capacity of Parties, in particular developing country Parties, to deal with the impact of the implementation of response measures etc.

The KCI will be the likely forum for discussion of matters of international trade that Parties deem to be harmful to maintaining an open international economic system. In fact, Party complaints concerning the EU CBAM proposal were

22 “View: the new carbon tax that’s less likely to cut emission and more likely to cause trade war”, *The Economic Times*, July 26, 2021. <https://economictimes.indiatimes.com/opinion/et-commentary/view-border-carbon-taxes-wont-reduce-emissions-much-and-will-trigger-trade-wars/articleshow/84738843.cms?from=mdr>

23 “Net zero targets,” Climate Action Tracker. See at: <https://climateactiontracker.org/methodology/net-zero-targets/> Accessed 2 May 2021.

24 See Annex II.

25 See also “CARICOM States Declare New Commitments at the Climate Ambition Summit” at: <https://www.caribbeanclimate.bz/blog/2020/12/14/caricom-states-declare-new-commitments-at-the-climate-ambition-summit/>.



raised in this forum but were not taken seriously as the EU and others argued that it was outside the mandate of the KCI. The existence of the KCI provides Parties with a first port of call for the discussion of trade measures that may constitute harmful 'response measures' before they become issues to be addressed in the context of WTO dispute settlement. It remains to be seen whether/how the KCI will function in this regard. Its work has primarily been supported by Gulf States seeking a basis for compensation for lost oil and gas revenues as a result of action to mitigate climate change. As a result, developed countries have taken a very sceptical approach to the work of the KCI and have neutered its potential impact. Nevertheless, it could become the focus of discussions under the UNFCCC regime for matters related to the linkage between climate change and trade. Thus far CARICOM countries have not taken a strong interest in the work of the KCI although that may change especially as the Committee is mandated to address hot topics such as the just transition.

SECTION 2: CLIMATE CHANGE AND ITS INTERFACE WITH TRADE

The Philosophical Debate

For many, the trade/climate change interface elicits a mixed response. On a more traditional view, trade negatively impacts the environment, because it increases emissions causing global warming, and leads to overconsumption which contributes to overfishing and deforestation. It has also be argued that trade policy narrows the policy space that countries need to effectively tackle climate change. According to the World Bank²⁶, trade itself is also affected by climate change by changing comparative advantages, in sectors like agriculture and tourism, which are of particular importance to many CARICOM countries. The vulnerability of agricultural yields to climate threatens not just domestic food security but also the economic development of food-exporting countries and their ability to eliminate poverty, as well as tourist-dependent economies.

The same World Bank Report notes that trade also is being increasingly affected by extreme weather-related shocks such as storms, floods, and droughts: exports and imports are directly affected negatively when trade-related transportation and logistics infrastructure sustain significant damage and longer-term adverse impacts arise from loss of life and injury and damage to buildings and machinery. Other devastating effects are to food production which is hit hard when extreme weather events prevent the planting or harvesting of main crops.²⁷

But trade is equally a force for good. Imports are critical to the immediate recovery from a natural disaster and allows imports from unaffected countries to meet the crisis-induced shortage of supply in critical goods and services. During reconstruction, imports provide the equipment, materials, and skills needed to rebuild the capital stock and transportation infrastructure.²⁸ Moreover, in implementing their respective NDCs, countries can take various direct trade-related measures to move to low carbon economies, such as removing or reducing barriers or tariffs on environmental goods and services; implementing carbon pricing; developing technical standards for low-carbon products; and importing low-carbon technologies (**See Textbox 2**). There are also opportunities for developing countries to be gained in this new environment. The World Bank speaks of new opportunities for low- and middle-income countries to diversify exports in a low-carbon global economy. While these countries face huge challenges in adapting to climate change, they benefit from natural low-carbon advantages and the application of new, low-carbon technologies to increase their carbon competitiveness as traditional comparative advantages are undermined.

26 Paul Brenton, and Vicky, Chemuti. 2021. "The Trade and Climate Change Nexus: The Urgency and Opportunities for Developing Countries," (Washington DC: World Bank Group, 2021), xvi. <https://openknowledge.worldbank.org/bitstream/handle/10986/36294/9781464817700.pdf?sequence=5>. Accessed 10 May 2021.

27 Paul Brenton, and Vicky, Chemuti. 2021. "The Trade and Climate Change Nexus: The Urgency and Opportunities for Developing Countries," (Washington DC: World Bank Group, 2021), xv. <https://openknowledge.worldbank.org/bitstream/handle/10986/36294/9781464817700.pdf?sequence=5>. Accessed 10 May 2021.

28 Paul Brenton, and Vicky, Chemuti. 2021. "The Trade and Climate Change Nexus: The Urgency and Opportunities for Developing Countries," (Washington DC: World Bank Group, 2021), xvi. <https://openknowledge.worldbank.org/bitstream/handle/10986/36294/9781464817700.pdf?sequence=5>

Textbox 2: Toolkit of Trade-Related Measures for Adapting to Climate Change

Toolkit of Trade-Related Measures for Adapting to Climate Change

- Review country tariffs and remove any bias toward dirty sectors
- Reduce restrictions on access to environmental goods and services and on environmentally preferable products; accelerate negotiations on these goods and services at the multilateral level
- Remove nontariff barriers and implement trade facilitation and logistics reforms to reduce delays at borders and along trade routes, especially to reduce food waste and so contribute to food security
- Develop standards on the carbon emissions embodied in a product that capture the realities of measurement in low- and middle-income countries; scale up technical assistance and capacity building on carbon measurement techniques and traceability
- Reduce tariffs and nontariff barriers on agricultural inputs and facilitate access to new technologies for farmers through expedited procedures for releasing seeds and easier movement of agricultural specialists
- Use the tools available at the World Trade Organization to address the climate change emergency, such as a waiver for the trade-related aspects of intellectual property rights of green technologies.

Source: Paul Brenton, and Vicky, Chemuti. 2021. "The Trade and Climate Change Nexus: The Urgency and Opportunities for Developing Countries," (Washington DC: World Bank Group, 2021)

Climate-Change at the World Trade Organization (WTO)

The World Trade Organization is a 164-Member multilateral organization established in 1995 to regulate and oversee trade relations between its Member countries. It provides the largest platform for monitoring and negotiating new trade rules – related to goods, services and intellectual property rights – through successive rounds aimed at gradually reducing measures that restrict trade, for instance tariffs, non-tariff barriers and unfair trade support. The WTO also serves as the forum for settling disputes that arise among its Members, through first instance WTO panels and the Appellate Body (when it existed).²⁹

The overall direction of the WTO, a Member-driven organization, is set at meetings of Ministerial Conferences comprising Heads of government who meet typically every two years. The Ministerial Conference meets next, at MC12m in Geneva in November-December 2021.

Although climate change issues do not explicitly form part of the WTO agenda, WTO Members have always recognized the interconnected relationship between trade and the environment in pursuit of the objectives underlying the multilateral trading system. As the effects of climate change threaten environmental sustainability, however, it has increasingly become apparent that WTO must play a supportive role in realizing the climate goals set out in multilateral environmental agreements (MEAs) such as the UNFCCC.

29 The World Trade Organization: The Appellate Body Crisis. See at: <https://www.csis.org/programs/scholl-chair-international-business/world-trade-organization-appellate-body-crisis>. Accessed 11 July 2021.

The Existing WTO Rules

The rules of the WTO seek to establish reciprocal trade relations between its Members, on the basis of principles of non-discrimination, transparency, predictability and market access. Specialized rules and agreements also regulate government measures that affect trade, including subsidies, non-tariff barriers and measures, services, agriculture, technical barriers to trade, intellectual property rights and government procurement. There are of course exceptions to these rules but they can only be invoked under certain conditions, including where a Member takes measures to protect the environment. However, these measures cannot be disguised restrictions on trade, must be proportionate and cannot discriminate among and between WTO Members. There are also “plurilateral” ongoing negotiations in areas such as investment facilitation, e-commerce, and micro, small and medium-sized economies (MSMEs).

While there is no direct reference to the phenomenon of “climate change” in the WTO rules, a number of provisions under its various agreements have been raised in recent WTO discussions on climate change³⁰:

Table 1: Existing WTO Rules

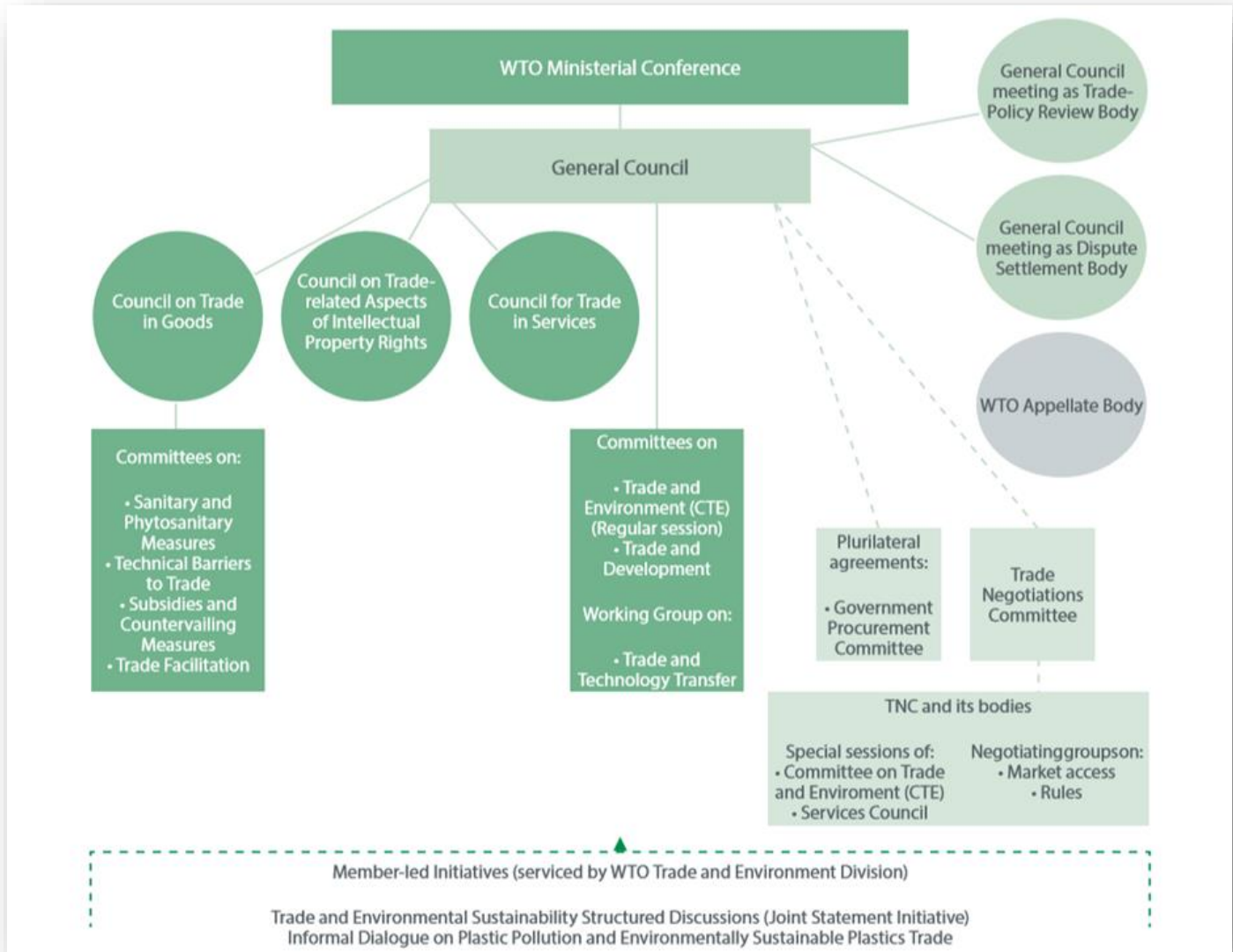
Climate Related Proposal/Rule	Specific WTO Agreement/Provision
General commitment by WTO Members to adhere to the goal of sustainable development and environmental protection	Preamble of the WTO Agreement refers to “the optimal use of the world’s resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development.”
Liberalization of climate friendly goods and services; Border carbon adjustments; carbon taxes Quotas or bans on high emission intensity products	Article II of the GATT 1994/ Article XVI of the GATS (Schedules of Concessions/Market Access) Article III of the GATT 1994 (National Treatment) Article XI of the GATT 1994 (Quantitative Restrictions)
“Behind the border” measures such as climate related standards and labels; trade disciplines on fossil fuel subsidies; greening trade rules on subsidies, government procurement and investment to support climate action	Technical Barriers to Trade (TBT) Agreement, Sanitary and Phyto-Sanitary (SPS) Agreement, Government Procurement Agreement, Agreement on Subsidies and Countervailing Measures, Anti-Dumping Agreement
General exceptions to accommodate climate change measures A “climate waiver” (proposed by James Bacchus) ³¹ which would allow a WTO Member to pass trade restrictive measures that are in line with obligations under the Paris Agreement, based on the amount of carbon emitted in making the products concerned	Article XX(b)(g) of the GATT 1994/ Article XIV(b) GATS (which excepts WTO measures “necessary to protect human, animal or plant life or health”, and “relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption” provided they do not discriminate arbitrarily and/or unjustifiably, or constitute a disguised restriction on trade) Article IX: 3 and IX:4 of the WTO Agreement allows waivers by agreement of three-quarters of the WTO membership
Provisions on agriculture and trade: food sustainability, market access, green agricultural subsidies	Agreement on Agriculture
Intellectual property rules that facilitate green technology transfer	Agreement on Trade Related Intellectual Property Rights

³⁰ See https://www.wto.org/english/tratop_e/envir_e/climate_measures_e.htm] See also Carolyn Deere Birkbeck, *Greening International Trade: Pathways Forward* (Geneva: Global Governance Centre and the Forum on Trade, Environment & the SDGs (TESS) , 12, Accessed 11 July 2021, https://trahub.earth/wp-content/uploads/2021/07/Greening-International-Trade_18.07.2021.pdf

³¹ See James Bacchus, *The Case for a WTO Climate Waiver: Special Report*, November 2, 2017. at <https://www.cigionline.org/publications/case-wto-climate-waiver/>. Accessed 11 July 2021.

Ongoing WTO Negotiations and Initiatives

Figure 1: WTO Negotiating Bodies



Source: Carolyn Deere Birkbeck, *Greening International Trade: Pathways Forward* (Geneva: Global Governance Centre and the Forum on Trade, Environment & the SDGs (TESS), 19 – adapted from WTO (2021): *WTO organization chart*, World Trade Organization

The WTO conducts its ongoing negotiating work through Committees and Councils in which WTO Members meet regularly to *inter alia* discuss new rules. While there is no dedicated Committee dealing with climate change, negotiations in various committees have touched on or sought to promote climate change concerns. Some of the discussions referred to on the WTO website include:³²

- **Negotiations on an Environmental Goods Agreement (EGA):** The 2001 Doha Ministerial Declaration instructs WTO Members to negotiate on the reduction or, as appropriate, elimination of tariff and non-tariff barriers on environmental goods and services.

EGA negotiations began on July 8, 2014 and included 18 participating Members³³, which then increased to 46 Members. The aim of the negotiations was principally to remove barriers to trade in environmental or green goods that are crucial for environmental protection and climate change mitigation. The negotiations began with a focus on removing tariffs on a broad list of environmental goods³⁴, but ultimately broke down in 2016 as Members could not agree on a common list. While CARICOM countries did not participate in these negotiations, many have unilaterally liberalized some environmental goods in recent years.³⁵

- **Negotiations on crafting more conducive relationships between the WTO and Multilateral Environmental Agreements (MEAs)** which seek to reinforce the relationship between the two sets of regimes and ensure that they do not negatively affect each other. These negotiations also aim to enhance information exchanges and cooperation between respective Secretariats, by for instance, attending each other's meetings;
- **Negotiations on agriculture and market access for non-agricultural goods**, which seek to eliminate tariff and non-tariff barriers and reduce agricultural support so that resources are more efficiently allocated, especially among developing countries who can then better invest in technologies to combat climate change;
- **Negotiations on fisheries subsidies:** Climate change has led to significant changes in the availability and trade of fish products, and industrial operations associated with marine fisheries rely heavily on fossil fuels and fuel CO₂ emissions.³⁶ At the Doha Ministerial Conference in 2001, WTO negotiations on fisheries subsidies were launched to improve disciplines on fisheries subsidies with the aim of curbing harmful fishing subsidies. However, securing agreement on a set of disciplines to eliminate subsidies for illegal, unreported and unregulated fishing (IUU) and to prohibit certain forms of fisheries subsidies that contribute to overcapacity and overfishing, has proved elusive, with many deadlines being missed.

32 The WTO even hosts a dedicated page on its website which features the trade and climate change-related discussions held to date. "Activities of the WTO and the challenge of Climate Change". See at: https://www.wto.org/english/tratop_e/envir_e/climate_challenge_e.htm, Accessed 25 July 2021. See also: https://www.wto.org/english/news_e/news21_e/clim_03nov21_e.htm Accessed 4 November 2021.

33 These Members include United States, Australia, Canada, China, Costa Rica, the European Union, Hong Kong, Iceland, Israel, Japan, Korea, New Zealand, Norway, Leichtenstein, Singapore, Switzerland, Chinese Taipei and Turkey

34 "The Environmental Goods Agreement: liberalizing trade in environmental goods and services," September 8, 2015. See at: <https://trade.ec.europa.eu/doclib/press/index.cfm?id=1116>, Accessed 25 July 2021.

35 See SRC QUICK GUIDE #8 Trade in Environmental Goods at <https://shridathramphalcentre.com/src-trade-quick-guide-trade-in-environmental-goods/>

36 "Scrap devastating fishing subsidies to help save the ocean and climate," International Institute for Environment and Development, January 15, 2020. See at: <https://www.iied.org/scrap-devastating-fishing-subsidies-help-save-ocean-climate>

Success in fisheries negotiations is one of the hopeful outcomes for MC12, and a Revised Draft Consolidated Chair Text on Fisheries Subsidies (TN/RL/W/276/Rev.1) reflects the current level of convergence among Members.³⁷ In the negotiations, the CARICOM position as part of the ACP Group appears to be that small fishing nations, which have not contributed to the problem of overcapacity and overfishing, should be exempted from the key subsidy prohibitions envisaged under the new agreement.

