Index

Ackerman, Frank 53
Acorn, Elizabeth 41, 42
additive/aggregate efforts’ public
good, climate change as see public
good (additive/aggregate efforts’),
climate change as
aerosols 19
Agreement on Agriculture 109
Agreement on Subsidies and
Counterveiling Measures see SCM
Agreement (Agreement on
Subsidies and Counterveiling
Measures)
Agreement on Technical Barriers to
Trade see TBT Agreement
(Agreement on Technical Barriers
to Trade)
agreements, trade 24–25, 26, 30
design of 27–29
rules, standards and institutions
29–35
Aid for Trade program 199
‘aims and effects’ approach, national
treatment 69, 70, 71, 75, 81
Aldy, Joseph E. 83, 86
algae biofuel 94, 98
Allan, John R. 166
Alliance of Small Island States 5
Anderson, K. 24, 104
Annexes, division of countries into
(Kyoto Protocol) 47, 48, 84
appeals, dispute settlement 41
Appellate Body see under WTO
(World Trade Organization)
Argentina, on EGS 243
see also under case law
Article III of GATT (national
treatment)
broa modern of provision (Article
III.1) 67, 91
‘like’ products 92–95
taxes in excess of those applied to
95–96
national treatment principle applied
to taxes (Article III.2)
border tax adjustments 130
‘directly competitive or
substitutable’ products 96–99
generally 91–92
‘not similarly taxed’ 99–100
product-related distinctions 75
‘so as to afford protection’
100–101
first sentence 92–96, 101
second sentence 92, 96–101
and negative incentives 212, 213
provision for regulations (Article
III.4) 68, 69, 70, 93, 95
and TBT Agreement 78
whether ‘less favourable treatment’
73–74
see also GATT (General Agreement
on Tariffs and Trade)
Article XX of GATT (general
exceptions) 39, 68, 69, 76, 82,
143–156, 188, 226, 232
Appellate Body, whether right to
review Members’ objectives
156–159, 250
chapeau 142, 154, 155, 163, 216,
219
connecting measure to goal
148–151
examining how measure applied
154–156
flexibility, lack of 161, 162
‘necessary’ test 145, 146, 147, 153,
162, 163
negative incentives (‘sticks’) 213
reforms proposed 256, 259–260
scrutiny of goal 144–147
searching for alternatives 151–154
asbestos fibres 72
see also under case law
Ashiabor, H. 52, 104
Assunçao, L. 112, 132
Australia 46, 122, 124
Avi-Yonah, Reuven S., 85, 86, 89
Bagwell, Kyle 25, 26, 112
balance, choice of 35–36
Baldwin, R. 20
Bali Action Plan 194
Baranzini, Andrea 84
Barrett, Scott 7, 9, 23, 28, 49, 58, 168, 188, 190, 201, 208–211, 223–225, 229, 264
Barroso, Jose Manuel 205
Bartels, Lorand 180, 186
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal 59, 224
‘behind-the-border’ measures 27
benefits, subsidies 110
Bhagwati, Jagdish 230
Bhala, Raj 99
Biermann, Frank 128, 136
biotech products 227
Blue Angel program, Germany 64
border tax adjustments see BTAs (border tax adjustments)
border taxes, BTAs distinguished 128
Bork, Petrus van 244
Bown, Chad P. 168, 204
Boyd, D. 106
Brack, Duncan 135, 225, 228
Bradbury, James 215, 232, 233
Brazil 32, 197
see also under case law
Brohm, Rainer 128, 136
Brunnée, Jutta 21
BTAs (border tax adjustments) 122–141
border taxes distinguished 128
certainty, lack of 163
competitiveness 123–126, 127
competitiveness-related roadblocks, addressing 200–201, 202
and emissions trading 136–139
on exports 131–132, 135–136
on imports 128, 129–131
BTAs on inputs incorporated or exhausted in production process 132–136
inducing other countries to take action 207
judging 139–141
leakage 122, 126–127
and negative incentives 212
origin-specific 206
and taxes 127–129
and WTO rules 129–136
BTUs (British Thermal Units) 124
Buck, Mattias 78, 120
Bueno de Mesquita, Ethan 171
burden of proof, changes to 260
Canada 64, 90
see also under case law
capacity, lack of 193–194
cap-and-trade systems 65, 83, 90, 123
vs carbon taxes 87–88, 89
carbon dioxide concentration 18, 19, 90, 196–197
carbon footprint 47, 163
carbon monoxide 84
carbon sinks, and subsidies 105
carbon taxes 31, 54, 84–86, 125
vs cap-and-trade systems 87–88, 89
implementation of 89–90
opposition to 88–89
‘carrots’ see positive inducements (‘carrots’)
cars 70, 75
Cartagena Biosafety Protocol 227
case law
Argentina – Hides and Leather 133
Brazil – Tyres 147–153, 155, 162, 215, 216, 261
Canada – Autos Panel Report 70
Canada – Civilian Aircraft 110
Canada – Hormones Dispute 166
Chile – Taxes on Alcoholic Beverages 98
EC – Asbestos 68, 71–73, 75–77, 81, 109, 146, 212
EC – Biotech Products 74, 226
EC – Meat 166
EC – Sardines 77, 79
Index

