

## **WTO AND UNFCCC: AN UNAVOIDABLE DIALOGUE IN AN ERA OF CLIMATE CHANGE AND UNCERTAINTY.**

Climate change and trade have traditionally been separated into distinct multilateral fora. The World Trade Organisation (WTO) has been the pre-eminent fora for multilateral trade governance since its inception in 1995, while the United Nations Framework for Climate Change (UNFCCC) has been the pre-eminent fora for multilateral climate governance since its inception in 1992. However, recognition of the various issues within the multilateral trading system has been increasing in recent years, and was brought to the fore most recently by multiple trade shocks due to both illegal tariff wars and military actions. Along with this recognition has come a growing conviction that the problematic connections between trade and climate must be addressed outside of the WTO, a body that has created more problems than it has solved.

During COP30 in November 2025, it was agreed that discussions would be held on trade and climate for the first time under the auspices of UNFCCC, with a focus on the impacts of unilateral trade measures<sup>[1]</sup>. At the same time, an Integrated Forum on Climate Change and Trade (IFCCT) was established by Brazil and Australia to provide a space for dialogue on climate and trade issues. These two recent developments highlight the growing importance among countries of addressing the intersections of climate and trade and discussing how these dynamics are impacting them.

As part of the dialogue bridging the WTO and the UNFCCC, careful consideration must be given to the critical challenges unfolding at the nexus of trade instruments and environmental governance. We prioritised five of them:

### **1. Unilateral Climate-Trade Measures: Asymmetrical Advantages Favoring the Global North**

The new dynamics between climate and trade show how connected these subjects have always been and how they operate to consolidate the global trade system asymmetries. On the one hand, the European Union and the G7 use free trade agreements and diplomatic tools to secure their own access to critical minerals, which are essential to their energy transition and to maintaining their industrial competitiveness. On the other hand, they implement unilateral measures and climate barriers, such as the Carbon Border Adjustment Mechanism (CBAM) and the European Union Deforestation Regulation (EUDR). Under the guise of environmentalism, these measures can function as forms of green protectionism and impose disproportionate costs on the Global South.

To understand the scale of these issues: since 2023, more than 2,500 so-called trade-distorting industrial and climate measures have been adopted, largely by advanced economies. Perversely, such measures are often justified by these countries as supporting the fulfilment of their nationally determined contributions (NDCs). Besides that, trade is responsible for a large share of greenhouse gas (GHG) emissions, contributing an estimated 20-30% to annual global emissions. These include emissions released throughout the supply chain of the traded goods, from the extraction and transportation of resources to refining, processing, and assembly of the finished product. Such emissions are referred to as being 'embedded' or 'embodied' in traded goods, and their share of overall emissions is set to continue growing. Under the UNFCCC and its Paris Agreement, these emissions are counted towards the country within whose territory the emissions occurred, not the country where the products are consumed. Countries that import goods can therefore claim progress towards decarbonisation even as global emissions continue to rise, driven in large part by their own growing demand. Most European countries import emissions corresponding to between one and two thirds of their territorial emissions. This is known as a carbon loophole, an imbalance between territorial emissions and emissions related to consumption of

imported goods. Under UNFCCC, countries also agreed to refrain from taking unilateral trade measures justified as climate protections.

The Global North argues that unilateral trade measures are essential to address carbon loopholes and carbon leakage. However, developing countries contend that what is needed is the fulfillment of developed countries' commitments under UNFCCC and its Paris Agreement to provide finance and transfer technology to facilitate an equitable transformation of their economies by addressing the technological gap in production. An OECD[2] (2025) analysis shows that unilateral increases in climate policy stringency lead to higher emissions embodied in imports. Market-based instruments such as carbon taxes and emissions trading systems drive this effect by raising both import volumes and the carbon intensity of imports. By contrast, technology-support and non-market-based policies tend to reduce the carbon intensity of imports.