- **Negotiations in the Committee on Trade and Environment (CTE):** the CTE was created in 1995 during the Uruguay Round to review trade- environment policy linkages. The CTE's remit expanded after Doha to reflect the importance of enhancing the mutual supportiveness of trade and environment and work on reducing tariffs and barriers to environmental goods and services. The Committee serves as an incubator for ideas to advance the trade and environment agenda and is the main gateway should Members decide to explore further the linkages between climate change and trade. To date, issues, such as the environmental benefits of removing trade restrictions in the energy and forestry sectors and the effect of energy efficiency labelling on market access, have been discussed in the CTE;
- **Discussions in the Technical Barriers to Trade (TBT) Committee:** these negotiations have, in recent years, discussed notifications of product standards and labelling requirements targeted at energy efficiency or emissions control; fuel economy standards for cars; eco-design requirements for energy-using products; energy efficiency programmes for consumer products and emission limit values for diesel engines. An increasing number of private sector standards might include production or labelling requirements, with the stated objective of mitigating or adapting to the negative effects of climate change. Though non-mandatory, they may affect market access conditions for a range of products.
- **Work Programme on Small Economies:** In recent months, the Work Programme on Small Economies has also held dedicated discussions on the impact of natural disasters on the economic and trade impact of natural disasters on small economies under the Committee on Trade and Development in Special Session.

Apart from these general discussions, there have been more focused attempts to promote climate change-related concerns at the WTO by dedicated groups of Members. These include:

- **Discussions on Trade and Natural Disasters**

In 2017, as the intensity of natural disasters linked to climate change increased in the Caribbean³⁸, six WTO Members of the Organization of Eastern Caribbean States (OECS), which form part of the group of "small and vulnerable economies" or "SVEs"³⁹, tabled a proposal to bring attention to the catastrophic

37 "Chair introduces revised fishing subsidies text to facilitate 15 July ministerial meeting", WTO News, June 30, 2021. See at: https://www.wto.org/english/news_e/news21_e/fish_30jun21_e.htm. For more on the negotiations of fisheries subsidies see:

https://www.wto.org/english/tratop_e/rulesneg_e/fish_e/fish_e.htm See also: <https://www.weforum.org/agenda/2021/05/ending-harmful-fisheries-subsidies-would-positively-impact-ocean-health-and-coastal-communities/>

38 In the past 5 to 10 years, Category 5 Hurricanes have battered the islands, leading to cataclysmic losses, in the case of Dominica for example, totalling 226% GDP after Hurricane Maria. Most recently, in September 2019, The Bahamas was struck by Hurricane Dorian³⁸ which battered the group of archipelagic islands for an estimated 68 hours.

39 SVEs represent a sub-grouping of self-selected Members at the WTO whose Members which, in the period 1999 to 2004, had an average share of (a) world merchandise trade of no more than 0.16 per cent or less, and (b) world trade in non-agricultural products of no more than 0.1 per cent and (c) world trade in agricultural products of no more than 0.4 per cent. They face particular challenges in world trade due to lack of economy of scale or limited natural resources, for

impact of natural disasters on SIDS and SVEs. They suggested “full flexibility” of the multilateral trading system to support disaster recovery and reconstruction.⁴⁰ The proposal served as a catalyst for discussion on the need to address the challenges faced by disaster prone SVEs at the WTO⁴¹, and contributed to the launch, in 2018 of the WTO’s “Natural Disaster and Trade Project” to consider the extent to which the multilateral trading system can support disaster-affected countries.⁴²

In 2019, under the Committee for Trade and Development’s 39th Dedicated Session, discussions concerning the vulnerability of Small Economies to natural disasters were held through formal meetings on the Work Programme on Small Economies.⁴³ A proposal was made by the SVE group for a Ministerial Decision at the upcoming Ministerial Conference (MC 12) to include topics such as the impact of natural disasters on trade for small economies.⁴⁴ On 19 October, 2021, Members agreed on a decision to be submitted at MC12 to continue progress on the Small Economies Work Programme, which includes work on the economic and trade impact of natural disasters on small economies.⁴⁵ On 6th July 2021, the Minister with responsibility for Foreign Affairs and Foreign Trade of St. Vincent and the Grenadines, The Honourable Keisal Peters, delivered remarks on the economic and trade impact of natural disasters on Caribbean countries. These remarks were delivered to the Committee on Trade and Development in Dedicated Session.

- **Trade and Environmental Sustainability Structured Discussions (TESSD)**

In recognition of international trade and trade policy as key enablers of the transition towards a climate neutral, resource efficient and circular global economy, a group of 55 WTO Members⁴⁶ joined forces to commence the Trade and Environmental Sustainability Structured Discussions (TESSD).⁴⁷ TESSD was launched at WTO Trade and Environment Week 2020 on November 17, 2020,⁴⁸ and since then has had five meetings.⁴⁹

example. The Doha Declaration mandates the General Council to examine these problems and to make recommendations as to what trade-related measures could improve the integration of small economies into the multilateral trading system, without creating a separate category of WTO members. The group gained traction as a negotiating group of 26 Members and one Observer, and many of its members are particularly prone to natural disasters (See WTO. (n.d.-b). WTO | Doha Development Agenda: Negotiations, implementation and development - Groups in the negotiations. www.wto.org. Retrieved May 3, 2021, from https://www.wto.org/english/tratop_e/dda_e/negotiating_groups_e.htm#GRP009

40 CARICOM. (2019, May 10). *CARICOM Statement on the occasion of the Natural Disasters and Trade Symposium*.

https://www.wto.org/english/tratop_e/devel_e/caricom_statement_from_the_floor.pdf

41 WTO. (2019). Natural Disasters and Trade Symposium summary report. In www.wto.org.

https://www.wto.org/english/tratop_e/devel_e/snd_10may2019_summary_e.pdf

42 Since 2018, regional studies have been conducted and several symposia held by the WTO, resulting in two major studies in 2019.

43 WTO. (2020). Note on the Meeting on 1 November 2019: H.E. Mr Chad Blackman (Barbados). WT/COMTD/SE/M/39 February 3, 2020, Committee on Trade and Development thirty-ninth Dedicated Session, <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/COMTD/SEM39.pdf>

44 WTO. (2020). Note on the Meeting on 1 November 2019: H.E. Mr Chad Blackman (Barbados). WT/COMTD/SE/M/39 February 3, 2020, Committee on Trade and Development thirty-ninth Dedicated Session, <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/COMTD/SEM39.pdf>

45 See https://www.wto.org/english/news_e/news21_e/devel_19oct21_e.htm Accessed on 28 October, 2021.

46 The original TESSD proponents were Australia; Canada; Chad; Chile; Costa Rica; European Union; the Gambia; Fiji; Iceland; Japan; Korea, Republic of; Liechtenstein; Maldives; Mexico; Moldova, Republic of; Montenegro; New Zealand; North Macedonia; Norway; Senegal; Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; and the United Kingdom.

47 WTO (2020). Communication on Trade and Environmental Sustainability, WT/CTE/W/249, November 17, 2020. (Geneva: WTO) Communication from Australia, Canada, Chad, Chile, Costa Rica, EU, Gambia, Fiji, Iceland, Japan, Korea, Liechtenstein, Maldives, Mexico, Moldova, Montenegro, New Zealand, North Macedonia, Norway, Senegal, Switzerland, Taiwan, Penghu, Kinmen and Matsu and the UK.

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/CTE/W249.pdf&Open=True>

48 See WT/CTE/W/249 <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/CTE/W249.pdf&Open=True>

49 The fifth set of meetings was scheduled for October 18-19, 2021. https://www.wto.org/english/news_e/news21_e/tessd_21sep21_e.htm. See also <https://sdg.iisd.org/news/tess-events-explore-trade-and-environment-efforts-at-wto-in-the-run-up-to-mc12/>

While not itself a negotiating committee at the WTO, TESSD complements the work of the CTE and other relevant WTO bodies and intensify efforts to tackle global environmental challenges. Its intention is to provide a forum for sharing experiences and best practices and for working with other international organizations to strengthen coherence at national and international levels so that the WTO can address sustainable development issues. To this end, the structured discussions are open to all WTO members and relevant external stakeholders (spanning international organizations, academia and civil society⁵⁰) with experience and expertise to better inform discussions. No CARICOM Member State is yet a party to the TESSD discussions⁵¹, although the Shridath Ramphal Centre for International Trade Law, Policy and Services (SRC) of the University of the West Indies, Cave Hill Campus, was invited to participate as a member of civil society.

At meetings so far, members and external stakeholders have discussed topics ranging from the circular economy, climate, fossil fuel subsidies, plastics pollution, fisheries, sustainable agriculture, greening Aid for Trade, green technologies transfer and sustainability standards and labelling. In their meetings Several TESSD participants also emphasized that the needs and concerns of developing countries should be given special attention since they are both vulnerable to the impact of climate change and face challenges in effectively competing in global markets for sustainable products.

In the lead up to MC12, the TESSD Members have submitted elements of a draft Ministerial statement for the consideration of the Conference. In it, they seek to intensify work through the launch of dedicated discussions on how climate-related trade measures and policies can contribute to climate and environment goals consistent rules and principles of the WTO; and to adopt a roadmap with regularly scheduled meetings to review progress and convene a high-level meeting in 2022, and eventually a work plan at MC13.

- **Joint Statement Initiative on Plastics Pollution and Environmentally Sustainable Plastics Trade**

The Informal Dialogue on Plastics Pollution and Environmentally Sustainable Plastics Trade (IDP) was also launched on November 17, 2020 to explore how improved trade cooperation within the rules and mechanisms of the WTO can contribute to domestic, regional and global efforts to reduce plastics pollution and transition to a more circular and environmentally sustainable global plastics economy.⁵²

Two CARICOM countries – Barbados and Jamaica – are among the co-conveners of this initiative⁵³, along with Australia, Canada, China, Ecuador, Fiji, The Gambia, Kazakhstan, Morocco, New Zealand, Switzerland, Thailand and United Kingdom.

50 The Shridath Ramphal Centre is one of its members.

51 It might be instructive to dig deeper into why, notwithstanding the importance of these discussions for countries such as those in CARICOM, none has joined. Some CARICOM countries have had systemic concerns about the importation of non-mandated issues, for which there is no WTO consensus, under the WTO umbrella. There might also be capacity issues given the limited resources available to CARICOM Missions in Geneva, as well as the fact that several CARICOM countries do not have a permanent presence in Geneva.

52 WTO. WTO Informal Dialogue on Plastics Pollution and environmentally sustainable plastics trade. December 15, 2020. WT/CTE/W/250.

53 Other co-conveners include Australia, Canada, China, Ecuador, Fiji, The Gambia, Kazakhstan, Morocco, New Zealand, Switzerland, Thailand and United Kingdom.

In a draft concept note dated March 24, 2021, the co-conveners proposed a transparency and international cooperation exercise as a first step to mapping a clearer picture of global trade in plastics and policy measures.⁵⁴ The IDP also hopes to provide a platform for sharing information, exchanging best practices, and encouraging policy dialogue.

A discussion was held on June 21, 2021 by the IDP which elaborated on how the WTO can contribute to strengthening policy coherence, exploring collective approaches among WTO members and improving technical assistance to developing countries in support of global efforts to reduce plastic waste and move

towards a circular plastics economy. The Ambassadors of Barbados and Ecuador spearheaded the discussions, inviting other co-conveners to consider how trade policy can complement efforts at the international, regional and domestic levels to tackle plastics pollution.

From the discussions, participants agreed that the plastics issue is a global challenge requiring multilateral solutions for which the WTO could play a central role. It was suggested by one Member that one of the greatest challenges WTO could help address is the inconsistency of policies along the plastics value chain.

Since the launch of the IDP, Members have shared studies and experiences on topics such as marine litter, plastics pollution, and public-private partnerships in the transition to a circular economy.⁵⁵

Other non-WTO Trade Initiatives on Climate Change

(1) Agreement on Climate Change, Trade and Sustainability (ACCTS)

In 2019, a group of six trade dependent WTO Members – New Zealand, Costa Rica, Fiji, Norway, Iceland and Switzerland – began efforts to tackle climate change and sustainability through trade with an Agreement on Climate Change, Trade and Sustainability (ACCTS). The aim is to craft a “trailblazer agreement” that uses trade architecture, policy and rules to achieve the goals of the Paris Agreement while facilitating increased trade centred around green growth and sustainable development simultaneously.⁵⁶ It will be open, plurilateral in nature, and WTO-compliant, and would substantively demonstrate the ways trade rules can be used to support climate and broader sustainable development objectives.⁵⁷ The proposed ACCTS would also recognize the particular challenges faced by small trade dependent states and SIDs and their vulnerability to the impacts of climate change.

54 WTO. Proposal for a transparency and international cooperation exercise: Draft Concept Note INF/TE/IDP/W/1, March 24, 2021.

55 WTO News “Plastics pollution dialogue advance discussions, eyeing MC 12 outcome”, June 21, 2021.

https://www.wto.org/english/news_e/news21_e/ega_21jun21_e.htm Accessed 2 August 2021.

56 Joint Leaders’ Statement on the launch of the ‘Agreement on Climate Change, Trade and Sustainability’ initiative, December 2019.

<https://www.beehive.govt.nz/sites/default/files/2019-09/ACCTS%20joint%20leaders%20statement.pdf>. Accessed 2 August 2021. See also:

<https://www.mfat.govt.nz/fr/media-and-resources/climate-change-ministers-express-support-for-the-agreement-on-climate-change-trade-and-sustainability-at-cop25/> Accessed 2 August 2021.

57 Joint Trade Ministers’ Statement on the ACCTS Initiative (January 2020) <https://www.mfat.govt.nz/en/media-and-resources/trade-ministers-express-support-for-the-agreement-on-climate-change-trade-and-sustainability-at-the-world-economic-forum-davos-2020/> Accessed 2 August 2021.

The signatories seek to exceed the level of ambition of previous initiatives, such as the Environmental Goods Agreement (EGA) and have proposed the following components of an eventual agreement⁵⁸:

- Removal of tariffs on environmental goods
- Establishment of new and binding commitments for environmental services
- Establishment of disciplines to eliminate harmful fossil fuel subsidies
- Development of guidelines to inform the development and implementation of voluntary eco-labelling programmes and mechanisms.

(2) Statements of the G7

In June 2021, the Annual G7 Summit, bringing together leaders of major developed country economies, included a separate Trade Ministers' meeting for the first time, with environmental sustainability and climate noted as one of the three priorities. In the Carbis Bay G7 Summit Communiqué emerging from the Summit, the leaders of the G7, in keeping with the theme to “build back better” agreed on a shared agenda for global action regarding climate and the environment.⁵⁹ The leaders reaffirmed their commitment to the Paris Agreement and to strengthening and accelerating its implementation through robust national policies and measures and scaled up international cooperation. They also collectively committed to upscale their efforts and ambitions to achieve net zero greenhouse gas emissions by 2050. In line with this goal, they each committed to increased 2030 targets, to submit 2050 Long Term Strategies (LTSs) by COP26 and to regularly update these as needed in line with the Paris agreement to reflect the latest science, technological advances and market development. They also called on all countries, in particular, major emitting economies, adopt similar goals as part of a global effort, stepping up their commitments to reflect the highest possible ambition and transparency on implementation under the Paris Agreement. The leaders emphasized a “technology-driven transition to Net Zero” and agreed to prioritise the most urgent and polluting sectors and activities. As such they stated several commitments regarding the energy, transport, industrial and innovation sectors and agricultural, forestry and other land use sectors.⁶⁰

(3) The Organization for Economic Cooperation and Development (OECD)

Technical work at the OECD has concentrated on areas linked to trade negotiations such as fisheries, fossil fuel subsidies, and the circular economy.

58 Joint Leaders' Statement on the launch of the 'Agreement on Climate Change, Trade and Sustainability' initiative, December 2019.

<https://www.beehive.govt.nz/sites/default/files/2019-09/ACCTS%20joint%20leaders%20statement.pdf>. Accessed 2 August 2021.

59 Carbis Bay G7 Summit Communiqué, June 13, 2021. See at: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/13/carbis-bay-g7-summit-communicue/> Accessed 2 August 2021.

60 Carbis Bay G7 Summit Communiqué, June 13, 2021. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/13/carbis-bay-g7-summit-communicue/> Accessed 2 August 2021.

(4) The Commonwealth Secretariat

The Commonwealth Secretariat, through its Small States Agenda⁶¹, conducts advocacy and technical work on behalf of SIDS. It has produced publications examining the impact of climate change induced natural disasters on trade prospects for Commonwealth small states, as well as led work on the universal vulnerability index, which recognizes vulnerability to climate change as one metric for determining a countries' overall vulnerability.

(5) United Nations Conference for Trade and Development (UNCTAD)

As a UN organization with a specific mandate for addressing trade issues affecting developing country issues, UNCTAD has been supporting efforts of its Members to promote sustainability and adapt and build resilience against climate emergency, including through a number of publications and research.⁶² At its recently concluded UNCTAD XV Conference in Barbados, many pledges and commitments related to climate change were included in the outcome documents.

61 "Small States," The Commonwealth See at: <https://thecommonwealth.org/our-work/small-states> Accessed 10 August 2021.

62 See UNCTAD's Climate Change portal at: <https://unctad.org/topic/trade-and-environment/climate-change>

Text Box 3: Select Excerpts from Declarations Emerging from the UNCTAD XV Ministerial Conference Meeting

Select Excerpts from Declarations Emerging from the UNCTAD XV Ministerial Conference Meeting October 3- 7 2021, Barbados

The Spirit of Speightstown

1. Climate change

...The climate crisis endangers the security and lives of millions of people across the world, making an effective implementation of the Paris Agreement more urgent than ever. We now witness severe and widespread increases in global food insecurity, affecting vulnerable households in almost every country, with the effects expected to continue well into 2022. Prolonged periods of drought, heat waves and global warming have led to dangerous levels of water scarcity. Intense weather events, such as floods, hurricanes and wildfires, which are increasing in frequency due to the climate crisis, threatening international trade and critical supply chains and wreaking havoc on societies and economies. This highlights the importance of prioritizing appropriate investment in disaster risk reduction, in line with the Sendai Framework for Disaster Risk Reduction 2015–2030, so as to avoid repeatedly diverting funds from building sustainable economies.