EC − Tariff Preferences 180, 181, 183, 187

EEC − Measures on Animal Feed Proteins 93

Japan − Alcoholic Beverages 68, 71, 92, 93, 95, 96, 99–100, 130, 131, 133

Japan − Film and Paper 109

Korea − Alcoholic Beverages 96, 97, 98, 100–101

Korea − Beef 73, 145, 146, 148

Massachusetts v EPA 149

US − Cotton 116, 117

US − Final Determination Softwood 109, 110, 114, 115

US − Foreign Sales Corporations 110

US − Gambling 151, 152

US − Petroleum and Certain Imported Substances 132, 134

US − Reformulated Gasoline 144, 146, 147, 150, 153

US − Shrimp I 147, 150, 154, 155, 162, 212, 213, 214, 216, 223, 226, 227

Cave, Martin 20

CDM (Clean Development Mechanism), and Kyoto Protocol 48, 193, 199
de Cendra, Javier 135, 138

CERs (Certified Emission Reduction) 193–194

certainty, lack of in domestic policy 163–164

Certified Emission Reduction (CERs) 193–194

Chalifour, N. 52, 104, 112

Chang, Howard 57, 157, 191

Charlton, Andrew 41, 43

Charnovitz, Steve 150, 179, 217, 252

China 32, 180, 188, 195, 205

emissions of 185–186, 188

see also under case law

CITES Convention (Convention on International Trade in Endangered Species of Wild Fauna and Flora) 59, 224

Claro, E. 236

Claussen, Eileen 196

Clean Development Mechanism (CDM), and Kyoto Protocol 48, 193, 199

Clémençon, Raymond 194

Climate Analysis Indicators Tool (CAIT) 197

climate change

as additive public good 17–23

domestic policy see domestic climate change policy

goal of mitigation 4–5

international regime see international climate change regime

and problem of trade 3–4

reasons for countries’ adoption of policies on 20–22

and taxes 83–91

trade measures, role in addressing 51–60

Climate Change Committee 255, 261

Climate Change Levy (CCL), UK 89–90
c coal 86

Code on Subsidies and Countervailing Measures (Subsidies Code) 136

Committee on Trade and Environment (CTE) 43, 60, 225

Committee on Trade and Environment in Special Session (CTESS) 234–235, 236, 240

competence of decision-makers 35

competitiveness

border tax adjustments 123–126, 127

roadblocks, competitiveness-related 200–204

Compliance Committee, Enforcement Branch 48

Conference of the Parties (COP), meetings of 46

Kyoto Protocol 48

see also Copenhagen Conference of the Parties 2009

constructivist theories of international law 21

c consumer surplus 211

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) 59, 224

Copenhagen Accord 2009, 184–185, 199, 264
Reconciling trade and climate

Copenhagen Conference of the Parties 2009 37, 184–185, 231, 233, 263
Cosbey, Aaron 126, 200
cost-benefit analysis 30, 160
roadblocks, dismantling 194–196
variation in costs and benefits 31–32, 34
cost-effectiveness, and efficiency 54, 86–87
Courchene, Thomas J. 166
CTE (Committee on Trade and Environment) 43, 60, 225
CTESS (Committee on Trade and Environment in Special Session) 234–235, 236, 240
Davey, William J. 41
decentralization 160, 250
decision-makers, choice of right balance 35–36
Deketelaere, K. 52, 104
Denmark, carbon tax introduced in 89
Depledge, Joanna 46, 49
developed countries 47, 140, 167, 185
developing countries categorization 32
and costs of climate change mitigation 195–196
and EGS 244
emissions 18, 185
and Kyoto Protocol 182–183
lack of commitment by 57
Least Developed Countries (LDCs) 5, 32, 186
and remedial action 167
and UNFCCC 49–50, 196
in WTO 41–43
development 6, 32
differentiated responsibilities principle 47, 128–129
discrimination, de jure and de facto 183
disincentives to participation/compliance, elimination 58
Dispute Settlement Body (DSB) see DSB (Dispute Settlement Body)
dispute settlement mechanisms, WTO competitiveness-related roadblocks, addressing 203–204
countermeasures 166, 167