The contradiction becomes even more pronounced when we consider that the very countries erecting green barriers are historically the ones most responsible for the climate crisis, while shifting the environmental burden of production onto the Global South. At the same time, many of the activities in developing countries potentially affected by unilateral climate measures— such as mining and agribusiness— are in fact sectors that generate emissions, deforestation, and socio-environmental rights violations. However, implementing climate measures that disregard the structural and historical context of these economies is unfair, as it ignores accumulated inequalities and the need to ensure a just and equitable transition away from fossil fuels without increasing the excessive mining activities.

## **2. Intellectual Property Rights Block Technology Transfer**

The endorsing organizations support developing country proposals, championed by the Africa Group, to relax the WTO's rules on Intellectual Property Rights (IPRs) by establishing waivers for climate-friendly technologies. Under the current framework, royalty payments drain the public budgets of developing nations, making green technologies inaccessible. While developed economies committed under the UNFCCC and the Paris Agreement to facilitate technology transfer, they contradict these promises by utilizing WTO rules to resist flexibilities in IPRs. Treating green technology as a market monopoly restricts global climate action. Utilizing trade as a tool for climate action requires a structural shift; we urge Parties to address these trade barriers, uphold the principle of common but differentiated responsibilities, and ensure that intellectual property frameworks do not compromise global climate goals for corporate profit.

## **3. The digital economy and the consequences of asymmetrical technological access**

The objective to dematerialize the economy, led by the WTO to foster a low-emission, services-driven trade model, is steadily consolidating. However, this digital paradigm remains highly resource-intensive, requiring significant inputs of critical minerals, fresh water, and energy. This footprint exerts severe ecological pressures on fragile ecosystems worldwide, to maintain the infrastructure required for economic digitalization, and threatens to divert vital land and water resources away from agricultural production and life-sustaining ecosystem services.

Furthermore, the digitalization of the global economy relies on the foundational assumption of universal, expanding access to requisite technologies. In reality, vast segments of the global population remain structurally excluded from the necessary digital infrastructure. Consequently, the expansion of the digital economy and services is poised to concentrate capital and capabilities within the Global North, while the material and energy inputs are

disproportionately extracted from the Global South—thereby inducing both the physical and economic displacement of populations inhabiting these extractive territories.

#### **4. Dismantling the ISDS Mechanism: Overcoming a Structural Barrier to Just Transition and Climate Action**

The Investor-State Dispute Settlement (ISDS) mechanism represents a severe, yet frequently overlooked, structural barrier to a globally just transition and the alignment of financial flows under Article 2.1(c) of the Paris Agreement - a provision stipulating that global financial flows must be consistent with a pathway toward low greenhouse gas emissions and climate-resilient development. By allowing foreign corporations, particularly fossil fuel and mining conglomerates, to bypass national judiciaries and sue sovereign states in private arbitration tribunals over regulatory measures, ISDS systematically penalizes governments for enacting legitimate environmental, human rights, and climate policies. The financial implications include defending against these claims incurs exorbitant legal costs, and successful investor awards drain hundreds of millions, at times billions, of dollars of public funds. This dynamic triggers a profound 'regulatory chill,' deterring governments from adopting ambitious climate frameworks out of fear of financially crippling litigation.

In the context of the Global South, where countries are already trapped in systemic debt crises, the ISDS framework functions as an archaic, colonial-era artifact that forces states to subsidize polluters with public money instead of funding social programs and climate resilience. Therefore, CSO urgently calls upon Parties to confront this mechanism within the current Climate and Trade Dialogues to safeguard sovereign regulatory autonomy and advance true climate justice.