The Bridgetown Covenant: From inequality and vulnerability to prosperity for all

5. UNCTAD should contribute to the implementation of and follow-up to the outcomes of relevant global conferences, including the 2030 Agenda for Sustainable Development, the Addis Ababa Action Agenda and, as appropriate, the Paris Agreement under the United Nations Framework Convention on Climate Change, among other relevant international agreements and outcomes. ...

20. Reducing greenhouse gas emissions, enhancing climate resilience and promoting sustainable development are indispensable to the attainment of the Sustainable Development Goals, especially Sustainable Development Goal 13. A more equitable and sustainable approach to development strategies and globalization is therefore needed. The Paris Agreement under the United Nations Framework Convention on Climate Change provides a framework for crucial decoupling of economic growth from environmental degradation through nationally determined contributions and long-term strategies for coordinated collective action at the global level.

21. This document recognizes all the principles of the United Nations Framework Convention on Climate Change and reaffirms our strong and steadfast commitment to strengthen implementation of the Paris Agreement which is to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.

Climate Change and environmental degradation

34. Certain past and present production and consumption patterns that have proven to be unsustainable compromise prosperity. Decoupling economic growth from environmental degradation is crucial to ensure sustainable progress, as well as to reduce vulnerability. In this sense, concrete and coordinated actions, in line with the Paris Agreement under the United Nations Framework Convention on Climate Change, are required, as well as a meaningful outcome at the twenty-sixth Conference of the Parties this year.

70. In many countries, the effects of climate change, such as sea-level rise and the increased frequency of extreme weather events, carry substantial economic costs, increase catastrophe risk and compromise infrastructure that is necessary for production and trade. Investment in sustainable, resilient and quality infrastructure is vital to strengthen a country's resilience to trade. Transforming to a climate resilient and a more sustainable and more resilient economy requires decoupling economic growth from environmental degradation and greenhouse gas emissions diversifying towards more sustainable energy. This will require capacity-building and investment to support developing countries in building enabling infrastructure, human capital skills and adopting environment-friendly technologies that enhance efficiency of current sources of energy and promote a sustainable energy transition, as well as the medium-term rationalization and phasing-out of inefficient fossil fuel subsidies that encourage wasteful consumption, while providing targeted support for the poorest.

SIDS Ministerial Declaration

... Reaffirming the unique and particular vulnerability of SIDS to exogenous shocks, owing to their size, geographical remoteness, the small scale of their economies, high dependence on external markets and extreme exposure to natural disasters and the effects of climate change,

... Underscore that climate change impacts trade by causing disruptions to production, supply, transportation and distribution chains, and emphasize that the ability of SIDS to transition successfully from a state of acute vulnerability to sustainable levels of prosperity depends in large measure on advances in their technical, financial and institutional capacity to adapt to the economic and environmental shocks brought about by global climate change. We therefore call on UNCTAD to continue and strengthen its work in supporting the adoption and implementation by SIDS of climate-friendly trade and production strategies.

WTO Disputes Involving Climate Change Policies

Climate change policies have the potential to conflict with trade law, as has been demonstrated through disputes litigated before WTO panels and the Appellate Body. These disputes highlight the incompleteness of the current trade regime in managing the climate change/trade interface.

In many of the cases brought, a defending Member will argue that, although its measure discriminates – and is therefore WTO-inconsistent – it falls within the permissible exceptions provided under the WTO Agreement that allows Members to conditionally pursue environmental objectives.⁶³ WTO panels and the Appellate Body have therefore often adjudged environmental measures by reference to standards under the exceptions, such as whether they are the “least trade restrictive” (necessary) or whether they constitute arbitrary and unjustifiable forms of discrimination. This exceptional basis on which environmental measures have been tolerated has led some to argue for a complete carveout or waiver for all climate change policies.⁶⁴

Other climate change related disputes include challenges to: feed-in tariff programmes and subsidies designed to promote renewable energy generation; antidumping duties and safeguards applied by countries seeking to protect infant industries for the manufacture of environmental products (like photovoltaic cells); and unilateral environmental standards imposed on the importation of goods. We highlight some recent WTO cases below.

- **Canada – Certain Measures Affecting the Renewable Energy Generation sector (DS 412) and Canada – Measures relating to the Feed-in Tariff Program (DS 426)**⁶⁵

The disputes brought by Japan and EU respectively challenged the WTO consistency of several measures involving domestic content requirements (DCRs) implemented by the Canadian Province of Ontario in its feed-in tariff programme (FIT) for certain wind and solar photovoltaic electricity projects.⁶⁶ Under the FIT programme, electricity generation facilities utilizing wind power and solar photovoltaic (PV) technologies must comply with minimum required content levels. The measures resulted in higher prices paid to generators using wind and solar PV technologies compared with other clean technologies under the FIT Programme.

The complainants argued that the DCRs provided protection to producers of certain types of equipment used to generate electricity from solar and wind energy that are based in Ontario, to the detriment of competing industries in other WTO Members; and that the measures constituted a prohibited subsidy because there would be a financial contribution or a form of income or price support thereby conferring a benefit. As such they claimed the measures breached provisions of the GATT, TRIMS Agreement and the Agreement on Subsidies and Countervailing Measures (SCM Agreement). Canada contended that the FIT Programme is not subject to national treatment obligations under the GATT since the laws governing the FIT programme relate to the procurement of renewable electricity for governmental purposes of securing electricity supply for Ontario consumers from clean sources (for which a derogation from national treatment obligations is provided) and not for commercial resale or commercial purposes (Article III:8(a) of the GATT).

63 See *Tuna Dolphin, US – Shrimp Turtles and India – Solar Panels*.

64 See footnote 31.

65 <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/DS/412R.pdf&Open=True>

66 The FIT programme refers to a scheme through which generators of electricity produced from certain forms of renewable energy (wind, solar PV, renewable biomass, biogas, landfill gas, and waterpower) are paid a guaranteed price per kilowatt hour (kWh) of electricity delivered into the Ontario electricity system under 20-year or 40-year contracts.

The panel disagreed with Canada and found that the DCRs were not exempted by the derogation and was therefore in violation of the national treatment obligation, a finding upheld by the Appellate Body, albeit for different reasons. Separately, the Appellate Body considered the panel majority's finding that the complainants had failed to establish that the challenged measures conferred a "benefit" and was therefore a subsidy. The Appellate Body found that the panel was mistaken in finding the market for electricity generated from all sources of energy as the relevant market for comparison in determining benefit, noting that the panel should have instead concluded that the relevant market for the benefit comparison was the market for wind- and solar PV-generated electricity. The Appellate Body, however, was unable to determine whether the challenged measures conferred a "benefit" due to the lack of a sufficient factual basis. As a result, there was no finding as to whether the measures at issue were prohibited subsidies.

- **India – Certain Measures Relating to Solar Cells and Solar Modules (DS 456)**⁶⁷

The United States requested a panel to consider certain DCRs implemented by India to fulfil its international climate change commitments, and drive expansion in the renewable energy sector in order to reduce GHG emissions.⁶⁸ Under the Indian National Mission programme, the Indian government limited its purchases of electricity to producers that used solar cells and modules of Indian origin for energy generation. The US argued that these requirements were discriminatory and breached WTO principles of national treatment. India defended the requirements as permissible under the general exceptions of the GATT (Article XX(d)) as a measure necessary to ensure compliance with international environmental obligations under the UNFCCC, the Rio Declaration on Environment and Development (Rio Declaration) and the United Nations General Assembly Rio+20 Resolution. Having found that the measures discriminated and were inconsistent under the GATT, both the panel and Appellate Body held that the international instruments relied on by India did not fall within the exception under Article XX(d) of the GATT "laws or regulations" because they are not automatically incorporated into Indian law.

- **US – Safeguard Measure on Imports of Crystalline Silicon PV Products (DS 562)**⁶⁹

The dispute involved a safeguard measure imposed by the US on China imports of certain crystalline silicon photovoltaic cells whether or not partially or fully assembled into other products (CSPV products). The US International Trade Commission (USITC) determined that unforeseen developments resulted in CSPV products being imported into the US in increased quantities amounting to a substantial cause of serious injury to the domestic industry which led to the imposition of the safeguard measure. The solar safeguard measure was imposed in 2018 to support the domestic solar industry's efforts to adjust to import competition primarily contributable to excess solar cell and module capacity by Chinese producers.⁷⁰ China contended that the safeguard measure infringed obligations under the Agreement on

Safeguards and the GATT (Article XIX:1(a)) because the US failed to establish the requirements under the agreements such as a causal link between the increased imports and harm to the domestic industry. China contended that the investigations conducted by USITC resulting in the safeguard was inappropriate, based on improper assumptions which were inconsistent with the Agreement on Safeguards. The panel rejected China's claims and found that China failed to discharge the burden of proof and demonstrate that the US failed to satisfy the requirements under the Safeguards Agreement and GATT 1994.

67 <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/DS/456R.pdf&Open=True>

68 Nathan Jin Bao, "Domestic Content Requirements in the Renewable Energy Sector: What Policy Space Exists Under WTO Rules?" March 6, 2020. Available at SSRN: <https://ssrn.com/abstract=3575018> Accessed 10 August 2021

69 https://www.wto.org/english/tratop_e/dispu_e/562r_e.pdf

70 https://www.wto.org/english/tratop_e/dispu_e/562r_e.pdf

- **EU – Certain Measures Concerning Palm and Palm Oil Crop-Based Biofuels (DS 600)** ⁷¹

On 15 January 2021, Malaysia requested consultations with the EU, France and Lithuania with respect to certain measures concerning palm oil and oil palm crop-based biofuels from Malaysia. The EU measures were taken pursuant to the EU Renewable Energy Sources Directive (Red II) which *inter alia* sets renewable energy targets and places a cap on biofuel consumption in the transport sector. As one of the main exporters of palm oil, Malaysia challenged the measures, which define palm oil as an unsustainable feedstock for the production of biofuel leading to high risks of land-use change. Malaysia argued that the measures adopted by the EU confer unfair benefits to EU domestic producers of certain biofuel feedstocks, such as rapeseed oil and soy, and the biofuels produced therefrom, at the expense of palm oil and oil palm crop-based biofuels from Malaysia, in violation of the GATT 1994, the TBT Agreement, and SCM Agreement. The decision of the panel has not yet been given.

Text Box 4: Climate Change in ISDS

Climate Change in ISDS: Grenada Private Power Limited (GPP) and WRB Enterprises Inc. v. Grenada - ICSID Case

Many recent cases have been brought before investor-State dispute settlement (ISDS) bodies by investors complaining against measures taken by governments to promote renewable energy. Controversy over these cases has led to calls by civil society to remove ISDS chapters from trade and investment agreements as they unduly constrain government regulatory powers. The issue was raised most recently in **Grenada Private Power Limited (GPP) and WRB Enterprises Inc. v. Grenada - ICSID Case No. ARB/17/13 (2017- 2020)**

In 1994, the Grenadian government privatized Grenada Electricity Services Company Limited (GRENLEC) through which GPP and its parent, WRB Enterprises (the claimants) effectively controlled 61.3% of the shares. The privatisation was facilitated and regulated by a Share Purchase Agreement (SPA) and legislative framework consisting of the 1994 Energy Supply Act and Public Utilities Commission Act. Under the SPA, it was agreed that on the occurrence of either one of 15 designated repurchase events, the government would be required to purchase and acquire all GRENLEC shares owned by the claimants. The Agreement also granted GRENLEC an exclusive license for electricity production for a period of 80 years.

In 2016, a newly-elected Grenadian government decided to restructure the electricity sector through changes to its regulation, production and distribution. The restructuring in part affected *inter alia* the exclusivity and duration of GRENLEC's license and eliminated GRENLEC's import duty and tax concessions. The claimants argued that this triggered an obligation on the part of the government to repurchase their shares in GRENLEC in the sum of \$18.7 million USD. However, the new government refused to repurchase the shares at the rate requested, challenging the constitutionality of the privatization in the first place, and arguing that the obligations under the agreement were void because they were oppressive, and restrained government action to regulate the electricity sector in the public interest. The dispute was settled under the International Centre for Settlement of Investment Disputes (ICSID) by way of arbitration proceedings.

The government argued, *inter alia*, that the complainants had been poor corporate citizens, seeking at all times to maximise their investment returns with little regard for meeting GRENLEC's capital investment needs or the well-being of the country (in particular through their failure to develop Grenada's ample renewable energy resources). The government defended the restructuring laws on the basis that GRENLEC had failed to effectively realise Grenada's renewable energy potential especially through investments. The government disputed that GRENLEC's privatisation and the previous regulatory framework (Electricity Supply Act 1994) hampered the development of renewable energy technologies in Grenada and perpetuated fossil fuel biased development. However, the claimants refuted that the framework created incentives for GRENLEC to introduce renewables and that renewables consumption was growing in the sector.

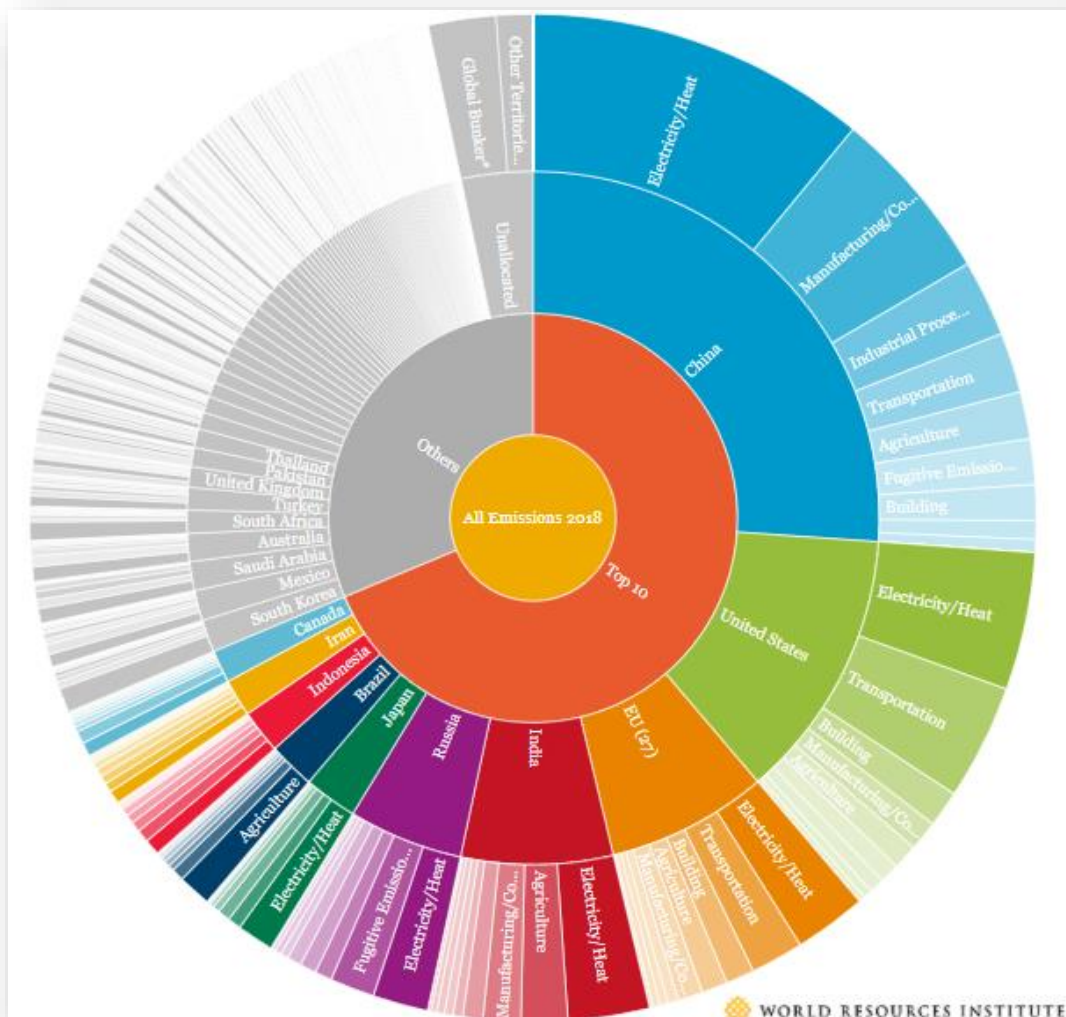
In finding against the government, the tribunal concluded that the SPA was valid and not contrary to the Grenadian constitution. The tribunal further determined that the respondents failed to prove that the claimants were obligated through contract or statute to develop renewable energy. The tribunal further highlighted that it was incumbent on the government in office in 1994 to set performance standards for renewable energy to accelerate its development. Ultimately, the tribunal concluded that the Grenadian government was required to compensate the complainants in the sum of \$USD 58,427,962 (which was somewhat less than the compensation claimed).

71 WTO. 2021. EU – Certain Measures Concerning Palm and Palm Oil Crop-Based Biofuels: Request for Consultation by Malaysia WT/DS600/1,G/L/1384,G/TBT/D/54,G/SCM/D131/1 dated January 19, 2021 <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/DS/600-1.pdf&Open=True>. See also EU- Certain Measures Concerning Palm and Palm Oil Crop-Based Biofuels DS 593 brought by Indonesia involving similar facts. <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/DS/593-1.pdf&Open=True>

Trade -Related Climate Change Policies of the World's Top Three Emitters

The World Resources Institute (WRI) identified China, the United States and EU-27 among the top ten largest emitters of greenhouse gases, contributing about 41.5% of total global emissions.⁷²

Figure 2: Top 10 Greenhouse Gas Emitters and the major contributing sectors in 2018



Source: World Resources Institute (2020)

72 Johannes, Friedrich, Mengpin Ge and Andrew Pickens, "This Interactive Chart Shows Changes in the World's Top 10 Emitters". World Resources Institute. December 10, 2020. <https://www.wri.org/insights/interactive-chart-shows-changes-worlds-top-10-emitters> Accessed 10 August 2021.

