INTERNATIONAL TRADE
REGULATION AND THE MITIGATION
OF CLIMATE CHANGE

What can trade regulation contribute towards ameliorating the GHG emissions and reducing their concentrations in the atmosphere? This collection of essays analyses options for climate change mitigation through the lens of the trade lawyer. By examining international law, and in particular the relevant WTO agreements, the authors address the areas of potential conflict between international trade law and international law on climate mitigation and, where possible, suggest ways to strengthen mutual supportiveness between the two regimes. They do so taking into account the drivers of human-induced climate change in energy markets and of consumption.

Thomas Cottier is Professor of European and International Economic Law at the University of Bern and Director of the Institute of European and International Economic Law. He is also Managing Director of the World Trade Institute.

Olga Nartova is a qualified lawyer in Russia, a research fellow at the Swiss National Centre for Competence in Research (NCCR) Trade Regulation of the University of Bern, and alternate leader of the project on energy in WTO law and policy.

Sadeq Z. Bigdeli is a graduate of the University of Tehran Faculty of Law and Political Science and a summa cum laude graduate of the MILE programme at the World Trade Institute in Bern, Switzerland.
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CONTRIBUTORS

RUDOLF ADLUNG Senior Economist, Trade in Services Division, WTO Secretariat, Geneva

ARTHUR E. APPLETON Partner, Appleton Luff — International Lawyers, Geneva

DONAH BARACOL-PINHÃO Former Research Fellow, World Trade Institute, Bern

SADEQ Z. BIGDELI Former Research Fellow, World Trade Institute, Bern

FELIX BLOCH European Commission, Brussels

JENNIFER BURNETT United Nations Conference on Trade and Development (UNCTAD) Secretariat, Geneva

MIREILLE COSSY Counsellor, Trade in Services Division, WTO Secretariat, Geneva

THOMAS COTTIER Professor of European and International Economic Law, Managing Director, World Trade Institute, University of Bern

DANIEL C. CROSBY Partner, Budin & Partners, Geneva

PANAGIOTIS DELIMATSIS Assistant Professor of Law, Tilburg University, the Netherlands, Senior Research Fellow, World Trade Institute, Bern

ANTONIA L. ELIASON Associate, Allen & Overy, London

GARY N. HORIZZ Partner, WilmerHale, Washington, DC

ROBERT HOWSE Alene and Allan F. Smith Professor of Law, University of Michigan Law School, Visiting Professor of Law, Fordham Law School and New York University School of Law (2007–2008), Principal Trade Expert, Renewable Energy and International Law (REIL)
LIST OF CONTRIBUTORS

GARBA I. MALUMFASHI Research Fellow, The Centre for Energy, Petroleum and Mineral Law & Policy, University of Dundee

GABRIELLE MARCEAU Counsellor, the Office of the WTO Director-General Pascal Lamy, Geneva

FABIAN MARTENS Attorney at law, Vischer, Zurich

SOFYA MATTEOTTI-BERKUTOVA Research Fellow, World Trade Institute, Bern

DESPINA MAVROMATI Legal Counsel at the Court of Arbitration for Sport, Lausanne, Switzerland

OLGA NARTOVA Research Fellow, World Trade Institute, Bern

CHRISTA PFISTER Attorney at law, Vischer, Zurich

STEFAN RECHSTEINER Attorney at law, Vischer, Zurich

DONALD H. REGAN William W. Bishop, Jr. Collegiate Professor of Law and Professor of Philosophy, University of Michigan

JOSÉ ROMERO Senior Scientific Advisor, Swiss Federal Office for the Environment, Bern

KARINE SIEGWART Head of Section, Swiss Federal Office for the Environment, Bern

THOMAS STOCKER Professor of Climate and Environmental Physics and Co-director, Physics Institute, University of Bern

GEERT VAN CALSTER Professor of Regulatory Law at K.U. Leuven Belgium, visiting lecturer at Oxford University, of Counsel (practising) with DLA Piper, London

