

International trade and climate change

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This briefing summarises five ways in which international trade and trade rules are damaging the climate, and lists potential trade reforms and measures to curb these harmful effects.

1. Limits on the Freedom to Regulate

Given the scale and pace with which emissions need to fall to [avoid dangerous climate change](#), national governments need every tool available to swiftly decarbonise their economies. But current trade rules restrict the freedom of national governments to change their direction of travel.

Trade agreements often contain an arbitration mechanism – [ISDS](#) – which has been used by big energy companies to sue governments when measures taken have restricted the expansion of polluting infrastructure. The most high profile example is [TransCanada's US \\$15 billion claim against the US](#) government for turning down the Keystone XL tar sands pipeline on climate grounds. Claims have also been launched under the [Energy Charter Treaty and Bilateral Investment Treaties](#) to which the UK is a party. Trade rules also allow countries to challenge one another's efforts to support renewable energy and low carbon production through subsidies, procurement or buy local measures, as evident in the [India-US solar panel dispute at the WTO](#). Existing environmental exceptions in trade agreements that do grant countries some policy space, so long as measures are not disguised restrictions on trade (e.g. the [GATT Article XX exceptions](#)) are often too narrow to be an effective shield. Further, trade agreements can restrict the ability of countries to control imports and exports in oil, gas and coal, or to 'discriminate' between fossil fuels and renewable energy sources in their energy grids.

Potential solution 1.1: Curtail ISDS powers in trade agreements, with total carve-out for climate relevant policies.

Potential solution 1.2: Trade agreements assert the primacy of environmental commitments over other trade provisions, with the former prevailing in case of conflict.

Potential solution 1.3: Strengthen environmental exceptions in trade agreements, with the burden of proof on the party bringing a complaint that a climate relevant measure is a trade restriction in effect and intent.

Potential solution 1.4: Trade agreements establish panels of environmental experts to determine the legitimacy of environmental measures.

Potential solution 1.5: Trade agreements assert the sovereign right of parties to control the production, consumption and export and import of fossil fuels.

2. Penalising Climate Ambition

Where governments regulate to reduce emissions this typically adds a cost to local economic activity. Companies may relocate overseas to countries with laxer regimes to avoid these costs. Companies that do not or cannot relocate may struggle to compete with overseas competitors not subject to the same regulations, selling into the same markets. Though evidence of ['leakage'](#) is limited to date, the effect is likely to become more pronounced as the regulatory gap increases between countries that take 'ambitious' action on climate and those that take none. This penalises countries that act on climate and rewards those that do not. The fact that the costs of climate action (e.g. investment in new technologies and infrastructure) are met locally, but the benefits (e.g. less extreme weather events) are shared globally, already creates a ['collective action'](#) problem, disadvantaging climate ambition, encouraging [free-riding](#) and hindering global cooperation. Unrestricted international trade exacerbates this effect.

Potential solution 2.1: Trade agreements require parties to implement strong domestic climate policies consistent, at a minimum, with their international targets under the Paris Agreement.

Potential solution 2.2: Trade agreements create bodies obliged to monitor, investigate and enforce compliance with climate commitments, with citizens groups able to initiate a challenge.

Potential solution 2.3: Trade rules allow countries to discriminate against goods from countries that do not have equivalent climate policies – bearing in mind the principle of [common but differentiated responsibilities](#).

Potential solution 2.4: Trade rules allow countries to introduce temporary measures that shield domestic industries facing upfront costs of shifting to green production.

3. More Trade in Destructive Commodities

An [estimated 25 percent](#) of all carbon emissions are embedded in goods that are traded internationally. A portion of those emissions would occur in any case, with or without production based on international supply chains. But international trade, by linking local production to global markets, can intensify and scale-up local production in a way that wreaks havoc on local environments and the climate.

For example, Indonesia produces over half of all palm oil produced globally. It has also lost one quarter of its forest since 1990, with devastating impacts on biodiversity and the climate (forest fires in 2015 from the burning of peatlands for agricultural expansion, released so much CO₂ that Indonesia's emissions even overtook those of the US). Further, international trade means that consumption is geographically remote from the destructive effects of production, limiting political will and consumer pressure to address challenges.

Potential solution 3.1: Trade rules allow countries to incentivize the import of sustainably produced goods and penalise non-sustainably produced goods.

Potential solution 3.2: Trade rules allow countries to rollout harmonized labelling requirements on the environmental impact of goods.

4. Accounting for National Emissions

The international UN framework to tackle climate change – embodied in treaties like the Kyoto Protocol and Paris Agreement – is based on the commitments of individual countries to reduce their emissions. Although these commitments are currently non-binding as a matter of international law, for many countries, meeting their commitments is still an important diplomatic tool to indicate climate leadership, or good global citizenship. Under the UN system, a country's emissions are 'production based', measured according to the greenhouse gases released within the national territory.

However, this means that countries that import a large chunk of the carbon intense goods they consume, report a lower share of total global emissions than is actually the case based on their consumption, and avoid taking measures to tackle those emissions for which they are in part responsible. For example, between 1990 and 2008, the UK's emissions fell by 17% according to production based emissions. But including consumption based emissions, the UK's emissions actually rose 5% over that period.

Potential solution 4.1: Countries adopt targets for both production and consumption based emissions.

5. Emissions from Shipping Goods

Shipping is estimated to be responsible for around two to three percent of global carbon dioxide emissions. This might not sound like much, but it is equivalent to the emissions of the entire airline industry, or the combined total emissions of France and Italy, and emissions are projected to rise to ten percent of the global total by 2050. At the same time, shipping

is responsible for approximately 15 percent of nitrous oxide emissions – another powerful greenhouse gas. Countries do not account for shipping emissions under the Paris Agreement, as the shipping industry self-regulates through the International Chamber of Shipping.

Incredibly, ships built today are less fuel efficient than those built in 1990. The Energy Efficiency Design Index, the first globally-binding climate change standard for shipping, are so weak that the majority of new ships already overshoot the 2020 requirement standards, with newly built ships not subject to the EEDI performing much the same as those that are subject to it.

Potential solution 5.1: National and international regulations mandate adoption of best practices (e.g. slower shipping speeds), best available technologies and performance standards.

Potential solution 5.2: Levy a performance sensitive tax on shipped goods to internalise the cost of transport emissions.

Conclusion

Domestic political will to address climate change is a prerequisite to meaningful action. Some governments are more ambitious in this regard than others. But where national governments do wish to take action, they may find themselves inhibited by international trade rules that limit the freedom to regulate and increase the economic cost of climate friendly measures. At a time when countries need to be dramatically ramping up climate action, trade policies need to help, not hinder these efforts. Further, international trade continues to facilitate the production of environmentally destructive goods, masks the true extent of a country's climate footprint, and remains a major source of emissions in its own right from shipping.

To date, the international climate change regime and the international trade regime have been designed in almost complete isolation from one another. The same is true of national trade and national climate policies. As a consequence, trade and climate policies tend to work in opposite directions, to the extent that they work at all, and there is no effective framework to address the many overlaps between the two. This is something that needs to change.