



International Chamber of Commerce

*The world business organization*



INTERNATIONAL CHAMBER OF COMMERCE

## Policy Statement



Prepared by ICC Commissions on

**Trade and Investment Policy** ■ **Environment and Energy**

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# ICC recommendations on trade and climate change

## Highlights

- Views on the potential use of unilateral trade measures in climate policies
- Synergy of climate and open trade policies

# ICC recommendations on trade and climate change<sup>1</sup>

Climate change is a global problem that requires a global solution. Business worldwide is convinced that climate change is one of the major challenges of our time, and that it has to be addressed in the context of meeting growing energy needs and achieving sustainable development and economic growth. Given the wide range of impacts and interconnectivity of the solutions required, collaborative efforts will be essential to find a way forward. A global post-2012 agreement that includes all major emitters in a long-term framework to address climate change risks effectively and cooperatively and that works within open markets and trade rules is the best course of action.

As the world business organization and a representative body that speaks with authority on behalf of enterprises from all sectors in every part of the world, the International Chamber of Commerce (ICC) firmly believes that economic growth and open trade provide the best conditions in which to address key environmental challenges such as climate change. But while the global response to climate change can be strengthened by the right trade policies, the wrong ones can also weaken it.

The global financial crisis has highlighted the need to work efficiently and cooperatively to develop the policy and financial drivers needed to delink environmental impacts from economic growth, provide energy access and security and shape a future global low-carbon economy. There is an urgency to act, and while the crisis creates new challenges, it also underscores the importance of seeking cost-effective opportunities for action.

In this connection, ICC is concerned by proposals in some countries to enact unilateral trade-related measures to address concerns arising from differences in climate policy among countries. ICC does not believe that such an approach would improve the long-term competitiveness of business in countries resorting to such measures. More fundamentally, such measures would potentially undermine the rules-based multilateral trading system that is essential to the rapid dissemination of climate-friendly technologies.

## **ICC recommends that all governments:**

- reject and avoid unilateral trade measures as a policy option to deal with climate change;
- ensure alignment and mutual compatibility between climate change and trade policies by developing climate change policies that promote sustainable development, while safeguarding an open and non-discriminatory multilateral trading system and guaranteeing the integrity of WTO disciplines;
- eliminate trade barriers to environmental goods and services;
- ensure strong protection of intellectual property rights to facilitate diffusion of clean technologies and provide an incentive for innovation; and
- work cooperatively, including with business and civil society, to reach agreement on an effective post-2012 global framework that includes all major emitters to meet the challenge of climate change under the UNFCCC process, and that functions harmoniously with WTO rules and the multilateral trading system.

<sup>1</sup> ICC France does not endorse this policy statement.

## Introduction

Multilateral trade liberalization and the rules-based multilateral trading system have played a crucial role in the past 60 years in raising world living standards, creating employment, and widening consumer choice. They have also been indispensable in helping keep in check the ever-present forces of protectionism. To maintain progress achieved, governments should focus on ways to secure the mutually reinforcing benefits of a strengthened rules-based multilateral trading system and a new long-term and effective global framework for combating climate change that includes all major emitters. They should not allow themselves to be side-tracked in this momentous task by border measures that would undermine intergovernmental cooperation and damage international trade.

Proposals based on unilateral trade measures attempt to address pressing and challenging political and economic pressures. They seek to create a “level playing field” for domestic industries subject to climate change policies, by targeting competitors of these industries in other countries not subject to such policies, and seeking to compel them to bear part of the cost of such policies. These proposals are motivated by a desire to offset what is seen as the competitive advantage enjoyed by industries in countries that are not subject to the same level of domestic climate change policies, whether arising from international, regional or domestic climate policies. Policy makers also express concern about the relocation of energy intensive industries – a phenomenon often referred to as carbon leakage -- and thus suggest that such measures are needed to preserve the environmental integrity of domestic/regional schemes. ICC believes that these challenges can be addressed in other ways that work within a trade-climate change synergy.

## Views on the potential use of unilateral trade measures in climate policies

***Risk of a trade war*** – Unilateral trade barriers would severely undermine the multilateral trading system. These measures risk bringing about tit-for-tat retaliation whereby one country would raise tariff and non-tariff barriers in response to a trading partner’s unilateral measure -- thus risking a “trade war” at a time when the precarious state of the world economy is already damaging business and consumer confidence.

