Making the International Trade System work for Climate Change

4th Global Climate Policy Conference

São Paulo, Brazil | 17 August 2018

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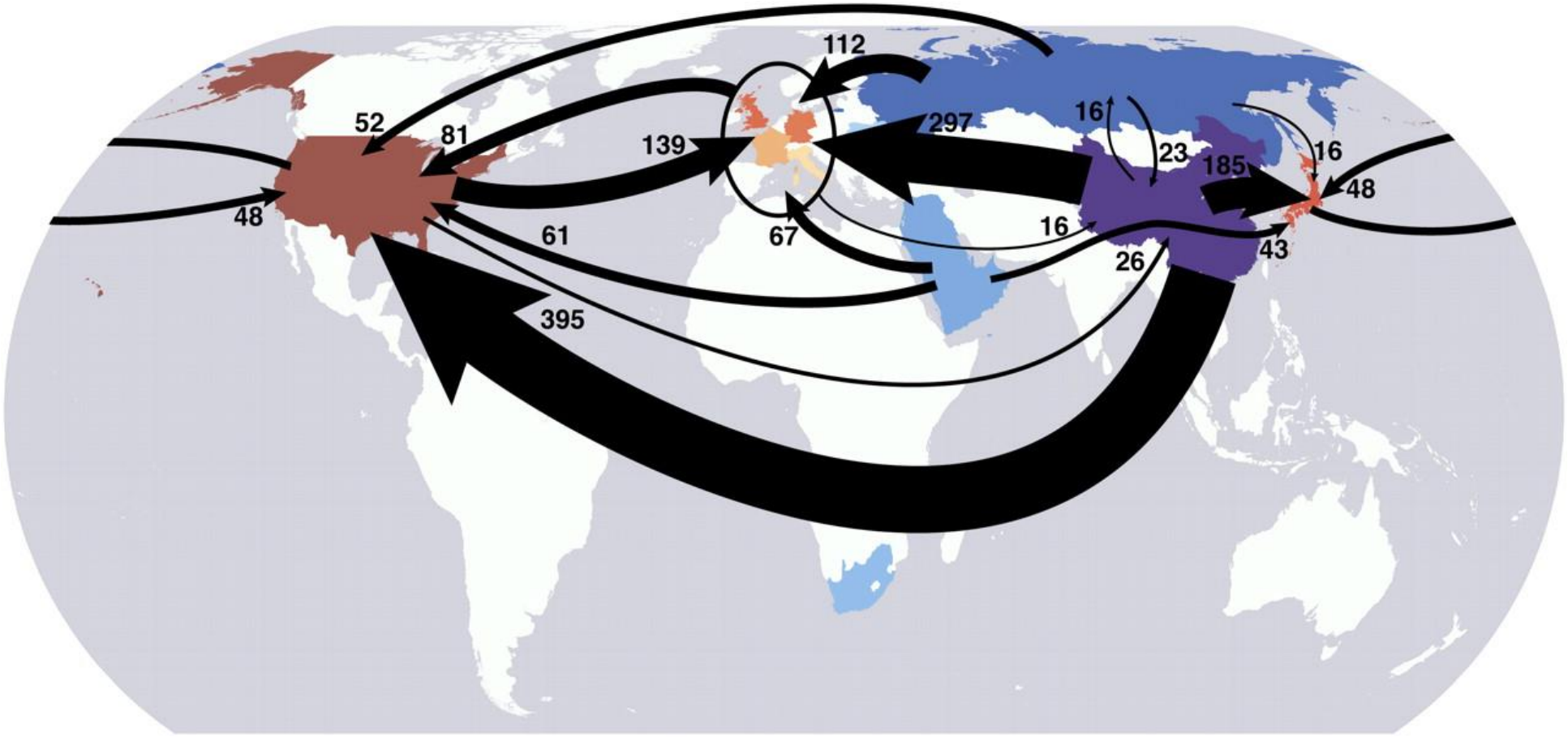
Climate Strategies

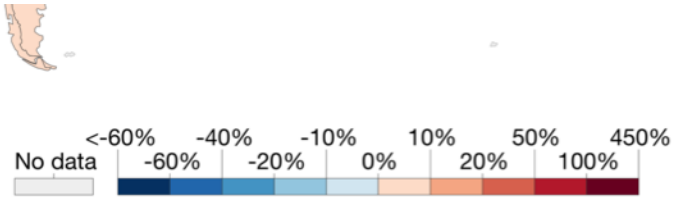
Why Trade Matters for the Climate (1)



Largest interregional fluxes of emissions embodied in trade (Mt CO2 y−1) from dominant net exporting countries (blue) to the dominant net importing countries (red).