#### **5. The role of critical minerals in shaping a new international trade system**

The asymmetry in the international trade system originated in the colonial period and still shapes global economic relations. The model based on the international division of labor, which relegated the Global South to the role of raw material exporters and consumers of technologies produced in the North, remains in place and is reinforced by new climate and trade regulatory mechanisms. This historical arrangement not only perpetuates technological and financial dependence but also hinders the implementation of effective actions to address the climate crisis in developing countries, which lack adequate technology transfer and financing – promises repeatedly made and unfulfilled by the Global North. Additionally, the international trade system is deeply responsible for the climate crisis, since the internationalisation of production, distribution of goods, and consumption and disposal of low-quality, non-durable manufactured goods intensifies the demand for fossil fuels and so-called critical minerals.

The ongoing ecological transition, especially the energy and technological ones, can be seen as an opportunity to enhance autonomy and sovereignty for the Global South over their reserves of critical minerals and rare earth elements, which could give them greater influence and bargaining power within the international system to access means of implementation that have been denied them, such as funding for adaptation and mitigation and technology transfer. In this sense, there is an opportunity for developing countries to change the way they are positioned in the international trade system from mere raw material exporters to just and green industrial countries. At the same time, it's important to do that in a fair and just manner, with special attention to the extractivist model that has severe impacts on the environment and on people's lives.

### **Conclusions**

To foster a constructive dialogue between the WTO and the UNFCCC, it is imperative to begin by acknowledging these tensions and seeking alternatives that break with the colonial

model of international trade, ensuring political and economic autonomy for the Global South. We must rethink trade and climate rules and institutions so that the global energy and climate transition does not reproduce historical hierarchies but rather paves the way for a reconfiguration of global relations based on a multilateralism grounded in climate justice, solidarity, and the redistribution of technological and financial power.

The endorsing organisations also want to see broader discussion to address inherent contradictions between the trade and climate regimes, including intellectual property rights hindering the transfer of technology, the expansion of export in emissions-intensive industries, and debates over whether climate measures are compatible with international trade objectives. Further, WTO also allows almost no participation from civil society and excludes its critics from its so-called public forums in Geneva, so trade policy negotiations need to improve their inclusion of and accountability to the public.

The international trade system can be an important tool to face climate change and a big part of the Just Transition process, when it's aligned with the right purposes. For that, we see the initial dialogues under the UNFCCC on trade and climate as a great opportunity to discuss trade with the *justice* aspect being at the center of the discussions.

[1] Policies that condition international trade or market access based on carbon intensity or other forms of climate-related performance. These include unilateral measures such as transparency requirements, border carbon adjustments, carbon product requirements, supply chain disclosure, due diligence rules, conditional subsidies, public procurement, and other financial incentives aimed at reducing emissions.

[2] How different climate policies affect carbon leakage through trade

### Quotes on Trade and Climate:

- “In the context of the multilateralism crisis, the developing countries must work together to ensure new rules of international trade that don't repeat colonial patterns and ensure autonomy, fiscal space, income and technology transfer to the Global South. The ongoing ecological transition is an opportunity for developing countries to change the way they are positioned in the international trade system from mere raw material exporters to just and green industrial countries.” - **Priscilla Papagiannis (REBRIP), Climate and Trade WG Coordinator**
- “We want to see broader discussion to address inherent contradictions between the trade and climate regimes, including intellectual property rights that block the transfer of technology, the expansion of export in emissions-intensive industries, and the direct undermining of climate measures as being too “trade restrictive”. **Victor Menotti, Demand Climate Justice**
- “We are continuously told that global free trade can solve the problems it creates: that if only markets are open enough, if only trade is liberalized and deregulated enough, then it will do all kinds of things. Unfulfilled promises of global free trade include improving the lives of women and gender-diverse people, and propelling the adaptation and technology transfer of green production techniques. Not only has

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trade failed to do these things, it has proven extremely apt as a tool of manipulation of the most powerful. There are attempts by developed countries to secure their own access to critical minerals on the one hand, and to impose sustainability standards on the other. The need to go beyond the WTO for multilateral trade cooperation, including on an agenda of just transition for trade set by and for the Global South, could not be more clear.” - **Erica Levenson, Policy and Advocacy Manager, Regions Refocus / Gender and Trade Coalition**