***Negative consequences of unilateral trade measures*** – Such a scenario would only serve to hinder economic growth that is so critical to the development of environmental protection. Furthermore, trade barriers would most likely impair the development of cooperative long-term solutions, which stimulate the deployment of technologies and investments necessary to combat climate change. Enhanced trade and the resulting general improvement to the economic welfare of countries are a more effective means to address climate change than the imposition of trade restrictions.

ICC believes that unilateral trade measures will neither contribute to safeguarding the climate, nor will they improve the long-term competitiveness of business in countries imposing such measures. On the contrary, unilateral trade measures in the name of climate change could seriously diminish the chances of achieving a global consensus to address climate change beyond 2012.

***Incompatibility with the UNFCCC and other international agreements*** – Neither the United Nations Framework Convention on Climate Change nor the Kyoto Protocol call for trade measures as a specific means of implementation. The Kyoto Protocol not only does not contain any provisions for trade measures, but also explicitly requires parties to implement its provisions in such a way as to minimize adverse effects on international trade. Unilateral trade measures are therefore contrary to the spirit of the UNFCCC.

It is also questionable whether unilateral trade measures would be WTO compatible. Whilst the design of such measures would ultimately determine their compliance with multilateral trade law, it seems unlikely that the WTO would accept an exception to its basic principles or uphold trade

restrictions on imports intended to require the exporting country to modify its climate change policy. However, some observers believe that recent WTO Dispute Settlement Body jurisprudence on cases related to unilateral trade bans or levies to protect the “global commons” would make it more likely that a climate change trade restriction, e.g. one based on non-product production and process measures, could be found compatible with WTO disciplines under certain circumstances. For its part, ICC is of the firm view that a global and effective climate change policy will have to uphold an open, non-discriminatory and rules-based multilateral trading system and the integrity of WTO principles and rules. ICC ascribes primary importance to upholding the WTO principle of non-discrimination in trade, be it on the basis of countries, types of products, or the way products are made.

Finally, it should be recalled that Principle 12 of the Rio Declaration on Environment and Development reads as follows: “States should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the problem of environmental degradation. *Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided.* Environmental measures addressing transboundary of global environmental problems should, as far as possible, be based on an international consensus.” [italics added.]

**Lack of effectiveness** – Unilateral trade measures are often cited as a means to establish a level playing field in the producer’s domestic market. However, a major weakness of such instruments is that the neutralization in competitive conditions will not materialize at all when it comes to the producer’s export of goods to markets in third countries. As an example, when a level playing field is established in one sector (e.g. steel), the distortions in competition will migrate downstream to other sectors (e.g. the production of cars). Moreover, it may be that trade flows would simply re-route to deliver covered goods from countries that are taking strong climate measures, having little effect on the targeted countries.

Policy makers should also remain cognizant of the administrative feasibility of such measures. Regarding the basis for calculation of the import tariffs, the difficulties to find reliable data and statistics in order to measure the carbon content in various goods produced in a large number of third countries cannot be overestimated.

## Synergy of climate and open trade policies

ICC firmly believes that there is no inherent conflict between combating climate change and preserving an open and non-discriminatory multilateral trading system. Indeed, there are synergies that the international community should seek to encourage.

**Synergy** – Fostering alignment and mutual compatibility of climate change policies and multilateral trade rules will enable governments to reap more fully the beneficial effects of trade liberalisation for both economic development and environmental protection. Economic growth generates the resources needed for countries to address climate change risks as well as opportunities to develop and invest in cleaner technologies.

In December 2007, trade ministers from around the world met at the UNFCCC 13<sup>th</sup> Conference of the Parties in Bali to signal a clear link between the two issues and discuss “win-win” solutions for trade and climate regimes. ICC welcomes these collaborative interactions and encourages governments to work with international business to develop and implement solutions that will tackle climate change and enhance trade liberalisation. Some WTO members have proposed the reduction or elimination of tariffs and non-tariff barriers on environmental goods and services in the context of the Doha Round negotiations. ICC supports this approach as a prime example of how the trading system can work to support broader deployment of technology options that can improve the environment and combat climate change.