In an effort to substantially reduce their GHG emissions, these largest of emitters have pledged to become climate neutral and achieve net zero emissions by 2050, and in the case of China by 2060.⁷³ They have employed trade policy instruments as part of their transition plans to a zero-carbon economy, and to promote their climate change goals. Perhaps the most notable is the EU, which aligned its stance in bilateral and multilateral trade negotiations with the climate goals of its European Green Deal, the new Biodiversity Strategy and Circular Economy Plan.⁷⁴ The Biden Administration's new trade strategy emphasizes the US intention to strengthen environmental sustainability in trade, but it has less of a discernible multilateral trade agenda. China has taken certain trade-related measures – like an import ban on certain types of plastic waste – and is the co-chair of a new Informal Dialogue on Plastics Pollution at the WTO, but as a top GHG emitter, many argue that this is not enough.

Bearing in mind the importance of these developed country markets to CARICOM Member States⁷⁵, it is important to also consider their trade-related policies on climate change.

(1) China

China, as the largest emitter of greenhouse gases, accounted for approximately 26.1% of global GHG emissions in 2018. Thus, China's climate ambitions and emission reduction initiatives form an important part of global efforts to tackle climate change. In September 2020, China's President Xi announced at the UN General Assembly that China aims to have carbon emissions peak⁷⁶ before 2030 and pledged to achieve carbon neutrality by 2060.⁷⁷

One of the main trade policy instruments to contribute to the effective control and gradual reduction of carbon emissions in pursuance of its climate targets is China's National Emission Trading System (ETS)⁷⁸ which was launched in 2021.⁷⁹ The scheme is intended to initially cover coal-and gas-fired power plants and regulates more than 2,200 companies from the power sector (including combined heat and power, as well as captive power plants of other sectors), which emit more than 26,000 tonnes of carbon dioxide emissions (tCO₂) per year.⁸⁰ The ETS is expected to gradually extend to seven other

73 For updated data, see Financial Times searchable dashboard of 193 countries' historical emissions and future climate targets, at <https://www.ft.com/content/9dfb0201-ef77-4c05-93cd-1e277c7017cf> Accessed 27 August 2021.

74 In 2021, the EU's proposed new trade policy underlines the importance of environmental priorities to the EU trade agenda "Reforming the WTO: Towards A Sustainable and Effective Multilateral Trading System": (Available at: https://trade.ec.europa.eu/doclib/docs/2021/april/tradoc_159544.1329_EN_02.pdf) Accessed 10 August 2021.

75 The US, EU and China are among the main export market for CARICOM goods. See https://shridathramphalcentre.com/wp-content/uploads/2020/10/SRC-COVID-19-Policy-Document-October-2020_FINAL.pdf, pp. 20 and 21.

76 Carbon emissions peak means the point when carbon emissions switch from increasing to decreasing.

77 International Energy Agency. 2021. "The role of China ETS in Power Sector Decarbonisation". IEA Publications 21, https://iea.blob.core.windows.net/assets/61d5f58d-4702-42bd-a6b6-59be3008ecc9/The_Role_of_China_ETS_in_Power_Sector_Decarbonisation.pdf Accessed August 10, 2021.

78 The ETS uses an output-based allocation model distinct from the approach used in the EU-ETS (see below) Allowances are freely allocated using a CO₂ emissions intensity benchmark to ensure flexibility in operation and reduction in overall emission intensity. Allowances are determined according to actual electricity and heat output over the compliance period and predetermined CO₂ emissions intensity benchmarks. Coal- and gas-fired plants receive emissions allowances based on their electricity and heat generation, multiplied by the CO₂ emissions intensity benchmarks specific to the plant's fuel, technology and size. ETS compliance requires that a plant return the number of allowances corresponding to its verified emissions, which are calculated based on its fuel consumption and fuel emissions factor. If a plant's emissions intensity is higher than its applicable benchmark (typically when the plant is less efficient than the benchmark implies), it will face an allowance deficit and will have to buy allowances to be compliant. Conversely, if its emissions intensity falls below the benchmark, the plant will surrender the number of allowances corresponding to its verified emissions and can sell or potentially bank the surplus. (See International Energy Agency Secretariat. 2020. "China's Emissions Trading Scheme: Designing efficient allowance allocation". IEA Publications, 65. https://iea.blob.core.windows.net/assets/d21bfabc-ac8a-4c41-bba7-e792cf29945c/China_Emissions_Trading_Scheme.pdf)

79 International Energy Agency. 2021. "The role of China ETS in Power Sector Decarbonisation". IEA Publications, 23. https://iea.blob.core.windows.net/assets/61d5f58d-4702-42bd-a6b6-59be3008ecc9/The_Role_of_China_ETS_in_Power_Sector_Decarbonisation.pdf

80 International Carbon Action Partnership. (2021) "Emissions Trading Worldwide: Status Report 2021". Berlin: International Carbon Action Partnership, 109. https://icapcarbonaction.com/en/?option=com_attach&task=download&id=723

industrial sectors, namely petrochemical, chemical, building materials, steel, nonferrous metals, paper and domestic aviation.⁸¹

The Chinese regional ETS pilots were before the national ETS and cover the regions of Beijing, Chongqing, Fujian, Guangdong, Hubei, Shenzhen, Shanghai and Tianjin. These pilots involve on average about 1.2 billion tonnes of CO₂ emissions from building, papermaking, domestic aviation, iron and steel, textile automobile and equipment manufacturing and water supply sectors.⁸² As more sectors are added to the national ETS, overlapping firms are expected to be integrated into the national ETS.

(2) The United States of America

As the second largest emitter, the US contributes approximately 12.67% of global GHG emissions.⁸³ The 2021 inauguration of President Biden and the Biden Administration issued in renewed hope for the US and climate action as the administration adopted a more robust approach to tackling climate change compared than the predecessor Trump administration. Biden's international climate objectives are also part of his determination to restore US global leadership, and in one of his first announcements, Biden confirmed the US' commitment to reduce 50-52% of carbon emission at 2005 levels by 2030 and to get to net zero emissions by 2050. He also hosted a Leaders Summit on Climate, to which 40 world leaders – including Antigua and Barbuda, and Jamaica from CARICOM – were invited as an early effort to increase chances of a meaningful outcome at COP26.⁸⁴

The Biden administration has indicated that tackling climate change is a “whole of government” effort.⁸⁵ Trade policy has been viewed therefore as just one potent tool to advancing climate ambitions through interlocking policies undertaken by different departments, including the Environmental Protection Agency, the Department of Energy, the Department of Justice, as well as the executive branch and Congress.

But, as the CSIS has noted⁸⁶, trade policy will also be dictated by larger politics in the US. At the moment, Biden is still struggling to get his climate change policies through Congress, as it is facing resistance from Republicans, and some of his own Democrats. That said, there appears to be a common view by both the administration and Congress, including Republicans, that incentives should be favoured over compulsory measures such as strict regulation. Trade incentives largely entail subsidies, both removing harmful ones and implementing good ones, both of which raise legal issues at the

WTO. The administration and Republicans alike are also averse to direct climate policy measures, meaning that the trade politics of stronger regulatory mechanisms could be influenced by what other countries are doing.

The US Trade Policy Agenda published in March 2021 includes among its priorities the negotiation and implementation of strong environmental standards as critical to a sustainable climate pathway.⁸⁷ It also highlights US innovation and

81 International Carbon Action Partnership. (2021) “Emissions Trading Worldwide: Status Report 2021”. Berlin: International Carbon Action Partnership, 111. https://icapcarbonaction.com/en/?option=com_attach&task=download&id=723

82 Ibid, 106-126.

83 Johannes, Friedrich, Mengpin Ge and Andrew Pickens. “This Interactive Chart Shows Changes in the World's Top 10 Emitters”. World Resources Institute. December 10, 2020. <https://www.wri.org/insights/interactive-chart-shows-changes-worlds-top-10-emitters> Accessed 10 August 2021.

84 See <https://www.state.gov/leaders-summit-on-climate/about/>

85 Office of the United States Trade Representative. 2021. “2021 Trade Policy Agenda and 2020 Annual Report of the President of the United States on the trade agreements program”. 3,

<https://ustr.gov/sites/default/files/files/reports/2021/2021%20Trade%20Agenda/Online%20PDF%202021%20Trade%20Policy%20Agenda%20and%202020%20Annual%20Report.pdf>

86 Centre for Strategic and International Studies: “U.S. Views on Trade and Climate Policy Nexus,” July 29, 2021. See at: <https://www.csis.org/analysis/us-views-trade-and-climate-policy-nexus>. Accessed 10 August 2021.

87 Office of the United States Trade Representative. 2021. “2021 Trade Policy Agenda and 2020 Annual Report of the President of the United States on the trade agreements program”. 3,

production of climate related technologies and promoting resilient renewable energy supply chains to achieving net zero emissions by 2050. The US also signaled the following broad priority areas as key to support climate action:

- Leveraging bilateral and multilateral trade relationships to raise global climate ambitions
- Acting against trade partners that fail to meet their environmental obligations under existing trade agreements
- Consideration of the use of carbon border adjustments
- Cooperation with like-minded allies committed to tackling climate change in particular by jointly exploring and developing market and regulatory approaches to address GHG emissions in the global trading system.

The new US Trade Representative, Ambassador Katherine Tai, has also committed to advancing a pro-environment trade policy that is focused on encouraging the development of innovative environmental technologies and cultivating strategic international supply chains to fast track the transition to net zero by 2050. In her confirmation speech, she noted that “trade tools could be used to incentivize a race to the top in environmental practices”⁸⁸, emphasizing that trade agreements could be used as leverage to pressure countries on their commitments under the Paris Agreement. As such, environmental protection and climate change are expected to play a more significant role in US trade policy especially in future trade agreements⁸⁹, but the measures being taken at the moment fall far short of those being implemented by the EU.

(3) The European Union (EU)

The European Union Green Deal

As the third largest GHG emitter, EU-27 Members (cumulatively) contribute approximately 7.52% of global GHG emissions. Tackling climate change is one of the central tenets of EU’s new growth strategy encapsulated in its Green Deal which was launched on December 11, 2019 by the European Commission. The Green Deal, which is centered around sustainability and climate neutrality, commits the EU to net zero GHGs by 2050, and establishes a law that sets an intermediate target of reducing GHG by at least 55% by 2030 compared to 1990 levels. The Green Deal also emphasizes that every EU law and regulation will need to be aligned with the new climate goals to be successful.⁹⁰

The Green Deal is an extensive roadmap of the essential policies, measures and initiatives covering a number of sectors that have a bearing on trade policy. For instance, the new circular economy action plan seeks to stimulate the development of lead markets for climate neutral and circular products in the EU.⁹¹ The action plan, which was adopted on March 11, 2020 by the Commission is intended to make the economy fit for a green future and guide the transition of all sectors, especially energy intensive sectors. Under the plan, the EU intends to participate in the wider global transition to a just, climate neutral and circular economy and will ensure the Free Trade Agreements reflect the objectives of the circular economy.⁹²

<https://ustr.gov/sites/default/files/files/reports/2021/2021%20Trade%20Agenda/Online%20PDF%202021%20Trade%20Policy%20Agenda%20and%202020%20Annual%20Report.pdf>

88 Stephen Olson. “Is US trade policy going green? Environment takes center stage at USTR,” Hinrich Foundation, May 18, 2021.

<https://www.hinrichfoundation.com/research/article/sustainable/is-us-trade-policy-going-green-ustr/>

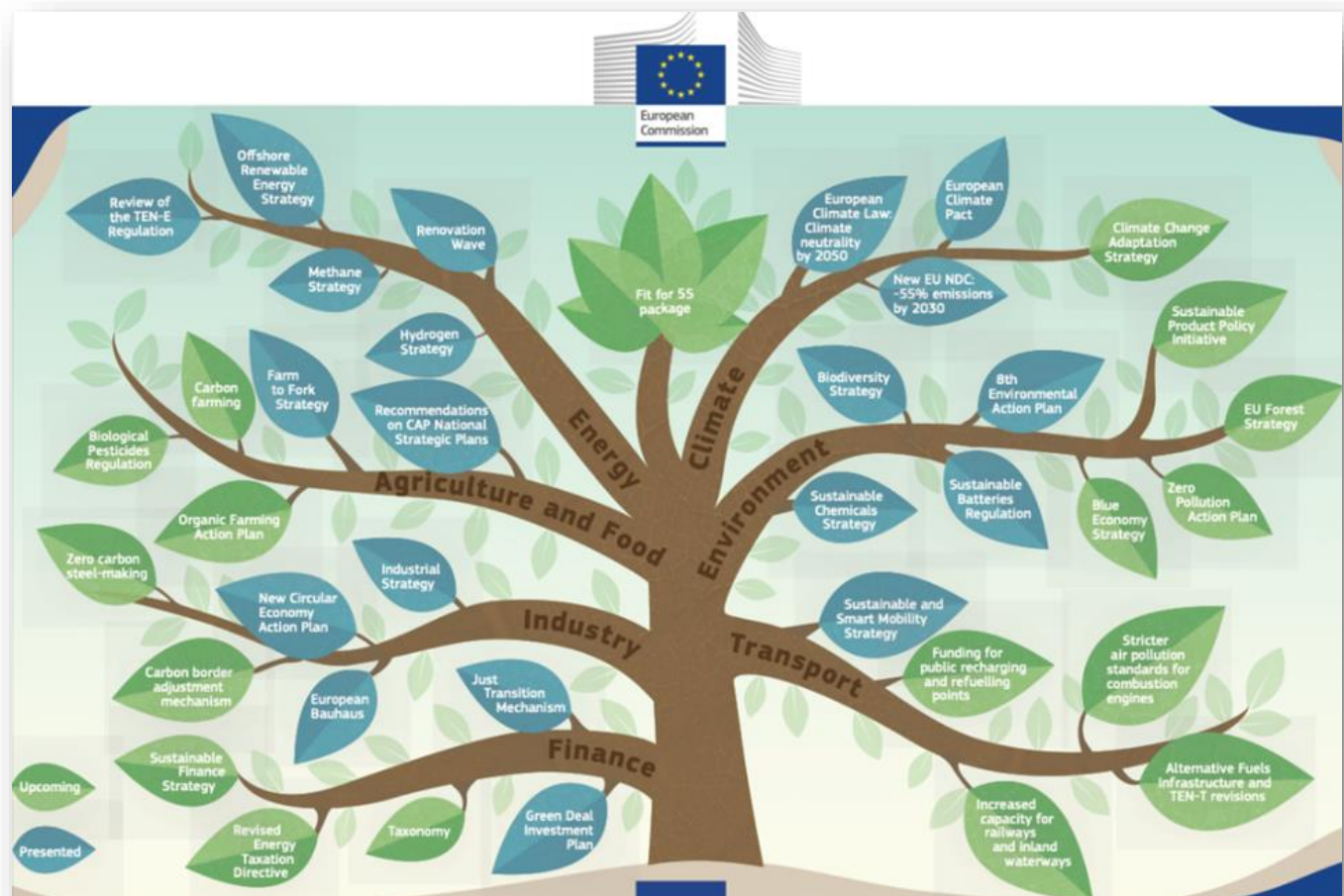
89 See also Read out of Ambassador Katherine Tai’s meeting with environmental leaders, April 14, 2021: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/april/readout-ambassador-katherine-tais-virtual-meeting-environmental-leaders> Accessed 27 October 2021.

90 European Commission. “EU climate action and the European Green Deal” See at: https://ec.europa.eu/clima/policies/eu-climate-action_en. Accessed 11 August 2021.

91 European Commission. Circular Economy Action Plan: For a Cleaner and more competitive Europe, 7. https://ec.europa.eu/environment/pdf/circular-economy/new_circular_economy_action_plan.pdf. Accessed 15 August 2021.

92 European Commission. Circular Economy Action Plan: For a Cleaner and more competitive Europe, 22. https://ec.europa.eu/environment/pdf/circular-economy/new_circular_economy_action_plan.pdf. Accessed 15 August 2021.

Figure 3: Overview of the European Green Deal Initiatives



Source: European Commission (2020)

Trade elements in the EU Green Deal

The Green Deal acknowledges the key supportive role trade policy can play in climate action including through the engagement with trading partners on climate and environmental action.⁹³ In addition to facilitating trade and investment in green goods and services and promoting climate-friendly public procurement, the Green Deal points out additional ways trade policy can support EU's climate goals such as by ensuring undistorted, fair trade and investment in raw materials essential for EU's green transition; addressing harmful practices such as illegal logging, remove non-tariff barriers in the renewable energy sector; enhancing regulatory cooperation; and promoting EU standards.⁹⁴

Other trade-related elements in the Deal include the EU Emissions Trading System (ETS); the EU Carbon Border Adjustment Mechanism (CBAM) to mitigate the risk of carbon leakage as a result of differences in levels of climate ambition

93 European Commission. Communication from the Commission to the European Parliament the European Council, the Council, the European Economic and Social Committee and the Committee of the regions: the European Green Deal, 11.12.2019. 21. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52019DC0640> See section 3 of the Communication from the Commission on the EU Green Deal

94 European Commission. Communication from the Commission to the European Parliament the European Council, the Council, the European Economic and Social Committee and the Committee of the regions: the European Green Deal, 11.12.2019. 21. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52019DC0640>

with EU's international partners; and an intention to work with global partners to develop international carbon markets to create economic incentives for climate action.