JACOB D. WERKSMAN Program Director, World Resources Institute, Washington, DC

SIMONETTA ZARRILLI Legal Officer, the Division on International Trade and Commodities, United Nations Conference on Trade and Development (UNCTAD) Secretariat, Geneva
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<tr>
<td>AB</td>
<td>Appellate Body</td>
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<td>AEP</td>
<td>American Electric Power</td>
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<tr>
<td>AG</td>
<td>Advocate General</td>
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<tr>
<td>AMS</td>
<td>aggregate measure of support</td>
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<tr>
<td>AoA</td>
<td>Agreement on Agriculture</td>
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<tr>
<td>AOSIS</td>
<td>Alliance of Small Island States</td>
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<tr>
<td>APEC</td>
<td>Asia-Pacific Economic Cooperation</td>
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<td>ASCM</td>
<td>Agreement on Subsidies and Countervailing Measures</td>
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<td>BTA</td>
<td>Border Tax Adjustment</td>
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<td>CAFE</td>
<td>Corporate Average Fuel Economy</td>
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<td>CBD</td>
<td>Convention on Biological Diversity</td>
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<td>CDM</td>
<td>Clean Development Mechanism</td>
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<td>CEC</td>
<td>Commission for Environmental Cooperation</td>
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<tr>
<td>CERs</td>
<td>certified emission reductions</td>
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<td>CIEL</td>
<td>Center for International Environmental Law</td>
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<td>CITES</td>
<td>Convention on International Trade in Endangered Species</td>
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<tr>
<td>CLASP</td>
<td>Collaborative Labelling and Appliance Standards Programme</td>
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<td>CO₂</td>
<td>carbon dioxide</td>
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<td>COP</td>
<td>Conference of the Parties</td>
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<tr>
<td>COP 13</td>
<td>thirteenth Conference of the Parties</td>
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<tr>
<td>CPC</td>
<td>United Nations Provisional Central Product Classification</td>
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<td>CTE</td>
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<td>Committee on Trade and Environment Special Session</td>
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<td>CVD</td>
<td>Countervailing duty</td>
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<td>DDA</td>
<td>Doha Development Agenda</td>
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<td>DEFRA</td>
<td>Department for Environment, Food and Rural Affairs</td>
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<td>DMD</td>
<td>Doha Ministerial Declaration</td>
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<td>DNA</td>
<td>Designated National Authority</td>
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<td>DSB</td>
<td>Dispute Settlement Body</td>
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<td>DSU</td>
<td>Dispute Settlement Understanding</td>
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<td>EAI</td>
<td>Environmental Area Initiative</td>
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<td>EC</td>
<td>European Community</td>
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<td>ECJ</td>
<td>European Court of Justice</td>
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LIST OF ABBREVIATIONS

ECN  Energy Research Centre of the Netherlands
EFTA  European Free Trade Association
EGS  environmental goods and services
EISA  Energy Independence and Security Act 2007 (US)
EPA  Environmental Project Approach
EPACT  Energy Policy Act 2005 (US)
EPFL  Ecole Polytechnique Fédérale de Lausanne
EPPs  environmentally preferable products
ERUs  emission reduction units
ESIS  Energy Standards Information System
ESTs  environmentally sound technology
ETS  Emissions Trading Scheme
EU  European Union
FAO  Food and Agriculture Organization (United Nations)
FDI  foreign direct investment
FSC  Forest Stewardship Council
GATS  General Agreement on Trade in Services
GATT  General Agreement on Tariffs and Trade
GEF  Global Environment Facility
GHG  greenhouse gas
GMOs  genetically modified organisms
GPA  Government Procurement Agreement
GSP  General System of Preferences
HFCs  hydrofluorocarbons
HS  Harmonized System
HWWI  Hamburgisches Weltwirtschafts Institut
IBEW  International Brotherhood of Electrical Workers
ICJ  International Court of Justice
IEA  International Energy Agency
IEC  International Electrotechnical Commission
IGOs  intergovernmental organisations
IIAs  international investment agreements
IISD  International Institute for Sustainable Development
ILC  International Law Commission
IMF  International Monetary Fund
IMO  International Maritime Organization
INC  Intergovernmental Negotiating Committee
INMETRO  National Institute of Meteorology, Standardization and Industrial Quality (Brazil)
IPCC  Intergovernmental Panel on Climate Change
IPRs  intellectual property rights
ISEAL  International Social and Environmental Accreditation and Labelling
ISO International Organization for Standardization
ITO International Trade Organization
KP Kyoto Protocol
LDCs least developed countries
LNG liquefied natural gas
MDGs Millenium Development Goals
MEAs multilateral environmental agreements
MEP Member of European Parliament
MFN most-favoured-nation
NAFTA North American Free Trade Agreement
NAMA non-agricultural market access
NGOs non-governmental organisations
NPR-PPMs non-product related processes and production methods
NTBs non-tariff barriers
ODA Official Development Assistance
OECD Organisation for Economic Co-operation and Development
OIE World Organisation for Animal Health (formerly International Office of Epizootics)
PFCs perfluorocarbons
PPMs production and process methods
R&D research and development
RE renewable energy
RECs renewable energy certificates
RES renewable energy standards
RFS renewable fuel standard
RPS renewable portfolio standards
RRS Round Table on Responsible Soy
RSB Round Table on Sustainable Biofuels
RSPO Round Table on Sustainable Palm Oil Production
RTFO Renewable Transport Fuel Obligation Programme
S&D support and development
SCM Subsidies and Countervailing Measures Agreement
SGS Société Générale de Surveillance
SPS Sanitary and Phytosanitary Measures Agreement
STOs specific trade obligations
TBT Technical Barriers to Trade Agreement
TEDs turtle excluder devices
TPA third party access
TPES total primary energy supply
TRECs tradeable renewable energy certificates
TRIMS Trade Related Investment Measures Agreement
TRIPS Agreement on Trade-Related Aspects of Intellectual Property Rights
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<td>UK</td>
<td>United Kingdom</td>
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<td>UN</td>
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<td>UNCED</td>
<td>United Nations Conference on Environment and Development</td>
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<td>UNCLOS</td>
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<td>UNCTAD</td>
<td>United Nations Conference on Trade and Development</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>UNEP</td>
<td>United Nations Environment Programme</td>
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<td>UNFCCC</td>
<td>United Nations Framework Convention on Climate Change</td>
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<td>UNGA</td>
<td>United Nations General Assembly</td>
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<td>US</td>
<td>United States</td>
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<td>WCO</td>
<td>World Customs Organization</td>
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<td>World Intellectual Property Organization</td>
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<td>World Standards Services Network</td>
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<td>World Trade Organization</td>
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The World Trade Forum series was established in 1997 to offer an opportunity for an international in-depth discussion of issues facing the world trading system. The topic chosen for the 11th World Trade Forum was: International Trade Regulation and the Mitigation of Climate Change. On 21 and 22 September 2007 more than seventy-five people representing international organisations and governments, as well as distinguished academic scholars, climate scientists and students of international economic law from many different countries met at the World Trade Institute of the University of Bern to discuss what role the multilateral trading system could play in promoting state participation in the fight against global warming. The forum was opened by a leading climatologist from the NCCR 'Climate', Martin Grosjean, who provided the forum with an overview of the science behind the climate change debate.