***Rapid diffusion of clean technology***<sup>2</sup> – To facilitate technology diffusion as well as innovation to develop new technologies appropriate enabling environment and frameworks are essential, including strong protection of intellectual property rights. Trade liberalization is indispensable to the diffusion and deployment of climate friendly technologies, particularly to developing countries. Indeed, international trade and the economic growth it creates will continue to foster the development of clean technologies and their deployment and dissemination worldwide. Effective policies to combat climate change will be helped by the positive development of the multilateral trading system.

***International cooperation to foster investment and support diffusion of technologies, which drive energy efficiencies*** – Existing technologies can enable significant efficiency gains in many sectors on a global scale. Supporting the diffusion of existing technologies through appropriate policies, more consistent policy objectives among governments, better compatibility between technologies and between systems, the roll-out of innovative and affordable information and communication technologies, public-private partnerships, investment and deployment, will all be critical not only to global emission reductions but also to drive economic growth and job creation worldwide.

***Fostering adaptation***<sup>3</sup> – Adaptation to climate change is a critical priority as climate change impacts will affect business operations, as well as the markets where business operates and where employees and customers live both in developed but particularly in developing countries. Trade-led economic growth can also help increase developing countries' resilience to climate change, and help channel needed technology, investment and know-how to the most vulnerable areas.

***Global consensus is at the heart of the solution*** – The current negotiations toward a post-2012 agreement under the UNFCCC offer an opportunity to address these issues through a global consensus on effective measures to combat climate change while avoiding trade–climate policy tensions. An inclusive and global post-2012 framework agreement that includes all major emitters in a long-term approach to address climate change risks effectively and cooperatively is, without doubt, the best course of action.

It is imperative that policy makers take into account the mutually reinforcing benefits of strengthening the multilateral trading system and of achieving an effective and inclusive new long-term global framework for addressing climate change.

## Conclusion

ICC attaches fundamental importance to finding a global, effective long-term solution to climate change that includes all major emitters and that works within open markets and trade rules, and believes that business has a crucial role to play in the development and implementation of this solution. Open trade and investment are critical enablers of the substantial increase in technological dissemination and financing that will be required to move to more sustainable energy pathways and to address climate change while promoting economic growth and development.

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<sup>2</sup> For further information please see ICC Discussion Paper “Technology Development and Deployment to Address Climate Change, document 213/61 available on the ICC website at [www.iccwbo.org](http://www.iccwbo.org).

<sup>3</sup> For further information please see ICC Discussion Paper “Key Issues on Adaptation for Business”, document 213/47 available on the ICC website at [www.iccwbo.org](http://www.iccwbo.org).

# The International Chamber of Commerce (ICC)

ICC is the world business organization, a representative body that speaks with authority on behalf of enterprises from all sectors in every part of the world.

The fundamental mission of ICC is to promote trade and investment across frontiers and help business corporations meet the challenges and opportunities of globalization. Its conviction that trade is a powerful force for peace and prosperity dates from the organization's origins early in the last century. The small group of far-sighted business leaders who founded ICC called themselves "the merchants of peace".

ICC has three main activities: rules-setting, dispute resolution and policy. Because its member companies and associations are themselves engaged in international business, ICC has unrivalled authority in making rules that govern the conduct of business across borders. Although these rules are voluntary, they are observed in countless thousands of transactions every day and have become part of the fabric of international trade.

ICC also provides essential services, foremost among them the ICC International Court of Arbitration, the world's leading arbitral institution. Another service is the World Chambers Federation, ICC's worldwide network of chambers of commerce, fostering interaction and exchange of chamber best practice.

Business leaders and experts drawn from the ICC membership establish the business stance on broad issues of trade and investment policy as well as on vital technical and sectoral subjects. These include financial services, information technologies, telecommunications, marketing ethics, the environment, transportation, competition law and intellectual property, among others.

ICC enjoys a close working relationship with the United Nations and other intergovernmental organizations, including the World Trade Organization and the G8.

ICC was founded in 1919. Today it groups hundreds of thousands of member companies and associations from over 130 countries. National committees work with their members to address the concerns of business in their countries and convey to their governments the business views formulated by ICC.



**International Chamber of Commerce**

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**Policy and Business Practices**

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