Text Box 5: The EU Emissions Trading Scheme

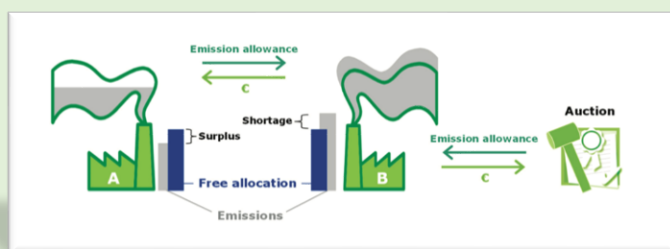
The EU Emissions Trading Scheme

The ETS is a pricing mechanism used to limit the use of carbon. Putting a price on carbon is likely to disincentivise corporations from using carbon, allowing it to be where it costs the least to do so.

The ETS was first introduced to help the members of the EU to discharge their commitments under the Kyoto Protocol. An ETS can take the form of a cap-and-trade system or a crediting mechanism. The EU adopted a cap-and-trade system which sets a limit ("cap") on total direct GHG emissions from specific sectors and creates a market where the rights to emit in the form of emission allowances ("EU Allowances") are traded. The price of an emission allowance is determined by the market. Emissions allowances are either auctioned off or allocated for free according to set criteria (free allowances). Firms covered by the ETS need one (1) emission allowance for each tonne of carbon dioxide or its equivalent they inject into the atmosphere. In 2020, an EU allowance costs about €24.76 per tonne of CO₂ emissions (€24.76/tCO₂e) on the market. Participants covered by the EU ETS must monitor and report their emissions each year and surrender enough emission allowances to cover their annual emissions. Significant fines are imposed if companies fail to comply by surrendering sufficient allowances in time.

Carbon leakage is currently controlled by the free allocation of allowances under the EU-ETS. Each year, a proportion of the allowances are given to specific firms for free, that is, usually sectors where there is a potential risk that production could shift to countries with less climate ambitions if they are made to incur the total cost of all the allowances they need.

The system works as illustrated in the image below: factory B does not have enough free allowances to cover its emissions, so it can either comply with the cap by buying allowances from factory A (which has reduced its emissions and holds surplus allowances) or from the auction. A cap-and-trade system allows polluters to meet emissions reductions targets flexibly and at the lowest cost and provides certainty about the amount of carbon emissions abated. Companies can therefore buy and sell the right to pollute from each other.



Presently, the ETS covers about 40% of EU emissions from the power sector, manufacturing industry and aviation within the European Economic Area (EEA). In 2017, the EU-ETS and Swiss ETS entered into an agreement to link their emission trading system which permits allowances to be exchanged between both systems. The link became operation in January 2020.

Source: European Commission, "EU ETS Handbook," (Brussels: European Union, 2015). https://aeaep.com.ua/en/wp-content/uploads/2015/07/ets_handbook_en.pdf

Text Box 6: EU Carbon Border Adjustment Mechanism (CBAM)

EU Carbon Border Adjustment Mechanism (CBAM)

On 14 July 2021, the European Union (EU) released its Carbon Border Adjustment Mechanism (CBAM) which will serve as the EU bloc's first carbon import levy. It complements the free allocation of emission allowances under the ETS which critics say has achieved limited effectiveness in mitigating the risk of "carbon leakage" which occurs when, for reasons of costs related to climate policies, businesses transfer production to other countries with laxer emission constraints. In sum, a CBAM is an adjustment intended to equalise the price of carbon charged for domestic products and imports through a charge at the border based on the embedded carbon content of a product.

Under the EU's proposal, the CBAM will initially apply to imports of goods produced in power and energy-intensive industrial sectors (cement, iron and steel, aluminium, fertilizers, and electricity) originating in non-EU third countries. In an earlier phase of the proposal, Least Developed Countries (LDCs) and Small Island Developing States (SIDS) – like those of CARICOM – were to be exempted given their negligible contributions to global GHG emissions and the potential negative effect of the CBAM on their development. However, this was not carried through to the legislative proposal on the ground that such carve outs would run counter to the CBAM's objective.

The EU CBAM's consistency with WTO rules which prohibit discriminatory measures, has been questioned by many WTO Members. At face value, the operation of the free allocation of emission allowances for EU producers and the potential discrimination between countries with and without carbon pricing policies on account of their exemptions (preference for WTO Members with better climate policies) could lead to violation of trade rules, in particular the "national treatment" obligation which prohibits countries from favouring domestic producers over foreign producers.

While most SIDS, like CARICOM countries, do not stand to be immediately impacted by the EU CBAM proposal given their negligible contribution to global GHG emissions, at least one CARICOM country stands to be disadvantaged: in 2019, Trinidad and Tobago was the 4th largest exporter of fertiliser to the EU, making up 15% of EU ammonia imports. As the CBAM proposal covers fertilisers, exporters from Trinidad and Tobago would need to verify their emissions, failing which default factors provided for under the CBAM will be used. A major risk is that imports from Trinidad and Tobago will be rendered less competitive.

Source: SRC Trading Thoughts "The EU's Carbon Border Adjustment Mechanism and CARICOM", at <https://shridathramphalcentre.com/the-eus-carbon-border-adjustment-mechanism-and-caricom/>

EU Trade Policy on Climate Change

The EU's new trade strategy, published on 18 February 2021⁹⁵, sets out a new vision for EU's trade policy in line with its Green Deal, which focuses on strengthening the capacity of trade to support its climate and digital transitions. The Strategy supports the EU's transition to climate neutrality by accelerating investments in clean energy, and promoting value chains that are circular, responsible and sustainable. The EU also commits to using its trade agreements to facilitate trade in green technologies, goods, services and investments.⁹⁶ In a separate "Trade for All strategy" adopted after the UN 2030 Agenda⁹⁷, the EU also commits to include Trade and Sustainable Development Chapters in all FTA negotiations with third states. (See Textbox 7)

95 The Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions: Trade policy Review- An Open, Sustainable and assertive trade policy, 12. https://trade.ec.europa.eu/doclib/docs/2021/february/tradoc_159438.pdf

96 The Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions: Trade policy Review- An Open, Sustainable and assertive trade policy, 12. https://trade.ec.europa.eu/doclib/docs/2021/february/tradoc_159438.pdf

97 European Commission, 'Communication From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions - Next steps for a sustainable European future European action for sustainability', at < <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016DC0739&from=EN> > (last visited 30 April 2020).

Text Box 7: Typical Provisions in EU Trade and Development Chapters

Typical Provisions in EU Trade and Development Chapters

The European Union includes Trade and Sustainable Development (TSD) chapters in all FTA negotiations with third States. The EU-Korea FTA, signed in 2011 but ratified in 2015, was the first of these new generation EU FTAs to feature a dedicated TSD chapter, and since then TSD chapters are now found in subsequent EU FTAs.

The preambles of the TSD chapter in EU FTAs typically note the chapter's objective of integrating sustainable development into the parties' trade and investment relationship, in particular labour and environmental aspects of sustainable development. The preambles make specific reference to a number of multilateral sustainable development initiatives and MEAs. These chapters typically include express provisions on the right of the State to regulate and also impose an obligation on the State not to lower standards to encourage trade or investment. Parties commit to trade and investment favouring sustainable development, biodiversity, sustainable management of forests, trade in timber and timber products, the sustainable use of fisheries resources and sustainable agriculture.

Since then, the substantive provisions of the European Union's TSD chapters have evolved in their depth and scope. For example, the newest agreements – the EU-Mercosur FTA and EU-Mexico FTA – include a specific trade and climate change provision in their TSD chapters wherein the parties recognize the importance of pursuing the ultimate objective of the UNFCCC in order to address the urgent threat of climate change and the role of trade to this. The parties commit to effectively implement the UNFCCC and the Paris Agreement by taking measures that contribute to the implementation of their respective NDCs. These agreements also include more extensive provisions on sustainable management of marine biological resources and aquaculture, and trade and responsible management of supply chains.

The institutional and monitoring provisions have also evolved. The TSD chapters all provide for the establishment of a TSD committee or sub-committee and designation of contact points. The TSD chapters in EU FTAs also include extensive provisions on the settlement of disputes arising under the chapter which require parties to engage in consultations and which establishes a panel of experts.

Climate Change Provisions in Free Trade Agreements

Several analysts argue that Free Trade Agreements (FTAs) have the best potential to contribute to global governance on climate change by aligning policies, standards and regulations.⁹⁸ They are considered preferable to the WTO since they involve less countries, which makes consensus easier to achieve; and allow countries to experiment with other like-minded countries, with results that can be multilateralized at a later stage.⁹⁹

Traditional trade agreements only started including environmental provisions in the early 1990s, and typically used non-binding language in preambles to express support for environmental objectives, required parties to effectively enforce their own domestic environmental laws, or promoted cooperation under MEAs. Since 2010, however, newer generation FTAs with environmental provisions have emerged, in particular, those negotiated by the EU and the US.¹⁰⁰ The provisions are often contained in self-standing Chapters on the Environment, and are more diverse and binding, with some even enforceable under dispute settlement procedures. In this regard, the EU – with which CARICOM has

98 Das, Kasturi et al. 2018. "Making the International Trade System work for Climate Change: Assessing the Options." Climate Strategies, 29. https://climatestrategies.org/wp-content/uploads/2018/07/CS-Report-_Trade-WP4.pdf

99 Das, Kasturi et al. 2018. "Making the International Trade System work for Climate Change: Assessing the Options." Climate Strategies, 29. https://climatestrategies.org/wp-content/uploads/2018/07/CS-Report-_Trade-WP4.pdf

100 In addition to the provisions contained in recent EU Chapters, the US- Mexico- Canada Agreement (USMCA) makes the environmental provisions fully enforceable by including these provisions under the wider dispute settlement mechanism applicable to other substantive chapters of the Agreement.

its first reciprocal free trade agreement – has the most ambitious approach and even has specific provisions on climate change in its most recent FTAs.

CARICOM Agreements with Climate Change Related Provisions

- **CARIFORUM-EU EPA¹⁰¹**

The CARIFORUM-EU EPA (CEPA) was negotiated in 2008 and was the first to include specific chapters on sustainability and social impacts. The agreement does not explicitly address climate change but sets out a specific chapter on the environment which is focused on incorporating principles of sustainable management of natural resources and the environment.¹⁰² Among the obligations undertaken by the parties is a commitment to conserve, protect and improve the environment, including through multilateral and regional environmental agreements to which they are parties.¹⁰³ The Agreement also commits the parties to efforts to facilitate trade in environmental goods and services.

The Chapter preserves the parties' right to regulate¹⁰⁴ and commits them not to adopt or apply regional or national trade or investment-related legislation in a way that frustrates measures intended to benefit, protect or conserve the environment or natural resources.¹⁰⁵ Several areas for cooperation are highlighted¹⁰⁶ including promoting private and public voluntary and market-based schemes such as labelling and accreditation schemes; technical assistance and capacity building in the implementation and enforcement of MEAs; facilitation of trade between the parties in natural resources, including timber and wood products, from legal and sustainable sources; assistance to producers to develop and/or improve production of environmental goods and services; and promotion and facilitation of public awareness and education programmes in respect of environmental goods and services. There are provisions for consultations and monitoring of the provisions, as well as for the conduct of impact assessments. A mechanism for dispute settlement exists through the selection of a Committee of Experts to examine any matters unresolved through consultations. Beyond the Environment Chapter, there are other provisions of the CEPA which promote cooperation on eco-innovation and renewable energy.¹⁰⁷

It is not clear that the provisions in the Sustainable Chapter of the CEPA have achieved their aims. An ex-post-evaluation by ECORYS (2020)¹⁰⁸ could not substantiate any discernible impact of these provisions on the environmental sustainability of CARICOM. The Report highlighted that the small increase in trade between the EU and CARICOM –in sectors like natural resources, agribusiness and oil and chemicals and even tourism – would suggest an increased environmental footprint but that a positive impact could be expected from the promotion of niche/small market products, like rum, under the Agreement which were built on increasingly sustainable trade practices.

101 When the UK exited the EU, the United Kingdom and CARIFORUM countries “rolled over” their EU-CARIFORUM commitments into a new UK-CARIFORUM Agreement which contains almost identical provisions.

102 Article 183.1 of CEPA.

103 Article 183.3 of CEPA.

104 Article 184 of CEPA.

105 Article 188 of CEPA.

106 Article 190 of CEPA.

107 Article 138 of CEPA.

108 See Ex-post evaluation of the EPA between the EU and its Member States and the CARIFORUM Member States: Final Report: Available at <https://op.europa.eu/en/publication-detail/-/publication/c9cf20af-6788-11eb-aeb5-01aa75ed71a1/language-en> Accessed on 29 October, 2021.

- **The Revised Treaty of Chaguaramas (RTC) and the Revised Treaty of Basseterre (RTB)**

The Revised Treaty of Chaguaramas (RTC), which came into force in 2001, incorporates broad environmental imperatives for joint action by CARICOM Member States. Article 65 on “Environmental Protection” behooves the Community to promote measures to preserve, protect and improve the quality of the environment, to protect health and lives, and to adopt initiatives at the Community level to address the regional environmental problems. The measures are to be based on *inter alia*, scientific and technical data, environmental conditions, cost and benefits analysis, and the precautionary principles. Importantly, the provision recognizes the role of the Council on Trade and Economic Development (COTED) – the organ of CARICOM, typically comprising Ministers of Trade, responsible for the promotion of trade, economic development – to ensure a balance between the requirements of industrial development and the environmental preservation. The Community and Member States, within their competences, must also cooperate with third states and competent environmental organizations.¹⁰⁹

While Article 65 recognizes the competence of the Member States in areas of environmental policy, it clearly envisages a central role for COTED, which could provide a strong legal basis for more targeted work by the Community on trade and climate change policy, through, for instance, the creation of harmonized policies in areas such as sustainable investment, greening procurement policies, carbon taxes, etc., which could be enforceable by the Caribbean Court of Justice.

Like the RTC, the OECS’ Revised Treaty of Basseterre (RTB) does not appear to address explicitly climate change or contain any substantive climate change related provisions. However, Article 24 of the Protocol of OECS Economic Union (appended to the RTB) addresses environmental sustainability and OECS Members have committed to implement the St. George’s Declaration of Principles for Environmental Sustainability¹¹⁰ which targets minimizing environmental vulnerability, improving environmental management and protecting the region’s natural resource base for optimal social and economic benefits for Member States.

- **Post-Cotonou Agreement**

In April 2021, a new partnership agreement – the Post Cotonou Agreement – was concluded between the EU and members of the Organisation of African, Caribbean and Pacific States (OACPS).¹¹¹ CARICOM countries participated as part of the CARIFORUM grouping (CARICOM plus the Dominican Republic). The Agreement succeeds the Cotonou Agreement signed on June 23, 2000.

While not a formal trade agreement, the Post-Cotonou Agreement contains expansive provisions for promoting trade and investment cooperation between the parties on climate change. There is a dedicated chapter on environmental sustainability and climate change (Part II Title V) as well as specific obligations for climate action under the African, Caribbean and Pacific Regional Protocols.¹¹² The dedicated Chapter reaffirms the need to agree on ambitious action to manage and reduce the negative effects of climate change and to set the parties’

109 In addition to Article 65, Article 135 (1)(d)(i) of the RTC requires the transport sector not impact adversely on the environment of the Member States and, in particular, the Caribbean Sea. The General Exceptions provision under Article 226 allows CARICOM Members States to enforce measures necessary to protect human, animal or plant life; and relating to the conservation or natural resources or the preservation of the environment.

110 The St. George’s Declaration emerged as a result of the Third Meeting of the OECS, in which Ministers of the Environment formulated a new strategy that served as a framework for the environmental management of the region. The Declaration was signed in 2001, and a broad action framework for environment regional management was established.

111 “Post-Cotonou negotiations on new EU/Africa- Caribbean-Pacific Partnership Agreement concluded”, April 15, 2021. See at: https://ec.europa.eu/commission/presscorner/detail/en/IP_21_1552 Accessed 2 September 2021.

112 Partnership Agreement between the European Union / The European Union and its Member States, of the One Part, and Members of The Organisation of African, Caribbean and Pacific States, of the Other Part, April 15, 2021. https://ec.europa.eu/international-partnerships/system/files/negotiated-agreement-text-initialled-by-eu-oacps-chief-negotiators-20210415_en.pdf

economies on sustainable, resilient low-carbon growth paths, while contributing to the creation of decent jobs for all. The Parties also undertake a commitment to mainstream environmental sustainability, to fight against climate change and pursue environmentally sustainable growth into all policies, plans and investments, while highlighting, *inter alia*, the vulnerability of SIDS, LDCs, landlocked developing countries and coastal populations to the impacts of climate change.

The Agreement aligns its commitments with those of the UNFCCC. For instance, the parties agree to effectively implement the Paris Agreement, and to make all investments and financial flows consistent with the Paris Agreement.¹¹³ Parties agree also to implement and track progress towards their NDCs and to strive to formulate and communicate mid-century, long-term low greenhouse gas emission development strategies to enhance the linkages between NDCs, the 2030 Agenda and their national strategies. The agreement also acknowledges the need to integrate National Action Plans and other adaptation strategies into national strategies to achieve climate-resilient sustainable development.¹¹⁴

The Caribbean Regional Protocol provides further climate-related commitments.¹¹⁵ Broadly speaking, it includes measures to address the loss of biodiversity, maintain and restore ecosystems, promote ocean governance, reverse deforestation, and prevent and respond to natural disasters and anthropogenic hazards, through climate finance, the promotion of technology transfer and capacity building. The Caribbean parties agree to invest in green growth, promote circular economies, and support the transition towards climate-resilient and low-emission development, ensuring that economic growth fully complements environmental sustainability. The Protocol also encourages the phase-out of inefficient fossil fuel subsidies that encourage wasteful consumption; promotes the switch to renewable and cleaner energy sources in line with actions under the NDCs; and covers cooperation to advance low-carbon economies and climate resilience by strengthening green growth in key and emerging economic sectors.

113 Article 57.3 of the Draft Post Cotonou Agreement

114 Article 58.3 Draft Post Cotonou Agreement

115 See Title II, Articles 25-30 of the Caribbean Regional Protocol to the Draft Post Cotonou Agreement

SECTION 3: CARICOM TRADE AND CLIMATE CHANGE POLICY

Climate change has certainly attracted the attention of many regional entities and organizations and has been included into the domestic policies of many Caribbean states; but if there is an integrated approach across in CARICOM to climate change and trade, it is not obvious.