and DSU 40, 164
and enforcement, lack of 164–169
and international climate change regime 48
‘lumpy’ cases 167, 168
Panels 40–41, 181, 213
remedial provisions 164–169
and treaties 28
Dispute Settlement Understanding (DSU) 40, 164, 226
Dodwell, David 178
Doha Development Round 24, 207, 228, 259, 263
Doha Ministerial Declaration 2001 234, 235
domestic climate change policy
assisting countries to meet obligations 56
choice of policy 52–56
constraining and furthering policy 55
constraints on actions 55–56
efficiency 53–54
environmental effectiveness 52–53
equity 54
implications of trade rules for 8–9
judging 160–174
lack of certainty 163–164
lack of enforcement 164–169
lack of flexibility 161–162
other solutions than review 173–174
procedural vs substantive review 169–173
Kyoto Protocol guidance 47–48
political feasibility 54–56
procedural vs substantive review 169–173
see also climate change
Donaldson, Victoria J. 25, 112
Doran, Kevin L. 83, 86, 87
Downs, Anthony 21
downstream taxes 85, 94, 99
DSB (Dispute Settlement Body) 41, 82, 202, 226
and judging domestic policy 169, 173
DSU (Dispute Settlement Understanding) 40, 164, 226
Duff, D. 52, 86, 87, 90–91, 104
Duval, Romain 86, 87, 89, 91

dynamic efficiency 86

eco-labelling programs 64

economic and development goals, addressing 199

economic efficiency 30, 53–54

economic facilities 24

efficiency 30, 53–54, 86, 218

EGS (environmental goods and services)

- broad approach to defining 238, 240–241, 242
- integrated approach to defining 243
- liberalization criteria 243
- list approach to defining 242
- narrow approach to defining 238–240, 242
- project approach to defining 243
- reasons for liberalization 234–237
- request-offer approach to defining 243

emissions, GHG 5, 29, 53, 63, 185

- and border tax adjustments 122, 123
- and externalities 18–20, 22

Kyoto Protocol on see Kyoto Protocol

emissions tax, defined 84

emissions trading

- and border tax adjustments 136–139
- joint scheme, proposals for 65–66
- and Kyoto Protocol 48

Enabling Clause (1979), and preferential treatment 42, 180, 181, 185, 188, 189, 192

energy taxes 84, 90

energy-intensive products, banning of use 58

enforcement

- international climate change regime 48–49

- lack of, in domestic policy 164–169

Environmental Choice program, Canada 64

environmental effectiveness 52–53

environmental exceptions

- Article XX of GATT 143–156
- see also Article XX (general exceptions)

conservation of exhaustible natural resources 147
costs and benefits 146–147
decision-makers 156–159
margin of appreciation 146

- 'necessary' test 145, 146, 147, 153, 162, 163

in WTO 142–143

environmental goods and services see EGS (environmental goods and services)

Environmental Goods and Services Agreement 245

environmental taxes 84

environmentally beneficial trade, increasing 234–246

defining EGS 238–241

institutional framework preferred 243–246

negotiating approaches 241–243

reasons for liberalization of EGS 234–237

environmentally preferable products 244

Ephraums, J.J. 45

Epps, Tracey 25, 177, 207

equity 54, 177–178, 196–198

ethanol, US/Brazilian 70

European Union (EU)

- common framework on energy taxation 124
- emissions trading system 65

energy taxes 84, 90

GSP arrangements 180, 182, 183, 186

UNFCCC, membership of 197

exports, border tax adjustments on 131–132, 135–136

externalities

- and emissions 18–20, 22
- and subsidies 103–105
- and trade agreements 25

fairness 30

Feng, Y. 17

Finance Act 2000, UK 89

financial contributions, subsidies 110

Finland, carbon tax introduced in 89

flexibility 31–35, 160, 169, 250
Reconciling trade and climate

Kyoto Protocol on mechanisms 47–48
lack of, in domestic policy 161–162
variation in costs and benefits 31–32, 34
variation in development 32
variation in values 32–33
Forseese, C. 115
forested countries 32
fossil fuels 85, 90
France, carbon tax introduced in 90
free trade 26
freedoms, for fulfilled life 24
Freeman, Jody 18
free-riders 29, 57, 218
deterring 224–225
and public goods 22–23
Friends of Environmental Goods group 242
Füssel, H.M. 17
future action see reforms proposed

