

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 Countervailing Measures *see* SCM Agreement (Agreement on Subsidies and Countervailing 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)
 broad purpose 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
- Assunção, 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

- 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
- certainly, 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
- Cléménçon, 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
- 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
- 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

- 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

- 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
- Forcese, 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
 - detering 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

- 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)
- Gurriá, 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
- Henckels, 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

- 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
see also under case law
 Kyoto Protocol
 adoption and ratification 46
 Annexes, division of countries into 47, 48, 84
 and CERs 194
 and Clean Development Mechanism 48, 193, 199
 and developing countries 182–183
 and free-riding 57
 and Generalized System of Preferences 182
 guiding principles, based on 47
 and multilateral solutions 9
 and negative incentives 208, 217
 parties, numbers of 229
 and trade measures 225
 violations of 29
- Lahiri, Sajal 127
 Lamy, Pascal 38, 233
 landfills, taxes on packaging and solid wastes deposited at 91
 leakage
 border tax adjustments 122, 126–127
 competitiveness-related roadblocks, addressing 200
 Least Developed Countries (LDCs) 5, 32, 186
 legitimacy of decision-makers 35–36
- Levy, Philip I. 5
 Ley, Eduardo 83, 86
 liberalization of trade, environmentally beneficial services 57
 ‘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
 McKibbin, 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
- Moulis, 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
- NAMA (Negotiating Group on
 Market Access for Non-
 Agricultural Products) 234–235
- 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’)
- Negotiating Group on Market Access
 for Non-Agricultural (NAMA)
 Products 234–235
- 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

- 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
- Rasmusen, 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

- 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 Countervailing 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

- 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
- subsidies
 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
 specificity requirement 114, 115
 values, subsidizing 105–106
- Sugathan, Mahesh 235, 237, 239, 243
- sulphur oxides 84
- Summers, Lawrence 178
- Sunstein, Cass R. 46, 53, 65, 106, 190, 194, 197
- Sweden, carbon tax introduced in 89
- Sykes, Alan O. 20, 21, 25, 26, 34, 66, 103, 105, 107, 108, 111, 113, 115, 117, 146, 165, 168, 257
- 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

- 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)
 Conference on Environment and Development, Rio de Janeiro (1992) 46
 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

- 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
- Vandenbergh, Michael P. 195
- Verheyen, Roda 78, 120
- Vienna Convention on the Law of Treaties 225–226, 227
- 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