In this section, we highlight both regional and national approaches to climate change and highlight the limited instances in which they intersect with trade.

Regional Approaches to Climate Change and Trade

- **Trade Related Entities: CARICOM, the CARIFORUM Directorate, and Caribbean Export Development Agency**

Being the entity responsible for coordinating regional policy on issues relating to the environment¹¹⁶, CARICOM certainly has competence to initiate, regulate and coordinate policy on climate change and trade. However, although Member States have made collective statements on the threats posed by climate change, and CARICOM Ministers of Climate Change have even made specific demands for action at COP26¹¹⁷, there has been limited engagement on how to integrate climate change ambitions with the trade agenda. Moreover, COTED, the organ responsible for trade and the economic development, has not pronounced on the position CARICOM Member States should take at the MC12 on specific climate-related discussions, although some countries, like Barbados and Jamaica remain engaged in, and even lead, some of the environmental discussions, such as those taking place in the Informal Dialogue on Plastics.

Other regional agencies with trade portfolios, like the CARIFORUM Directorate and the Caribbean Export Development Agency have also been overseeing projects on climate change. The CARIFORUM Directorate oversees the programming of the CARIFORUM-EU Agreement and the Post-Cotonou Agreement and is anchored within the CARICOM Secretariat.¹¹⁸ Among the core areas earmarked for focus are climate change and natural disasters. The Caribbean Export Development Agency is a regional trade and investment promotion agency focused on supporting the private sector. It has funds for increasing the private sector's resilience to trade in climate change and was recently nominated by the International Trade Centre (ITC) as a "Green to Compete Hub" for the Caribbean. The Hub assists micro-, small and medium-sized enterprises (MSMEs) to develop green business models and become more climate resilient.

Climate Change-Related Entities and Initiatives across CARICOM

- **The Caribbean Community Climate Change Centre (CCCCC)**

In 2002, CARICOM Heads of Government approved the establishment of the Caribbean Community Climate Change Centre (CCCCC)¹¹⁹, which was eventually opened in Belize in 2005. The Centre provides climate change-related policy advice and guidelines to CARICOM Member States through the CARICOM Secretariat and to the UK

116 See RTC preamble; and Article 65 of the RTC.

117 See for instance CARICOM Climate Change Ministers Declaration Ahead of COP26, Available at: <https://caricom.org/caricom-climate-change-ministers-demand-climate-justice-in-declaration-ahead-of-cop26/> Accessed 27 October, 2021.

118 The Directorate's duties also now extend to managing CARIFORUM's post-BREXIT trade relations UK.

119 See <https://www.caribbeanclimate.bz/>

Caribbean Overseas Territories. It also archives and serves as a clearinghouse for regional climate change data and documentation.

In October 2007, the CARICOM Heads of Government requested the CCCCC to prepare a climate change strategy for the region, which they adopted as the “Regional Framework for Achieving Development Resilient to Climate Change” in 2009. The Regional Framework is guided by five strategic elements and several goals designed to increase the resilience of the CARICOM Member States’ social, economic and environmental systems. The Framework was followed by an Implementation Plan for the period 2012 – 2021.

- **Caribbean Disaster Emergency Management Agency (CDEMA)**

The Caribbean Disaster Emergency Management Agency (CDEMA) is the CARICOM agency responsible for disaster management. Its main aim is to coordinate an immediate response to any disastrous event affecting any a CARICOM Member State through the provision of assistance services, monetary donations, financial grants and essential food and medical supplies. CDEMA’s programming is organized across various portfolios including: disaster management and preparedness, flood preparedness, vulnerability assessments, and climate change disaster risk reduction.

- **The University of the West Indies (The UWI)**

Climate change has become an important part of the work programme of The UWI. The UWI conducts research and teaching on climate change through its dedicated departments, and through alliances with other international university coalitions, the Commonwealth Climate Resilience Network, and with CARICOM and international agencies such as CDEMA, UNDP and the IDB.¹²⁰ The University’s researchers and scientists have issued many publications over the years including most recently *The State of the Caribbean Climate 2020 Report*¹²¹ and remain key voices on the science of climate change.

- **Caribbean Development Bank (CDB)**

The CDB has said that it considers climate action to be one of its top priorities given the severe impacts of climate change on its CARICOM Borrowing Member Countries (BMCs). Environmental Resilience is one of the pillars of the CDB’s 2020-2024 Strategic Plan under which the Bank prioritizes energy, concessionary resource mobilization, scale up adaptation and climate resilience and creating an enabling environment for climate action.

In a recent statement of the CDB on Paris Agreement Alignment¹²², the Bank set out the work it has done to date in the area of climate change, including: catalysing BMCs transitions to climate-resilient and low-carbon development pathways; facilitating financing to support BMC NDCs, national adaptation strategies, and regional policies; incorporation of climate risk and vulnerability screening and assessments into all projects to help mainstream climate resilience considerations into major capital investments in the region; providing technical assistance to support energy transformation; promoting private sector investment through deeper engagement and support¹²³; leveraging concessional climate finance through global finance funds; creating partnerships to

120 See <https://www.uwi.edu/vcreport/ft36.php>

121 “The State of the Caribbean Climate Report 2020” See at: <https://uwi.edu/climateaction/research/landmarkpublications.php>

122 See Caribbean Development Bank Statement on Paris Agreement Alignment: <https://today.caricom.org/2021/10/22/caribbean-development-bank-issues-statement-on-paris-agreement-alignment/>. Accessed on 28 October, 2021.

123 In this regard, the CDB has been encouraged by the CARICOM Commission on the Economy to establish special purpose vehicles to issue bonds for greater investment by the private sector and to prepare CARICOM Model PPP frameworks to enable the creation of a portfolio of commercially viable projects eligible for the Growth and Resilient Bond Fund support. (Report of the CARICOM Commission on the Economy, October 2020, https://issuu.com/guyanaconsulate6/docs/att_ii_to_item_7.3_-_cce_report_-32_is_-_24-25_feb)

scale up financing; and working with multilateral development banks to ensure that adaptation needs of Caribbean SIDS are addressed.

In terms of its technical work, the Bank has contributed reports on climate change-related themes such as agriculture and the blue economy.¹²⁴ The CDB also recently updated its vulnerability index – a tool used to measure the exposure of countries to different hazards – and has created a new Multidimensional Vulnerability Index (MVI), to include climate related metrics.¹²⁵ Using the CDB's MVI, the SRC proposed a trade vulnerability index that could measure a country's relative vulnerability to determine its eligibility for special and differential treatment at the WTO.¹²⁶ Recent remarks by the CDB President suggest a further refinement by the Bank of the climate component of the vulnerability index to focus on pre-event vulnerability, magnitude of impact, and post-event persistence and duration of impact.¹²⁷

- **The Alliance of Small Island Development States (AOSIS)**

AOSIS is an intergovernmental organization of low-lying coastal and small island countries established in 1990, with a main purpose of consolidating the voices of SIDS to address global warming. All CARICOM Member States are members of AOSIS, and its current Chair is from Antigua and Barbuda. The AOSIS has been instrumental in shaping the outcomes of COP 23 and the Paris Agreement and ensuring a strong focus on SIDS in the context of the Agreement. Following the entry into force of the Paris Agreement and formulation of the operational guidelines, its main priority has been to ensure that global emissions pathways are consistent with reducing temperature rise well below 1.5°C, especially in the context of the IPCC Special Report on 1.5°C.

Energy Policy Initiatives

- **CARICOM Energy Policy (CEP) and CARICOM Caribbean Sustainable Energy Roadmap and Strategy (C-SERMS)**

The CARICOM Energy Policy (CEP) approved by CARICOM energy ministers in 2013¹²⁸, promotes a shift to sustainable energy through the increased use of renewable energy sources and improvements in energy efficiency. The goal of the policy is the fundamental transformation of the energy sector of CARICOM through the provision of secure and sustainable supplies of energy in a manner which minimizes energy waste in all sectors.¹²⁹

The CARICOM – Sustainable Energy Roadmap and Strategy (C-SERMS) was approved alongside the CEP as a key planning mechanism and communication tool for linking priorities and renewable energy policy goals of CARICOM Member States. The C-SERMS is intended to guide, encourage and expedite implementation of the sustainable energy aspects of the CARICOM Energy Policy, by providing Member States with joint regional sustainable energy targets and a common, coherent strategy for transitioning to sustainable energy systems.¹³⁰

124 See <https://www.caribank.org/publications-and-resources>

125 See <https://www.caribank.org/publications-and-resources/resource-library/working-papers/measuring-vulnerability-multidimensional-vulnerability-index-caribbean>

126 Cotton, J. Jason and Nicholls, Alicia and Remy, Jan Yves, "Using a Trade Vulnerability Index to Determine Eligibility for Developing-Country Status at the WTO: A Conceptual Response to the Ongoing Debate" (September 25, 2019). Available at SSRN: <https://ssrn.com/abstract=3582486>

127 "Merit in developing joint approaches to debt, climate change challenges -CDB President," *CARICOM Today*, September 9, 2021 <https://today.caricom.org/2021/09/07/merit-in-developing-joint-approaches-to-debt-climate-change-challenges-cdb-president/>

128 CARICOM Energy Policy 2013. https://caricom.org/documents/10862-caricom_energy_policy.pdf

129 "CARICOM Historic Energy Policy Seeks 47% Renewable Electrical Energy" See at: <https://www.caribbeanclimate.bz/blog/2013/03/15/caricom-historic-energy-policy-seeks-47-renewable-electrical-energy/> Accessed 2 September 2021.

130 See <https://c-serms.org/about-us/>

- **Caribbean Centre for Renewable Energy and Energy Efficiency (CCREEE)**
Established in 2015, the Caribbean Centre for Renewable Energy and Energy Efficiency (CCREEE) is an institution of CARICOM with a mandate to promote renewable energy and energy efficiency investments, markets and industries in the Caribbean. CCREEE aims at improving access to modern, affordable and reliable energy services, energy security and mitigation of negative externalities of the energy system (e.g. local pollution and GHGs) by promoting renewable energy and energy efficiency.
- **Caribbean Climate-Smart Accelerator**
The Caribbean Climate-Smart Accelerator is a private sector entrepreneurial entity for accelerating initiatives toward a Climate-Smart Zone. The central objective is to help transform the region's economy by fast-tracking public and private investment opportunities that support climate action and economic growth through sustainable development.

Recently, the Caribbean Climate-Smart Accelerator teamed-up with CCREEE through the signing of a cooperation agreement to accelerate regional and national mandates for the adoption of renewable energy and energy efficiency technologies.

Individual CARICOM Country Approaches to Climate Change

According to statistics generated by the CARICOM Secretariat, most GHG emissions from CARICOM countries emanate from the combustion of fossil fuels used in transport, power plants, refineries, industrial processes and agriculture.¹³¹ Trinidad and Tobago, Jamaica and Suriname are the countries with oil refineries and are also the top three manufacturers in the region.¹³² Recent data suggests that CARICOM countries contribute, on average, between 0.00% and 0.05% of the world's annual CO₂ emissions, with Trinidad and Tobago (0.05%), Guyana (0.04%), and Suriname (0.03%) contributing the most – all miniscule amounts in comparison with other developing and developed countries.¹³³

The region also depends heavily on imported fossil fuels as the main source of energy consumption, accounting for a large portion of countries' import bills.¹³⁴ CARICOM energy policy has encouraged countries to develop policies to promote the use of renewable energy, with some countries producing ambitious targets, like Jamaica with a target of 20% renewables by 2030; and Barbados with a target of 75% renewables by 2037. Despite the abundance of solar, wind, geothermal energy and hydropower, however, investments in the development of these technologies remains worryingly low.¹³⁵

131 The Regional Statistics Programme CARICOM Secretariat. "Caribbean Community (CARICOM): Climate Change Statistics – 2020," (Georgetown: CARICOM Secretariat) 2020, http://statistics.caricom.org/Files/Publications/Climate_Change_2020.pdf . Accessed 2 September 2021.

132 The Regional Statistics Programme CARICOM Secretariat. "Caribbean Community (CARICOM): Climate Change Statistics – 2020," (Georgetown: CARICOM Secretariat) 2020, http://statistics.caricom.org/Files/Publications/Climate_Change_2020.pdf . Accessed 2 September 2021.

133 See Financial Times searchable dashboard of 193 countries' historical and future climate targets. Available at <https://www.ft.com/content/9dfb0201-ef77-4c05-93cd-1e277c7017cf>. Accessed 27 October 2021.

134 CARICOM states are also almost entirely dependent on fossil fuels, with only Guyana (2%), Haiti (19%), Jamaica (12%) having a portion coming from renewable sources. See Financial Times searchable dashboard of 193 countries' historical and future climate targets. Available at <https://www.ft.com/content/9dfb0201-ef77-4c05-93cd-1e277c7017cf>. Accessed 27 October 2021.

135 The Regional Statistics Programme CARICOM Secretariat. "Caribbean Community (CARICOM): Climate Change Statistics – 2020," (Georgetown: CARICOM Secretariat) 2020, http://statistics.caricom.org/Files/Publications/Climate_Change_2020.pdf . Accessed 2 September 2021.

As noted above, the Paris Agreement permits parties to determine the policy tools needed to fulfil their domestic emissions targets through NDCs to be submitted every five years. Many of the NDCs are organized into sections dealing with mitigation or adaptation measures, and some have trade-related measures to achieve their targets. We have compiled a database of all CARICOM NDCs and other climate-related measures taken by CARICOM Member States to date. (See Annex II)

All CARICOM countries have submitted at least one NDC, and Antigua and Barbuda, Barbados, Belize, Grenada, Jamaica, St. Lucia and Suriname have even submitted two in advance of COP26. (See Annex II) In their NDCs and climate change-related policies, many CARICOM countries have adopted policies focused on becoming carbon neutral and transitioning to zero carbon economies.

In the realm of trade-related measures, CARICOM states have so far proposed and/or adopted policies to meet their GHG emissions targets including: reducing tariffs for the importation of renewable energy equipment and environmental goods, vehicles; establishing building and energy efficiency (technical) standards and environmental labelling requirements; providing tax incentives for renewable programmes; pursuing green procurement programmes (for instance for the purchase of electric buses and lighting); creating feed-in tariff (FIT) programmes; imposing import bans on single use plastics etc; and proposing market based carbon schemes. **(See Table 2)** Only Jamaica, however, has created an explicit trade policy that seeks to mainstream and integrate climate change considerations. Experts in Guyana have also suggested a carbon tax on upstream oil production **(See Text Box 8 below)**.

Textbox 8: Proposal by the University of Guyana Green Institute for a Carbon Tax in the Guyana-Suriname Basin**Proposal by the University of Guyana Green Institute for a Carbon Tax in the Guyana-Suriname Basin**

In order to implement Article 6 of the Paris Agreement, the University of Guyana has put forward a proposal for the consideration of CARICOM Members, for the creation and implementation of an Upstream Carbon Tax at the Wellhead (UCTW). This tax would be implemented in the Guyana-Suriname region where recent discoveries of oil has generated discussions about how to best use these discoveries to transition to renewable energy sources.

Besides the carbon emissions trading system (ETS), a carbon tax is a way of pricing carbon. Carbon pricing causes economic agents who are transacting in a market to recognise third party costs as part of their production costs. An explicit carbon tax that leads to a reduction in crude oil production is associated with a certain amount of “avoided emissions.”

The proposal seeks to use carbon taxation to achieve mitigation and adaptation objectives of Paris obligations. It will achieve climate mitigation by ensuring that oil producers internalise the full cost – including the “third party cost” or negative externality imposed when CO₂ emissions are released on combustion – of their activities; and it will generate revenues to be earmarked for climate adaptation, in the jurisdictions that adopt it.

Under this proposal, the tax would be levied, not at petrol pumps – which would allow the oil importing governments to gain the benefits of taxes on consumers – but rather upstream at the wellhead in the Guyana-Suriname Basin.

The upstream carbon tax would be superior from a national (Guyana or Suriname) perspective to the downstream version that has been advocated because Guyana and Suriname would earn revenues from the measure. If Guyana's oil production were to remain at 120,000 barrels per day, the Government of Guyana (GoG) will earn about USD750 Million annually if an average carbon price of say US\$40/tonne of CO₂ equivalent were to be assumed. And in Guyana's case, this could be a simple administrative charge levied by the Guyana EPA, requiring no new legislation or regulation. Indeed, the very same provision Section 4 (4) (a) Environmental Protection Act 1996 that was used to introduce a charge on excess flaring emissions in the Stabroek Block, is available for the introduction on this UCTW.

Without a carbon tax in the Guyana-Suriname Basin, a developed country that adopts one is likely to impose a border adjustment on Guyanese oil imports, ultimately causing Guyana to pay their carbon tax, without being able to earn any revenues from it. On the other hand, countries that import oil from the Guyana-Suriname Basin will be penalised by having to pay higher, UCTW-inclusive prices and losing the opportunity to earn corresponding revenues unless they themselves adopted a higher carbon tax.

The proponents of the carbon tax explain that the monies levied from the tax would be earmarked for activities that will not lead to a leakage, or an increase in CO₂ emissions elsewhere; or may even reduce them further. In the case of the UCTW, the revenues ought to be thought of as self-generated climate finance, to be used for adaptation, and perhaps for loss and damage, and climate resilience; and also for immediately fulfilling the unconditional and conditional Nationally Determined Contributions (NDCs) made under the Paris Agreement. Moreover, this self-generated climate finance will be controlled and distributed in an institutional framework that would allow countries that have generated the emissions reductions to have a say in the use of the funds.