gasoline 94, 98
GATS (General Agreement on Trade in Services) 234
GATT (General Agreement on Tariffs and Trade) 128, 178, 250
Article I (most-favoured-nation obligation) 39, 188, 191, 230
Article II (tariff concession commitments) 39, 213
Article III (national treatment) broad purpose of provision
(Article III.1) 67, 91
‘directly competitive or substitutable’ products 96–99
‘like’ products 92–96
national treatment principle
applied to taxes (Article III.2) 67, 91–101, 130
and negative incentives 212, 213
‘not similarly taxed’ 99–100
provision for regulations (Article III.4) 68, 69, 70, 93, 95
‘so as to afford protection,’ 100–101
and TBT Agreement 78
whether ‘less favourable treatment’ 73–74, 76–77
Article XI (prohibition on quantitative restrictions) 38–39, 212
Article XVI (government subsidies) 39
and border tax adjustments 131
and SCM Agreement 40
Article XVIII (government assistance to economic development) 42
Article XX (general exceptions) 39, 68, 69, 76, 82, 121, 142–156, 188, 213, 226, 232
Appellate Body, whether right to review Members’ objectives 156–159, 250
chapeau 142, 154, 155, 163, 216, 219
connecting measure to goal 148–151
examining how measure applied 154–156
flexibility, lack of 161, 162
‘necessary’ test 145, 146, 147, 153, 162, 163
reforms proposed 256, 259–260
scrutiny of goal 144–147
searching for alternatives 151–154
Article XXIII (Nullification or Impairment) 109
Article XXIV (Territorial Application – Frontier Traffic – Customs Unions and Free Trade Areas) 230
Generalized System of Preferences under see Generalized System of Preferences (GSP)
Part IV 42
Review Session (1954–55) 42
on subsidies 108–109
Working Party on Border Tax Adjustments 129, 133
see also WTO (World Trade Organization)
General Agreement on Trade in Services (GATS) 234
General Electric (GE) 237
Generalized System of Preferences (GSP) 57, 181, 184
and drug arrangements 187–188
Index

and Enabling Clause 42, 180, 181, 185, 188
and positive inducements 179, 180–188
Germany, Blue Angel program 64
Ginnochio, Alaine 83, 86, 87
Giri, Shiva 67, 68
globalization 3
GMOs (genetically modified organisms) 74
Goldsmith, Jack L. 20, 22
Gordon, Ruth 185, 195, 196
Graham, Lindsey 204
Gray, Kevin 225, 228
Green, Andrew 19, 52, 104, 112, 113, 164, 166, 171, 177
greenhouse gases (GHGs) 3, 58, 104, 124
linkages between trade and climate change 17, 19, 20
and taxes 84, 85
see also emissions, GHG
GSP see Generalized System of Preferences (GSP)
Gurria, Angel 123
Guzman, Andrew T. 18, 22, 28, 35, 158, 167–170, 172
Harmonized System (HS) 240
Harris, Paul 196, 198
Hebebrand, Chartotte 244
Heinzerling, Lisa 53
Hencelks, Caroline 227
Hoekman, Bernard M. 168, 204
Hoerner, J.A. 135, 136
Horn, Henrik 28, 30, 34
Horovitz, D. 169
Houghton, J.T. 45
Houseman, Robert F. 177
Howse, Robert 5, 27, 69, 72, 77, 80, 110, 114, 117, 120, 156, 183, 187, 228, 244, 253, 257
Hudec, Robert 77, 81, 179, 189
Hufbauer, Gary 217, 228, 252, 253
hydrofluorocarbons (HFCs) 84
ICTSD (International Centre for Trade and Sustainable Development) 122, 199, 205
impermissibility, and subsidies 120
imports
border tax adjustments on 128, 129–131
BTAs on inputs incorporated or exhausted in production process 132–136
punitive tariff imposed on 213
India 32, 205
and GSP scheme 181, 183
Indonesia, emissions of 197
information provision, regulatory measures 64–65
Information Technology Agreement (ITA) 245
innovation, and flexibility 33
institutions
choice of right balance 35–36
role 10
social welfare and fairness 30–31
Intergovernmental Negotiating Committee, formation of 46
Intergovernmental Panel on Climate Change (IPCC) 3, 17, 185
First Assessment Report (1990) 45
international agreements 27–29, 28
International Centre for Trade and Sustainable Development (ICTSD) 122, 199, 205
international climate change regime
Compliance Committee 48
current agreements 46–48
dispute settlement mechanism 48
see also DSU (Dispute Settlement Understanding)
enforcement mechanism 48–49
history of negotiations 44–46
International Council of Scientific Unions 45
International Energy Agency (IEA) 235
international standards, and TBT Agreement 77–80
international trade, and freedoms 24
IPCC (Intergovernmental Panel on Climate Change) see Intergovernmental Panel on Climate Change (IPCC)
Irwin, Douglas 25
Ismer, Roland 137, 138
Reconciling trade and climate