The theme of climate change is particularly timely because the Intergovernmental Panel on Climate Change (IPCC) 4th Assessment Report, the first volume of which was published in February 2007, re-affirms that human activities have indeed contributed to the warming of the globe. Earlier, in 2006, the Stern Review on the economics of climate change, supported by many economists, some of whom are Nobel Prize winners, stated that 'the benefits of strong and early action far outweigh the economic costs of not acting'. This year's World Trade Forum, after touching briefly upon the current state of scientific knowledge on climate change, outlined the background for the legal ways forward after the expiry of the Kyoto Regime in 2012. Scholars and experts participating in the various sessions of the Forum addressed the WTO Agreements relevant to the climate change debate and made suggestions which led to this collection of essays.

Such a high-level exchange of expertise would not have been possible without the guidance of Professor Dr Thomas Cottier, Managing Director of the World Trade Institute. The co-editors of this volume
Sadeq Z. Bigdeli and Olga Nartova are indebted to Thomas Cottier for selecting the theme of the conference and his significant role in helping shape the programme and encouraging high-level participation in the Forum. The editors are also indebted to the authors of the chapters in this collection not only for their valuable input to the content of the conference but also for making the effort to revise their drafts for publication. At the same time, the World Trade Forum could not have taken place without support of the discussants and participants who with their openness and active involvement in the debates contributed to the success of the event.

Organising the conference requires the work of a dedicated team and the efforts of all those involved were much appreciated. We wish to express our gratitude to Susan Kaplan and her assistants, Josephina Delahaye and Jane Müller, for preparing the manuscript. Many thanks also go to Sofya Matteotti-Berkutova, NCCR research fellow, for her work in preparing the conference web page, preparing online abstracts for the preliminary and final programmes and for undertaking many other tasks. Moreover, we would like to extend our sincere thanks to the administrative staff of the World Trade Institute, in particular Margrit Vetter for doing everything it takes to put on a successful conference. Special thanks are due to Christian Steiger who supervised the audio-visual equipment.

The World Trade Forum is a non-profit event, and we are very grateful for the support provided by the Ecoscientia Foundation. Also, this conference would not have been possible without funding from the Swiss National Science Foundation in support of the NCCR Trade Regulation and the invaluable counsel and guidance of Dr Susan Brown-Shafii, Scientific Coordinator of the NCCR project.

Our special thanks are due to Finola O’Sullivan of Cambridge University Press and her staff, in particular Brenda Burke and Richard Woodham, for their commitment to the book project and excellent support.