Source: “An Upstream Carbon tax in the Guyana-Suriname basin: Proposal Discussed at the 2021 Green Economy Workshop”, available at <https://greeninstitute.gy/an-upstream-carbon-tax-in-the-guyana-suriname-basin-proposal-discussed-at-the-2021-green-economy-workshop/>

Table 2

CARICOM Member State	Some Trade-related Climate Change Measures ¹³⁶
Antigua and Barbuda	<p>Revision of tax structure in favour of energy efficient cooking stoves</p> <p>Minimum efficiency standards for air-conditioning, refrigeration and other appliances</p> <p>Intended tax exemptions for investments in energy efficiency and reduced import duties for energy efficient equipment.</p> <p>Restrictions on incandescent bulbs,</p> <p>Standards and licensing requirements to address environmental and safety concerns</p> <p>Ban on the importation of new internal combustion engine vehicles starting from 2025</p> <p>Energy efficiency standards for the importation of all vehicles</p> <p>Enforcement of stringent emission standards on the future vehicle fleet</p> <p>Promoting the use of a sustainable procurement policy within the Organization of Eastern Caribbean States (OECS) Commission (e.g., bulk procurement of climate technology)</p>
Commonwealth of the Bahamas	<p>Lowering import duties on electric vehicles</p> <p>Use of energy-efficiency building code standards</p> <p>Fiscal measures to support investment in modern facilities and infrastructure in the energy sector.</p> <p>Reducing the duty on new vehicles between 1.5 liters (1500cc) and 2.0 liters (2000cc) valued at \$50,000 or less from 65% to 45%.</p> <p>Harmonizing the rates on all new electric and hybrid vehicles valued up to \$50,000 to 10%.</p> <p>Reducing duties on biodegradable bags and reusable cloth shopping bags</p> <p>Duty free importation of environmentally friendly items such as biodegradable straws, straws made of stainless steel, wooden straws, stirrers, and cutlery, dishes, plates, cups, and trays made of recycled paper, wheat straw, palm leaf, or sugarcane and recycled folding cartons, boxes, and cases of non-corrugated paper or paperboard.</p> <p>Reduced tariffs on solar systems and energy efficient appliances</p>
Barbados	<p>Duty free importation of renewable energy systems and related equipment. Additionally, the duty on compact fluorescent lamps, house and attic fans, ceramic roof coatings and window tints was reduced to 5%. Excise taxes were also reduced from 120% to 46.9% for electric, hybrid and gas-fuelled motorised vehicles.</p> <p>Feed-in- tariffs (FITs) for renewable energy technologies up to 1 MW, and FITs for renewable energy technologies up to 10 MW.</p> <p>Tax incentives for the investment in alternative vehicles and fuels (such as compressed natural gas, liquid petroleum gas, ethanol, natural gas, hybrid and electric) as well as renewable energy technologies.</p> <p>Minimum energy performance standards for air conditioning, refrigeration and lighting and standards for rooftop solar PV installation</p> <p>Procurement of 49 electric buses</p> <p>International support to update its GHG inventory to facilitate the creation of a Monitoring Reporting and Verification (MRV) system to enable Barbados to participate in international carbon markets, allowing for the sale of up to 50% of any certified carbon credits generated between 2020-2030.</p>

136 For more Annex II

CARICOM Member State	Some Trade-related Climate Change Measures ¹³⁶
Belize	<p>Deployment of 77 hybrid and electric buses by 2030 (17 by 2025),</p> <p>Implement a policy framework to promote more efficient vehicles and alternative fuels/blends through incorporation of fuel economy labels; emissions testing; fuel economy standards, limitations and emissions- based taxes/feebates for imported vehicles by 2025.</p> <p>Set appliance standards and labels</p>
The Commonwealth of Dominica	<p>Introduce a policy requiring all government vehicles to be replaced by hybrid vehicles at their time of replacement and introduce market-based mechanisms to incentivise private sector to purchase hybrid vehicles,</p> <p>Develop and implement a climate resilient energy efficient building code (Green Building Code)</p>
Grenada	<p>Fiscal incentives (e.g. tax rebates, subsidies, feed-in tariffs, et al) to encourage increased use of renewable energy and energy efficiency technology and systems</p> <p>Efficiency standards for commercial and industrial activities,</p> <p>Tax relief/rebates to companies meeting the energy efficiency standards set by government (e.g. complying to “cradle to cradle” manufacturing processes),</p> <p>Tax reduction incentives for use of solar panels and solar water heaters in home,</p> <p>implementation of fuel efficiency standards for vehicles through incentives.</p> <p>Tax and custom duty incentives on energy-efficient products and renewable energy generation to encourage efficiency measures and energy conservation</p>
Guyana	<p>Removal and/ or reduction of tariffs on environmental goods such as renewable energy products through the amendment of legislation (amended the Value Added Tax Act and Customs Act) to remove import duty and tax barriers for the importation of renewable energy equipment, tax exemptions on solar equipment in particular.</p> <p>Tax exemptions on items imported for wind and solar energy investments and a ‘one off tax holiday of two years on corporation tax for companies in the business of importing only items for wind and solar energy.</p> <p>Marketing of carbon credits globally through the Architecture for REDD+ Transactions (ART) platform.</p>
Jamaica	<p>Jamaica’s National Aid for Trade Strategy sets out an action matrix which provides several objectives and recommendations relating to trade and climate change in Jamaica. The recommendations include the following:</p> <ul style="list-style-type: none"> • Mainstream climate change concerns in trade policies • Review and upgrade existing building regulations and codes to take into account the anticipated impact of climate change • Sensitise businesses on the potential impact of climate change on their operations and support appropriate adaption initiatives, develop and implement public awareness programmes on climate change policies and regulations, anticipated impacts and adaptation strategies, • adopt appropriate technologies in agricultural productive systems. <p>Draft Carbon Emissions Trading Policy 2010-2030 which establishes the guidelines and terms underpinning Jamaica’s participation in carbon markets to assist the country in realizing a portion of its quantified emission reduction targets as well as move it towards achieving the national sustainable development goals.</p>
St Kitts and Nevis	<p>Incentives for more efficient vehicles and impose tax on vehicles with high fuel consumption.</p>
St Lucia	<p>Energy efficiency standards and appliance labelling programme including for air-conditioning units, incandescent lamps and tubular and compact fluorescent lamps. It also intends to expand labelling standards for appliances with respect to refrigerators, washing machines, fans and solar panels with a view to introducing minimum efficiency standards.</p>

CARICOM Member State	Some Trade-related Climate Change Measures ¹³⁶
	<p>LED Street lighting replacement programme</p> <p>Levy to control importation of used vehicles and exemptions of excise tax and duty for importers of fuel-efficient vehicles and electric and hybrid vehicles.</p> <p>Minimum fuel efficiency standards and labelling of vehicle fuel economy for all new and imported vehicles whereby imported vehicles would be required to display their relative fuel economy based on an adopted standard.</p> <p>100% waiver of import duties on all biodegradable, plant-based and compostable food service containers entering the local market.</p>
St Vincent and the Grenadines	<p>Energy labelling scheme for appliances,</p> <p>Reduced import duties on low emission vehicles. St Vincent highlighted that it is estimated that this will result in avoided emissions of approximately 10% over the next 10 years.</p> <p>Green government procurement in installation of low-carbon technology in street lighting, and</p> <p>Consideration of market-based mechanisms to meet contributions.</p>
Suriname	<p>Tax breaks for alternative renewable energy investment</p> <p>Development of feed-in-tariffs policy for renewable energy.</p> <p>Removal of fossil fuel subsidies for the energy sector in order to encourage private investment and increase energy tariffs.</p>
Republic of Trinidad and Tobago	<p>Energy efficiency and renewable energy standards</p> <p>Fiscal incentives for use of cleaner technology</p> <p>Maximise the use of carbon markets by exploring the feasibility of developing cap-and-trade regimes within and across emitting sectors. The Energy Chamber has been working towards the eventual establishment of a carbon trading system to reduce emissions in the industrial sector.</p>

SECTION 4: THE WAY FORWARD?

This Brief has only begun to scratch the surface on the trade/climate change interface and how it can be strengthened so that CARICOM countries can meet both their trade and climate change obligations and ultimately benefit from them. In it, we have surveyed the trade and climate change spheres in which CARICOM governments operate, including at the UNFCCC, at the WTO and in the context of other trade-related regimes; reviewed the policies of major GHG emitters; and highlighted the policies and practices to date of CARICOM countries at the regional and national levels.

The picture that emerges in CARICOM is disjointed approach to trade and climate change policy, which reflects the siloed approach that has been taken to date at the international levels. The UNFCCC contains very few references to trade or trade policy, and in turn, WTO negotiations have not typically considered the environment to be a major negotiating issues. However, things are changing at the WTO. The Director General of the WTO, Dr. Ngozi Okonjo-Iweala has noted that as the world faces “some really serious problems ... from the pandemic to climate change ... trade is required to play ... a more creative and different role”.¹³⁷ The WTO has also recently released five information briefs on trade, climate and related issues to support efforts to harness trade policy as part of a solution for effective climate action.¹³⁸ Moreover, a growing number of WTO Members are pushing a pro-climate agenda at the WTO, through structured discussions in negotiating committees, and through other initiatives beyond the WTO, which is creating momentum to revise the WTO rulebook. Caribbean countries must be part of the framing of trade rules as they will inevitably impact us and our development prospects: not only do unchecked GHG emissions generated by unsustainable trade practices threaten our very existence, but we also stand to benefit from a global framework that encourages sustainable foreign direct investment practices, secures access to goods and services to overcome natural disasters, and provides opportunities for our countries in low carbon technologies, and renewable energy sectors.

Although CARICOM Member States have made some strides in using trade policy as a tool to achieve climate ambitions – evident from a review of the mitigation measures indicated in their NDCs – more can be done. As can be seen from practice of trade partners like the EU, trade policy can be used as an effective weapon to achieve sustainable development objectives and help with the transition to a new green economy.

The conclusions of COP26 and MC12 should give CARICOM policy makers pause and encourage review of the current practices, policies and strategies in the spheres of trade and climate change. In this regard, we propose the following five recommendations to CARICOM policy makers to be implemented with immediate effect:

- (1) Conduct technical work and research in key areas that will improve the ability of CARICOM negotiators to make substantive contributions in ongoing trade and climate change negotiations.** This work, to be financed by the Caribbean Development Bank and other development agencies and partners, should include:
 - **A comprehensive assessment of CARICOM Member States’ trade and investment activities in key GHG emitting and environmentally harmful sectors** (such as the extractive and manufacturing industries, plastics, tourism, shipping and logistics) to assess their carbon footprint and environmental impacts. Once this assessment is done, it will be possible to assess whether CARICOM countries’

¹³⁷ See at <https://finance.yahoo.com/news/wto-director-general-ngozi-okonjo-iweala-trade-critical-solving-pandemic-climate-change-144145161.html> Accessed at 29 October, 2021.

¹³⁸ See at https://www.wto.org/english/news_e/news21_e/clim_03nov21_e.htm Accessed 4 November, 2021.

climate change and environmental targets, as reflected for instance in their NDCs and regulatory policies, are effective and whether and how which trade-related and other measures can be used to mitigate these harmful effects

- **An audit of all existing trade and investment agreements** (including Bilateral Investment Treaties) to consider their compatibility with CARICOM countries' climate change goals
- **Continuation of the work on the trade vulnerability index** started by the SRC and the CDB, that uses *inter alia*, vulnerability to climate change, as a key proxy for determining access to special and differential treatment at the WTO, as well as to climate financing in other international fora;
- **Consideration, and quantification, of the possibilities for CARICOM Member States** to take advantage of the trade and investment possibilities in the green and blue economy sectors, and the circular economy.
- **In line with Article 6 of the Paris Agreement, a review of the trade-related market- and non-market-based carbon pricing mechanisms** (like the CBAM, ETS and carbon taxes) taken by other countries that might affect CARICOM states trade prospects; and also assess which mechanism CARICOM Member States should themselves adopt that is consistent with their own development strategies.

(2) At the domestic levels, better coordination across different Ministries with responsibility for climate change, finance, renewable energy and trade: In order to improve synergies between trade and the environment, experts from each field must respect each other's competences and understand the interconnectedness of their portfolios. It has been noted that trade persons and climate change experts do not speak to each other nor are they equipped to navigate each other's fields. In order to advance green trade, therefore, there must be adequate coordination across different competences in Ministries to ensure that each values and integrates the work of the other.

(3) At the regional level, streamline CARICOM and related initiatives on climate change, renewable energy and trade and the Sustainable Development Goals. Multiple actors, with diverse and sometimes overlapping portfolios, exist within the region. The CDB, as the major funding and development agency, and CARICOM as the regional agency responsible for overall coordination of trade and environmental policy, should together take the lead in developing and driving CARICOM's climate change policy within CARICOM. As lead agencies, the two should convene a strategic working meeting to bring together all CARICOM entities with mandates for trade, climate change and renewable energy so that information can be exchanged, and future work can be streamlined and allocated across the various bodies in the region. Climate change policy is also part of the broader 2030 Agenda for Sustainable Development, and must be streamlined under work taking place under the Sustainable Development Goals (SDGs). CARICOM Member States have to assess, sooner rather than later, their participation in ongoing WTO Member-led initiatives (See Recommendation 4) and the extent to which the emerging SDG framework can address CARICOM priorities for climate adaptation/mitigation, environmental preservation and sustainable development. A coordinated approach at the regional level will allow for more effective and mutually-supportive positions to be taken by CARICOM and its Member States in trade and climate change negotiating fora.

(4) CARICOM must play a definitive and leading role in promoting trade policies that are consistent with its climate change ambitions. In particular, COTED and other Organs with responsibility for trade and/or the environment should:

- a. **Create a regional environmental policy on climate change, pursuant to Article 65 of the RTC,** that prioritizes sustainable foreign direct investment, trade and industrial practices, promotion of renewable energy; a regional carbon tax etc. These policies should be binding and clear and give rise to rights and obligations on Member States that are enforceable before the Caribbean Court of Justice.
- b. **Keep under intense review ongoing developments at the WTO and in regional and bilateral negotiations that have climate change dimensions.** CARICOM must be technically prepared to participate in these negotiations and advance positions, in WTO negotiations like the TESSD, on liberalization of environmental goods and services, fossil fuel subsidies, fisheries, natural disasters, the circular economy and plastics pollution. Consideration should also be given to joining initiatives outside the WTO like the ACCTS.
- c. **Instruct the CARICOM Office of Trade Negotiations (OTN) to prepare a CARICOM trade strategy that includes specific consideration of the environmental priorities for the region.** The strategy should include, *inter alia*, a review of existing agreements with climate change provisions; proposals for activating built-in provisions for capacity building, joint cooperation and consultation under existing agreements; impact assessments of the performance of CARICOM countries in achieving the goals set out under environmental provisions of trade agreements; and proposals for how CARICOM countries can exploit new trade opportunities in renewable energy and low carbon sectors.
- d. **Create a cross-disciplinary think tank comprising scientific and technical experts on climate change, trade and the environment** that regularly convenes and provides real time advice to COTED and other CARICOM organs and bodies on positions to be taken at UNFCCC, WTO and other relevant negotiations.
- e. **Establish a battalion of CARICOM litigators with experience in high-level litigation before international and domestic tribunals,** who can frame the region's legal demands for climate justice and defend its interests in various legal fora, including human rights, law of the sea, trade, and investment.

(5) Utilize key international positions to promote a climate change/trade agenda in the interests CARICOM. At the moment, CARICOM is well placed to advocate for the promotion of its interests in climate change and trade negotiations: the Barbados Prime Minister holds the Presidency of UNCTAD, and CARICOM nationals occupy important positions in the United Nations, AOSIS, the WTO Secretariat and in WTO Committees. These positions can be used to shape the technical work conducted by well-resourced international organizations, as well as the negotiations in which CARICOM countries participate.