Jackson, John H. 40, 41
Janow, Merit E. 25, 112
Jatrophia, imported biofuel made from 101
Jenkins, G.J. 45
Johnson, Harry 127, 128
Joint Implementation, and Kyoto Protocol 48
Kamin, Amy 205
Kaplow, Louis 30, 31, 34, 163
Katz, Abraham 136
Keen, Michael 127
Kennedy Round 42
Kerry, John 204
Krauss, Mel 127, 128
Kreiser, L. 52, 104
Krugman, Paul 25, 26, 167, 203
Kun, Jisun 217
Kuwait, emissions of 197
Lahiri, Sajal 127
Lamy, Pascal 38, 233
Levy, Philip I. 5
Ley, Eduardo 83, 86
'like' products
GATT Article III.2, 92–96
and lack of certainty 163
and lack of flexibility 161–162
and national treatment 70–72
product-related distinctions 75
taxes in excess of those applied to 95–96
Liu Jiang 196
Lomborg, Bjorn 17
Luterbacher, Urs 198
Maggi, Giovanni 28, 30, 34
Malaysia, emissions of 197
Mandelson, Peter 206, 236
Marceau, Gabrielle 39, 72, 75, 81
Marrakesh Agreement Establishing the WTO (1994) 37
Martin, William 24
Mavroidis, Petros 25, 28
McAdams, R. 53, 106
McKenzie, Michael 180, 185, 187
McKibben, Warwick 104
McNeilly, Lisa 196
MEAs see multilateral environmental agreements (MEAs)
Metcalf, Gilbert 84, 85, 89
methane emissions 19, 84
MFN (most-favoured-nation) requirement 39, 67, 188, 191, 230
Millennium Development Goals 185
Milne, J. 52, 104
Ministerial Conference, Doha (2001) 44
Ministerial Decision on Trade and the Environment, Marrakesh (1994) 43
Ministerial Declaration on Trade in Information Technology Products 1996, 239
Montreal Protocol on Substances that Deplete the Ozone Layer 9, 59, 134
multilateral solutions 224, 225, 229
negative incentives ('sticks') 210, 211
most-favoured-nation (MFN) principle 39, 67, 188, 191, 230
Motaal, Doaa Abdel 6
Mouls, D. 169
Mueller, Dennis 21
Muller, F. 135, 136
multilateral environmental agreements (MEAs) 43, 44, 59, 60, 224
WTO on 225–228
multilateral solutions 9, 59–60
MEAs see multilateral environmental agreements (MEAs)
reforms proposed 262–263
National Round Table on Economy and Environment (NRTEE) 57
national treatment ‘aims and effects’ approach to 69, 70, 71, 75, 81
Article III of GATT (national treatment) see Article III of GATT (national treatment)
competition conditions 73
and PPMs 76–77
product-related distinctions 74–76
as a standard 31
and TBT Agreement 78–79
two approaches 67–69
whether ‘less favourable treatment,’ 73–74, 76–77
whether ‘like’ products 70–72, 75
and certainty, lack of 163
and flexibility, lack of 161–162
GATT Article III.2, 92–95, 130
product-related distinctions 75
WTO approaches 69–70
natural gas 85
negative externalities 19
negative incentives (‘sticks’) efficiency concerns 218
legitimacy concerns 218–219
reasons for use 58, 208–211
types that could be used 211–218
whether unilateral ‘sticks’ should be permitted 218–219
see also positive inducements (‘carrots’)
Neuhoff, Karsten 137, 138
nitrogen oxides 84
nitrous oxide 84
Non-aggression Clause, proposals for 256
non-discrimination, and taxes 91–101
non-methane volatile organic compounds (NMVOCs) 84
Nordhaus, William 46
norms 22, 53, 106
North America, emissions trading system 65
Norway, carbon tax introduced in 89
nuclear power, and reduction of GHG emissions 53
Nzelibe, Jide 202
Obstfeld, M. 26, 167, 203
ODS (ozone-depleting substances) 134–135, 210
OECD (Organisation for Economic Cooperation and Development) 237, 239, 242
on border tax adjustments 123, 124, 125, 128
oil producing countries 32
Olin, John M. 46
Omnibus Budget Reconciliation Act 1989, 134
Ostry, Sylvia 43
Owen, Anthony 104
ozone-depleting substances (OCS) 134–135, 210
Panels, dispute settlement 40–41, 181, 213
Parry, Ian W.H. 83, 85, 86
Pauwelyn, Joost 133, 137, 138, 139, 177, 227
Peace Clause, proposals for 174, 252–254, 261
1.3 penalty rule 48
perfluorocarbons (PFCs) 84
Pew Center on Global Climate Change 196
Reconciling trade and climate

Pitschas, C. 136
Pizer, William A. 85, 86
Polinsky, A. Mitchell 20, 52, 106
political feasibility, domestic climate change policy 54–56
political freedoms 24
polyvinyl alcohol fibres (PVA) 72
Porges, A. 73
positive inducements (‘carrots’) 177–192
justice and equity concerns 177–178
preferential access arrangements 189
reasons for use 57, 178–179
trade measures as 179–189
Generalized System of Preferences 179, 180–188
preferential trade concessions 57, 188–189
whether desirable for use 189–191
see also negative inducements (‘sticks’)
Posner, Eric A. 20, 22, 197
Posner, Richard 65
Potential Convergence Set 242
PPMs (process and production methods)
and border tax adjustments 131
certainty, lack of 163
Climate Change Agreement, proposals for 258
competitiveness-related roadblocks, addressing 201
and EGS 240, 245
and GATT Article III:4 95
and national treatment 74, 76–77
and negative incentives 212
non-product-related 78
‘smell test’ 77
validity of distinctions 102
Preamble to the Agreement
Establishing the WTO 37–38
precautionary principle 227
prior-stage indirect cumulative taxes 135
prisoners’ dilemma 25–26
procedural vs substantive review 169–173
process and production methods see PPMs (process and production methods)
product-related distinctions, national treatment 74–76
protectionism 25, 26, 27, 67, 210, 250, 253
deterring 5–6
protective security 24
‘public choice’/political economy view of state decisions 21
public good (additive/aggregate efforts) climate change as 17–23
definition of public good 56
emissions and externalities 18–20
free-riders and public goods 22–23
reasons for countries’ adoption of policies on climate change 20–22
risks 56–57
and ‘single best efforts’ public good 23, 56
Qatar, emissions of 197
Ramanathan, V. 17
rapidly industrializing countries 32
Rasmussen, Eric 106
rational choice model, self-interest 22
reforms proposed 251–263
bringing trade and climate action together 263–265
Climate Change Agreement, proposals for 254–259
Climate Change Committee 255
climate subsidies 257
mitigating climate change as a legitimate objective 256
Non-aggression Clause 256
notification of climate change measures 255
PPMs 258
procedural review of measures 256–257
substantive review of measures 257–258
existing rules and procedures, changes to 259–262
burden of proof or standard of review 260
Climate Change Committee 261
GATT Article XX 259–260
notification 261
Index