BIBLIOGRAPHY

- Bacchus, J. *The Case for a WTO Climate Waiver: Special Report*, Canada: Centre for International Governance Innovation, November 2, 2017. https://www.cigionline.org/static/documents/documents/NEWEST%20Climate%20Waiver%20-%20Bacchus_0.pdf
- Bao, Nathan Jin, "Domestic Content Requirements in the Renewable Energy Sector: What Policy Space Exists Under WTO Rules?" (March 6, 2020). <https://ssrn.com/abstract=3575018>
- Barrowclough, D. and C. Deere, Birkbeck. (2020) "Transforming the Global Plastics Economy: The Political Economy and Governance of Plastics Production and Pollution," Global Economic Governance Programme and SNIS Working Paper 2020, University of Oxford and Swiss Network of International Studies. <https://www.econstor.eu/bitstream/10419/224117/1/1701700611.pdf>.
- Bodnasky, Daniel. The United Nations Framework Convention on Climate Change: A Commentary. *Yale Journal of International Law* Vol. 18:451-558 (1993). <https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1626&context=yjil>
- Bodansky, D., Brunnée, J., and Rajamani, L. *International Climate Change Law*. (Oxford: Oxford University Press, 2017).
- Brenton, Paul and Chemuti. 2021. "the Trade and Climate Change Nexus: The Urgency and Opportunities for Developing Countries," (Washington DC: World Bank Group, 2021). <https://openknowledge.worldbank.org/bitstream/handle/10986/36294/9781464817700.pdf?sequence=5>.
- Carbis Bay G7 Summit Communique, *The White House Briefing Room*, June 13, 2021. See at: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/13/carbis-bay-g7-summit-communique/>
- Caribbean Community Energy Policy. 2013. https://caricom.org/documents/10862-caricom_energy_policy.pdf.
- "CARICOM Historic Energy Policy Seeks 47% Renewable Electrical Energy," *Caribbean Community Climate Change Centre*. <https://www.caribbeanclimate.bz/blog/2013/03/15/caricom-historic-energy-policy-seeks-47-renewable-electrical-energy/>
- Clarke, Judi. Romily, George de Berdt. McCue, Jon. Pinder, Shane. Pounder, Cherie. Campbell, Donovan. Fields, Nicholas. Khan, Katrina et al. 2019. "Vulnerability and Capacity Assessment Report: Technical Assistance for the Environment Programme". <https://www.planning.gov.tt/sites/default/files/Final%20TAEP%20Vulnerability%20and%20Capacity%20Assessment%20Report%20Trinidad%20and%20Tobago%20Jan%202019.pdf>
- Commonwealth of Bahamas. 2014. "The Second National Communication Report of the Commonwealth of Bahamas under the United Nations Framework Convention on Climate Change (UNFCCC)". <https://unfccc.int/sites/default/files/resource/bhsrc2.pdf>.
- "Comprehensive and Progressive Agreement for Trans-Pacific Partnership." Date of Signing March 8, 2019. <https://www.mfat.govt.nz/vn/trade/free-trade-agreements/free-trade-agreements-in-force/comprehensive-and-progressive-agreement-for-trans-pacific-partnership-cptpp/comprehensive-and-progressive-agreement-for-trans-pacific-partnership-text-and-resources/>
- Cotton, J. Jason and Nicholls, Alicia and Remy, Jan Yves, "Using a Trade Vulnerability Index to Determine Eligibility for Developing-Country Status at the WTO: A Conceptual Response to the Ongoing Debate" (September 25, 2019). <https://ssrn.com/abstract=3582486>
- Daniel Gay. "Smooth transition for graduating LDCs under the EU Carbon Border Adjustment Mechanism", *May 4, 2021*. United Nations LDC Portal. <https://www.un.org/ldcportal/smooth-transition-for-graduating-ldcs-under-the-eu-carbon-border-adjustment-mechanism/>.
- Das, Kasturi. Asselt, Harro van. Droege, Susanne. Mehling, Michael. 2018. "Making the International Trade System work for Climate Change: Assessing the Options." *Climate Strategies*. https://climatestrategies.org/wp-content/uploads/2018/07/CS-Report-_Trade-WP4.pdf

- Deere Birkbeck, C. (2021), "Greening International Trade: Pathways Forward." Global Governance Centre and the Forum on Trade, Environment & the SDGs (TESS): Geneva. https://tradedhub.earth/wp-content/uploads/2021/07/Greening-International-Trade_18.07.2021.pdf
- De Melo, Jaime. 2020. "Negotiations for an Agreement on Climate Change, trade and sustainability: An Opportunity for collective action." April 10, 2020. International Economics Limited.
- o <https://www.tradeeconomics.com/wp-content/uploads/2020/04/JDM-ACCTS-2.pdf>
- Droiterre Incorporated and Associates. 2015. "The Second National communications Report of St Christopher and Nevis under the United Nations Framework Convention on Climate Change". <https://unfccc.int/sites/default/files/resource/Knanc2.pdf>
- Economist Intelligence Unit. 2019. "Climate Change and trade agreements: Friends or Foes?" United Kingdom: Economist Intelligence Unit Limited. <https://iccwbo.org/content/uploads/sites/3/2019/03/icc-report-trade-and-climate-change.pdf>
- ECROYS: 2020. "Ex-post evaluation of the EPA between the EU and its Member States and the CARIFORUM Member States: Revised Interim Report." (Luxembourg: European Commission). https://trade.ec.europa.eu/doclib/docs/2020/february/tradoc_158657.pdf
- Epps, Tracey and Green, Andrew. 2010. Reconciling Trade and Climate Change: How the WTO can help address climate change. UK: Edward Elgar Publishing Limited. https://www.google.com/books/edition/Reconciling_Trade_and_Climate/Zc9QfHvPgTUC?hl=en&gbpv=1
- European Commission. "EU climate action and the European Green Deal". https://ec.europa.eu/clima/policies/eu-climate-action_en
- European Commission. 2015. EU-ETS Handbook. https://ec.europa.eu/clima/sites/clima/files/docs/ets_handbook_en.pdf
- European Commission. "Changing how we produce and consume: New circular Economy Action Plan shows the way to a climate- neutral competitive economy of empowered consumers," March 11, 2020. https://ec.europa.eu/commission/presscorner/detail/en/ip_20_420
- European Commission. 2019. "Communication from the Commission to the European Parliament, The European Council, The Council, The European Economic and Social Committee and the Committee of the Regions: the European Green Deal." 11 December 2019.
- o https://ec.europa.eu/info/sites/default/files/european-green-deal-communication_en.pdf
- European Commission. The Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions: Trade policy Review- An Open, Sustainable and assertive trade policy, 12. https://trade.ec.europa.eu/doclib/docs/2021/february/tradoc_159438.pdf
- European Commission. Circular Economy Action Plan: For a Cleaner and more Competitive Europe. https://ec.europa.eu/environment/pdf/circular-economy/new_circular_economy_action_plan.pdf
- "European Union-Mercosur Trade Agreement." Date of Agreement in principle June 28, 2019. http://www.sice.oas.org/tpd/mer_eu/Texts/MER_EU_Index.asp
- "European Union-Singapore." Date of Entry into force November 21, 2019. [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22019A1114\(01\)&from=EN#page=96](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22019A1114(01)&from=EN#page=96)
- "European Union-Canada Comprehensive Economic Trade Agreement." Date of Entry into force September 21, 2017. https://trade.ec.europa.eu/doclib/docs/2014/september/tradoc_152806.pdf
- "European Union-Colombia-Peru Free Trade Agreement." Date of Entry into force June 1, 2013. <https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/5405/download>
- Government of the Commonwealth of Dominica. 2020. Climate Resilience and Recovery Plan 2020-2030. <http://dominica.gov.dm/images/documents/CRRP-Final-042020.pdf>

- Government of the Cooperative Republic of Guyana. 2018. Technology Action Plan for Mitigation. Office of Climate Change, Ministry of the Presidency, Guyana and UNEP-DTU. <https://climatechange.gov.gy/en/index.php/resources/documents/technology-needs-assessment-tna/37-technology-action-plan-mitigation/file>
- Government of Grenada. 2017. Second National Communication to the United Nations Framework Convention on Climate Change: Grenada, Carriacou and Petite Martinique. https://unfccc.int/sites/default/files/resource/Grenada%20Second%20National%20Communication_Final%20%281%29%20%281%29.pdf
- Government of Jamaica. 2018. "Third National Communication of Jamaica to the United Nations Framework Convention on Climate Change". Ministry of Economic Growth and Job Creation. Climate Change Division. https://www4.unfccc.int/sites/SubmissionsStaging/NationalReports/Documents/578491_Jamaica-NC3-1-TNC_Final_December132018.pdf
- Government of Jamaica. 2011. "Jamaica's National Aid for Trade Strategy: Partnerships towards sustained economic growth and development through trade". <https://publications.iadb.org/publications/english/document/Jamaica-National-Aid-for-Trade-Strategy-Partnerships-towards-Sustained-Economic-Growth-and-Development-through-Trade.pdf>
- Government of Saint Lucia. "Third National Communication on Climate Change for Saint Lucia." 2017. <https://unfccc.int/sites/default/files/resource/THIRD%20NATIONAL%20COMMUNICATION%20-%20SAINT%20LUCIA%202017.pdf>
- Government of Suriname. 2019. "Suriname National Adaptation Plan". https://www4.unfccc.int/sites/NAPC/Documents/Parties/Suriname%20Final%20NAP_apr%202020.pdf
- Grenada Private Power Limited v. Grenada ICSID Case No. ARB/17/13. <https://jsumundi.com/en/document/decision/en-grenada-private-power-limited-and-wrb-enterprises-inc-v-grenada-none-currently-available-monday-15th-may-2017>
- Guyana on cusp of earning US \$300 m from sale of carbon credits- VP Jagdeo", Guyana Times, August 9, 2021. <https://guyanatimesgy.com/guyana-on-cusp-of-earning-us300m-from-sale-of-carbon-credits-vp-jagdeo/>
- Harvey, F. 'Paris Climate Change Agreement: the World's Greatest Diplomatic Success', *The Guardian UK*, 14 December 2015. <https://www.theguardian.com/environment/2015/dec/13/paris-climate-deal-cop-diplomacy-developing-united-nations>
- International Carbon Action Partnership. (2021) "Emissions Trading Worldwide: Status Report 2021". (Berlin: International Carbon Action Partnership). https://icapcarbonaction.com/en/?option=com_attach&task=download&id=723
- International Energy Agency. 2021. "The role of China ETS in Power Sector Decarbonisation". IEA Publications. https://iea.blob.core.windows.net/assets/61d5f58d-4702-42bd-a6b6-59be3008ecc9/The_Role_of_China_ETS_in_Power_Sector_Decarbonisation.pdf
- International Energy Agency Secretariat. 2020. "China's Emissions Trading Scheme: Designing efficient allowance allocation". IEA Publications. https://iea.blob.core.windows.net/assets/d21bfabc-ac8a-4c41-bba7-e792cf29945c/China_Emissions_Trading_Scheme.pdf
- International Monetary Fund. 2018. Climate Change Policy Assessment: Belize. <https://www.imf.org/en/Publications/CR/Issues/2018/11/16/Belize-Climate-Change-Policy-Assessment-46372?cid=em-COM-456-37987>
- International Monetary Fund. 2019. Climate Change Policy Assessment: Grenada. IMF Country Report No. 19/193. <https://climatefinance.gov.gd/embedded-pdf/imf-grenada-climate-change-policy-assessment/>

Joint Leaders' Statement on the launch of the 'Agreement on Climate Change, Trade and Sustainability' initiative, December 2019.

<https://www.beehive.govt.nz/sites/default/files/2019-09/ACCTS%20joint%20leaders%20statement.pdf>.

Joint Trade Ministers' Statement on the ACCTS Initiative (January 2020) <https://www.mfat.govt.nz/en/media-and-resources/trade-ministers-express-support-for-the-agreement-on-climate-change-trade-and-sustainability-at-the-world-economic-forum-davos-2020/>

"Korea-Australia Free Trade Agreement." Date of Entry into force December 12, 2014. <https://www.dfat.gov.au/sites/default/files/korea-australia-free-trade-agreement.pdf>

LOGIOS. 2018. Electric Mobility Transition Assessment for Antigua and Barbuda: Scoping and Technical Feasibility.

<https://www.environment.gov.ag/assets/uploads/attachments/5c6dd-logios-antigua-barbuda-ev-transition-deliverable-1.pdf>

Lydgate, Emily and Anthony Chloe. 2020. "Coordinating UK trade and climate policy ambitions: A legislative and policy analysis." *Environmental Law Review* 2021, Vol. 22(4), 280-295. <https://journals.sagepub.com/doi/pdf/10.1177/1461452920960349>

"Merit in developing joint approaches to debt, climate change challenges -CDB President," *CARICOM Today*, September 9, 2021

<https://today.caricom.org/2021/09/07/merit-in-developing-joint-approaches-to-debt-climate-change-challenges-cdb-president/>

Ministry of Labour, Technological Development and Environment of Suriname and Caribbean Community Climate Change Centre. 2015. Final National Climate Change Policy, Strategy and Action Plan for Suriname 2014-2021. Belize: Caribbean Community Climate Change Centre. http://caribbeanelections.com/eDocs/strategy/sr_strategy/sr_Climate_Change_Policy_Strategy_Action_Plan_2014_2021.pdf

Moerenhout, Tom and Irschlinger, Tristan. 2020. Exploring Trade impacts of fossil fuel subsidies: GSI Report. Canada: International Institute for Sustainable Development. <https://www.iisd.org/system/files/publications/trade-impacts-fossil-fuel-subsidies.pdf>

Office of the President of the Republic of Suriname. 2016. Second National communications to the United Nations Framework Convention on Climate Change. <https://unfccc.int/sites/default/files/resource/Surnc2rev.pdf>

Office of the United States Trade Representative. "WTO Panel rejects China's Solar Safeguard Challenge", September 2, 2021.

<https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/september/wto-panel-rejects-chinas-solar-safeguard-challenge>

Panel Reports, Canada-Certain Measures Affecting the Renewable Energy Generation sector and Canada-Measures relating to the Feed-in Tariff Program, WTO Doc. WT/DS412/R and WT/DS426/R.

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:WT/DS/412R.pdf&Open=True>

Panel Report, US- Certain Measures relating to the renewable energy sector, WTO Doc. WT/DS510/R (panel report circulated on June 27, 2019).

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:WT/DS/510R.pdf&Open=True>

Panel Report, US- Safeguard Measure on Imports of Crystalline Silicon PV Products, WTO Doc. WT/DS562/R (panel report circulated on September 2, 2021). https://www.wto.org/english/tratop_e/dispu_e/562r_e.pdf

Panel Report, India -Certain Measures Relating to Solar Cells and Solar Modules, WTO Doc. WT/DS456/R (adopted on October 14, 2016).

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:WT/DS/456R.pdf&Open=True>

The Climate Studies Group Mona. 2020. "The State of the Caribbean Climate 2020 Report",

<https://uwi.edu/climateaction/research/landmarkpublications.php>

The Regional Statistics Programme CARICOM Secretariat. "Caribbean Community (CARICOM): Climate Change Statistics – 2020," (Georgetown: CARICOM Secretariat) 2020, http://statistics.caricom.org/Files/Publications/Climate_Change_2020.pdf .

- Trade Justice Movement and Queen Mary University of London. 2021. "How Trade can Support Climate Action: A 2021 Agenda for the UK." (London: Trade Justice Movements/Queen Mary University of London). https://www.tjm.org.uk/documents/reports/TJM_Trade-support-climate-action_Jul21_download.pdf
- "Scrap devastating fishing subsidies to help save the ocean and climate," *International Institute for Environment and Development*, January 15, 2020. See at: <https://www.ied.org/scrap-devastating-fishing-subsidies-help-save-ocean-climate>
- Stephen Olson. "Is US trade policy going green? Environment takes center stage at USTR". Hinrich Foundation. May 18, 2021. <https://www.hinrichfoundation.com/research/article/sustainable/is-us-trade-policy-going-green-ustr/>
- Sharon Treat, "Can we harness the power of trade agreements to achieve our climate ambitions?", *Institute for Agriculture and Trade Policy*, July 15, 2021. Accessed on September 6, 2021. <https://www.iatp.org/trade-agreements-achieve-climate-ambitions>.
- "Remarks by Hon. Daryl Vaz, MP Minister Without Portfolio in the Ministry of Economic Growth & Job Creation, Jamaica on behalf of the Most Hon Andrew Holness, ON, MP, Prime Minister of Jamaica at the UN Trade Forum: SDGs & Climate Change on September 9, 2019." *OPM Communications*, September 10, 2019. <https://opm.gov.jm/speech/remarks-delivered-by-hon-daryl-vaz-mp-minister-without-portfolio-in-the-ministry-of-economic-growth-and-job-creation-jamaica-on-behalf-of-the-most-honourable-andrew-holness-on-mp-prime-minister/>
- Request for Consultations by Malaysia, EU – Certain Measures Concerning Palm and Palm Oil Crop-Based Biofuels, WTO Doc. WT/DS600/1, G/L/1384 G/TBT/D/54, G/SCM/D131/1 (January 19, 2021). <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:WT/DS/600-1.pdf&Open=True>.
- Report of the CARICOM Commission on the Economy: "Caribbean 9.58"- Speeding up the Caribbean*, October 2020, https://issuu.com/guyanaconsulate6/docs/att_ii_to_item_7.3_-_cce_report_-_32_is_-_24-25_feb
- "United Nations Framework Convention on Climate Change" Date of entry into force March 21, 1994. https://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf
- "United States-Mexico-Canada Trade Agreement." Date of Entry into force July 1, 2020. <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/agreement-between>
- "View: the new carbon tax that's less likely to cut emission and more likely to cause trade war", *The Economic Times*, July 26, 2021. <https://economictimes.indiatimes.com/opinion/et-commentary/view-border-carbon-taxes-wont-reduce-emissions-much-and-will-trigger-trade-wars/articleshow/84738843.cms?from=mdr>
- Warrick, J and Mooney, C. '196 countries approve historic climate agreement', *The Washington Post*, 12 December 2015. <https://www.washingtonpost.com/news/energy-environment/wp/2015/12/12/proposed-historic-climate-pact-nears-final-vote/>
- World Bank Group. 2020. "State and Trends of Carbon Pricing 2020." Washington D.C., International bank for Reconstruction and Development/ World Bank. <https://openknowledge.worldbank.org/bitstream/handle/10986/33809/9781464815867.pdf?sequence=4&isAllowed=y>
- World Trade Organisation. 2021. WTO Trade and Environmental sustainability structured discussions: Meeting held on May 26, 27 and 28, 2021. INF/TE/SSD/R/2, June 10, 2021. <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:INF/TESSD/R2.pdf&Open=True>
- World Trade Organisation. (2020). Note on the Meeting on 1 November 2019: H.E. Mr Chad Blackman (Barbados). WT/COMTD/SE/M/39 February 3, 2020, Committee on Trade and Development thirty-ninth Dedicated Session, <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:WT/COMTD/SEM39.pdf>



World Trade Organisation. (2020). Communication on Trade and Environmental Sustainability, WT/CTE/W/249, November 17, 2020. (Geneva: WTO) Communication from Australia, Canada, Chad, Chile, Costa Rica, EU, Gambia, Fiji, Iceland, Japan, Korea, Liechtenstein, Maldives, Mexico, Moldova, Montenegro, New Zealand, North Macedonia, Norway, Senegal, Switzerland, Taiwan, Penghu, Kinmen and Matsu and the UK. <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/CTE/W249.pdf&Open=True>

Zhang, Haoran, Rongxia Zhang, Guomin Li, Wei Li, and Yongrok Choi. 2020. "Has China's Emission Trading System Achieved the Development of a Low-Carbon Economy in High-Emission Industrial Subsectors?" *Sustainability* 12, no. 13: 5370. <https://www.mdpi.com/2071-1050/12/13/5370/htm>

ANNEX I

Ratification of the UNFCCC (1992) by CARICOM Member States

Country	Year
Antigua and Barbuda	1993
Bahamas	1994
Barbados	1994
Belize	1994
Dominica	1993
Dominican Republic	1998
Grenada	1994
Guyana	1994
Jamaica	1995
St Kitts/Nevis	1993
St Lucia	1993
St Vincent and the Grenadines	1996
Suriname	1997
Trinidad and Tobago	1994



ANNEX II

Database on CARICOM Climate Change-Related Policies, including NDCs submitted to the UNFCCC

Available here:

<https://shridathramphalcentre.com/wp-content/uploads/2021/11/Climate-Change-Database-final-1.pdf>