procedural changes through
decisions 261–262
multilateral trade and climate
agreement 262–263
Peace Clause, proposals for 174,
252–254, 261
Regan, Donald 25, 73, 145, 147,
156–157
Regional Greenhouse Gas Initiative
(REGGI) 65
regional trading blocks 229, 230
regulations and domestic emissions
trading
indications for using 63–67
international standards and TBT
Agreement 77–80
national treatment
‘aims and effects’ approach 69, 70,
71, 75, 81
‘like’ products see ‘like’ products
product-related distinctions 74–76
and TBT Agreement 78–79
two approaches 67–69
whether ‘less favourable
 treatment’ 73–74, 76–77
WTO approach 69–70
regulatory measures
decisions as to appropriateness
81–82
indications for using 63–67
information provision 64–65
standard setting 63–64
trade impact of regulations 66–67
types 63–66
technical regulations 77, 78
Reinaud, Julia 126
remedial provisions, WTO dispute
settlement system 164–169,
203–204
renewable portfolio standards 64
research and development 105
revenue-neutral taxes 54, 90
Revesz, R. 52, 53, 54
review, procedural vs substantive
169–173
Rio de Janeiro, UN Conference on
Environment and Development
(1992) 46
roadblocks, dismantling
capacity
addressing 199
lack of 193–194
competitiveness-related 200–204
costs vs benefits 194–196
economic and development goals,
addressing 199
equity and justice concerns 196–198
up-front investments, funding 199
whether trade measures helpful
204–207
rules, defined 31
Sachs, Jeffrey 6, 24–25
San Marino, refusal to ratify Kyoto
Protocol 7
Sari, Agus 32, 49
Sarkozy, Nicolas 205
Scandinavia, carbon tax introduced in
89
Schwartz, Risa 229
Schwartz, Warren 26, 34, 165, 168
SCM Agreement (Agreement on
Subsidies and Counterveiling
Measures) 116, 118, 143, 162, 250,
260
and border tax adjustments 131,
132
definition of ‘subsidy,’ 109–110, 111
linkages between trade and climate
change 38, 40, 55
SDT (special and differential
treatment) 41, 43
Second World Climate Conference
(1990) 45
Segal, J. 172
self-centeredness/self-interest 19, 20,
21, 22
Sen, Amartya 6, 19, 24
Shanley, Mia 206
Shavell, Steven 20, 30, 52, 106
Simmons, Beth 167, 168, 170, 172
‘single best efforts’ public good 23, 56
small island countries 32
social opportunities 24
social welfare 30, 53
Spaeth, H. 172
special and differential treatment
(SDT) 41, 43
Speth, James Gustave 106
Sprinz, Detlef F. 198
Reconciling trade and climate

SPS Agreement (Application of Sanitary and Phytosanitary Measures) 78, 143, 170, 255
Staiger, Robert W. 25, 28, 30, 34
standards
defined 31
international, and TBT Agreement 77–80
setting of 63–64
static efficiency 86
Stavins, Robert N. 9, 49, 52–54, 58, 188, 190, 201, 210
Steenblik, Ronald 235
Steger, D. 169
Stephenson, John 122, 125–128, 137, 140, 141, 171, 206
Stephenson, Matthew 171
Stern, Sir Nicholas 5, 18, 249
Stern Review 124–125
Stewart, Richard B. 194, 195
'sticks' see negative incentives ('sticks')
Stiftung, Friedrich Ebert 78, 120
Stigler, George J. 21
Stiglitz, Joseph E. 41, 43, 110
subsides
actionable 40, 114–117
adverse effects, tests for 116
Climate Change Agreement, proposals for 257
definitions 108–112
and externalities 103–105
limitations/drawbacks 107–108
market-based determination 111
non-actionable 117–118
objectives of policies 104
prohibited 40, 112–113
reasons for restricting 118–121, 162
reasons for subsidizing 103–108
reducing, for environmentally harmful industries 57
remedial provisions 164, 165
specficity requirement 114, 115
values, subsidizing 105–106
Sugathan, Mahesh 235, 237, 239, 243
sumphor oxides 84
Summers, Lawrence 178
Sunstein, Cass R. 46, 53, 65, 106, 190, 194, 197
Sweden, carbon tax introduced in 89
synthetic fertilizers, tax on 91
Tamiotti, Ludivine 59, 235, 236, 237
Tarasofsky, Richard 200
taxes
addressing of climate change 83–91
and border tax adjustments 127–129
carbon see carbon taxes
direct 130
energy 84, 90
and environmental efficiency 53
'gas guzzler' on cars 75
GATT Article III.2
'directly competitive or substitutable' products 96–99
generally 91–92
'like' products 92–96, 130
'not similarly taxed' 99–100
product-related distinctions 75
'so as to afford protection' 100–101
indirect 130
institutional framework 101–102
internal 137
'like' products 92–95
taxes in excess of those applied to 95–96
market-based and non-market-based mechanisms 86
and non-discrimination 91–101
GATT Article III.2 (first sentence) 92–96, 101
GATT Article III.2 (second sentence) 92, 96–101
prior-stage indirect cumulative 135
revenue-neutral 54, 90
upstream or downstream 85, 93–94, 99
TBT Agreement (Agreement on Technical Barriers to Trade) 143, 199, 250
and international standards 77–80
linkages between trade and climate change 38, 39
regulations and domestic emissions trading 81, 82
technical regulations, and TBT Agreement 77, 78
Index

Thomas, Chantel 25
Tietenberg, T. 89
Toope, Stephen J. 21
Trachtman, Joel P. 25, 34, 39, 43, 72, 73, 75, 81, 165, 167
trade
environmentally beneficial, increasing 234–246
institutional framework preferred 243–246
negotiating approaches 241–243
interaction with climate policies 249–251
ongoing negotiations 44
and problem of climate change 3–4
trade conditionality 179
trade measures 223–233, 251
benefits of 7–8
and climate agreements 228–233
free-riding, deterring 224–225
multilateral 9, 59–60, 224
participation and compliance 223–224
as positive inducements 179–189
concessions 188–189
Generalized System of Preferences 180–188
role in addressing climate change 51–60
unilateral, inducing other countries to take action 9, 56–58
whether helpful in dismantling roadblocks 204–207
in WTO 43
traditional environmental goods 238, 244
transparency guarantees 24
treaties, reasons for existence 28–29
Trebilcock, Michael J. 5, 25, 27, 67, 68, 69, 112, 114, 166, 207
Tuerk, Elizabeth 72, 77
UAE, emissions of 197
Uhlmann, David M. 85, 86, 89
UN see United Nations (UN)
uncertainty 33
UNCTAD (United Nations Conference on Trade and Development) 42, 238
UNEP (United Nations Environmental Programme) 45
UNFCCC (United Nations Framework Convention on Climate Change) 37, 46, 84, 179, 197, 225, 229, 264
on common but differentiated responsibilities 47, 128–129
Conference of the Parties, Copenhagen 2009 37, 184–185, 231, 233, 263
and developing countries 49–50, 196
division of countries into Annexes 47, 48, 84
unfreedom 24
unilateral measures 177, 200
inducing other countries to take action 9, 56–58
trade measures compared 231
whether unilateral 'sticks' should be permitted 218–219
United Kingdom, Climate Change Levy 89–90
United Nations (UN)
General Assembly
Intergovernmental Negotiating Committee formed under 46
Resolution 43/53 (1988) 45
Millennium Development Goals 185
see also UNCTAD (United Nations Conference on Trade and Development); UNEP (United Nations Environmental Programme); UNFCCC (United Nations Framework Convention on Climate Change)
United States
BTU tax legislation 124
emissions trading system (North America) 65
Kyoto Protocol, refusal to ratify 7, 46
product lines, classification 190
UNFCCC, membership of 197
see also under case law
upstream taxes 85, 93–94
Reconciling trade and climate

Upton, Simon 122, 125–128, 137, 140, 141, 206
Uruguay Round/Uruguay Round Agreements 42, 43, 239
values 19, 36, 53
subsidizing 105–106
variation in 32–33
Vandenberghe, Michael P. 195
Verheyn, Roda 78, 120
Wara, Michael W. 199
Weisbach, David 84, 85, 89, 193, 197, 198
Weischer, Lutz 215, 232, 233
Werksman, Jacob 215, 216, 232, 233
Wiegandt, Ellen 198
Wiener, Jonathon B. 194, 195
Wissenbach, Ilona 206
Wooders, Peter 126
Working Party on Border Tax Adjustments, GATT 129, 133
World Bank 125, 160, 178, 237, 241
World Development Report 2010 185, 199
World Climate Conference (1979) 44–45
World Customs Organization 240
World Development Report 2010 185, 199
World Meteorological Organization (WMO), World Climate Conference organized by 44–45
WTO (World Trade Organization) Appellate Body
border tax adjustments 140
competitiveness-related roadblocks, addressing 202, 203
environmental exceptions 144–146, 149–151, 152, 154–159
and flexibility, lack of 162
Generalized System of Preferences 181, 182, 184
national treatment 68, 69, 71, 72, 73
negative incentives 213–214, 216
political feasibility 55
review, procedural vs substantive 169, 172–173
subsidies 111
taxes 96–98
TBT Agreement 79–80
whether right to review Members’ objectives 156–159
and border tax adjustments 129–136
choice of decision-makers 36
Climate Change Agreement, proposals for 254–259
Committee on Trade and Environment 43, 60, 225
compliance with rules 41
developing countries in 41–43
dispute settlement see dispute settlement mechanisms
Doha Round 24
environmental exceptions in 142–143
and flexibility 34–35
key agreements 38–40
on multilateral environmental agreements 225–228
national treatment approaches 69–70
ongoing trade negotiations 44
overview/background 37–38
and protectionism 67
remedies for non-compliance with commitments 165
sanctions, nature 165
subsidies, restrictions on 118–119
suspension of concessions 41
trade and environment in 43–44
WTO-UNEP Climate Change Report 236
see also GATT (General Agreement on Tariffs and Trade)

Yamin, Farhanna 46, 49
Yanovich, Alan 25, 112
Zaelke, Durwood J. 177
Zarrilli, Simonetta 89
Zhong Xiang Zhang 84, 112, 132, 232