Steven J. Davis, and Ken Caldeira PNAS 2010;107:12:5687-5692

Why Trade Matters for the Climate (2)

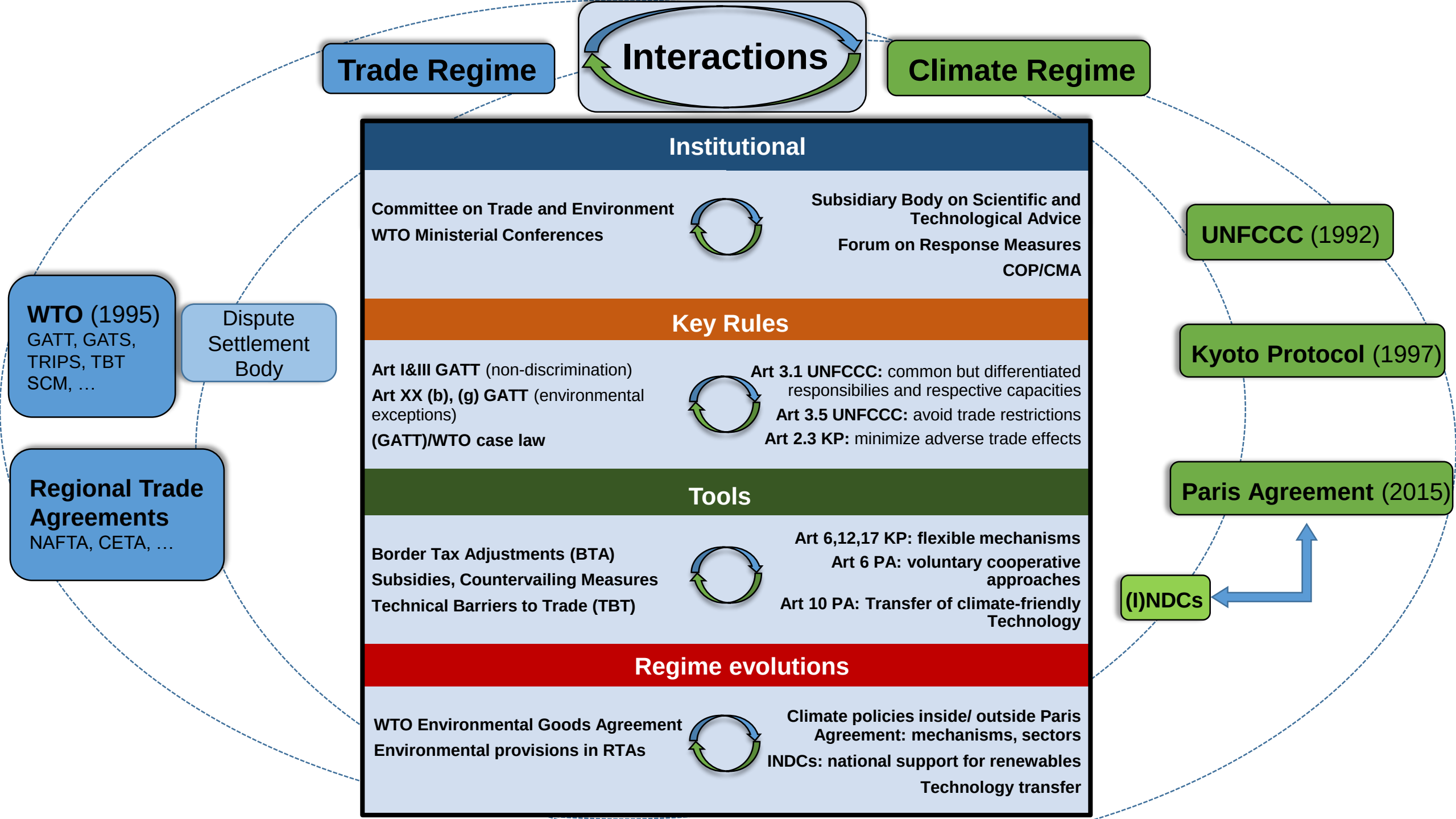


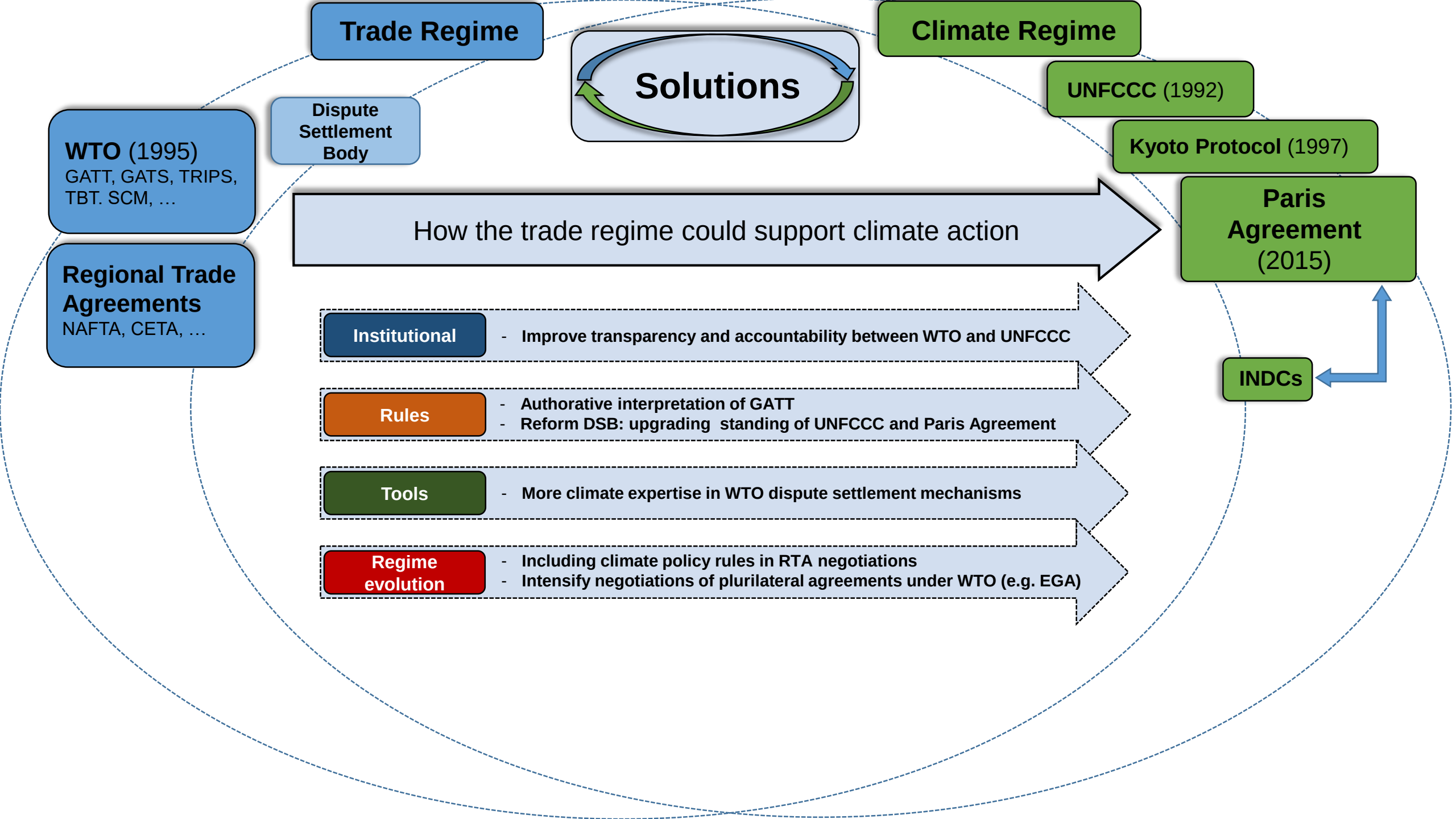
CO_2 Emissions in Imported Goods as a Share of Domestic Emissions

Glen Peters et al., 2012 (updated); Global Carbon Project

Trade, Trade Policy and Climate Action

- Around **8 Gt CO_2e embedded** in internationally traded goods (~2 Gt in net transfers); this results in a sizable **'carbon accounting loophole'**
- Rise in **nationalism** and **protectionism** is spurring a retrenchment both in international trade and climate policy, threatening multilateral cooperation
- Paris Agreement achieves **breadth** of participation at the expense of **centralisation**, **normativity** and, at least initially, **depth**; flexibility still cannot prevent **defection** and will contribute to **heterogeneity** in the near term, and may aggravate concerns about **competitiveness** and emissions **leakage**
- Several climate policy responses **interact with** or **infringe on** international trade rules, such as **subsidies** for conventional and low-carbon fuels and technologies (incl. e.g. local content rules); **technology standards**; **market-based instruments**; and **border adjustment provisions**.


Trade Regime
Interactions
Climate Regime
Institutional
Committee on Trade and Environment
WTO Ministerial Conferences
Subsidiary Body on Scientific and Technological Advice
Forum on Response Measures
COP/CMA
Key Rules
Art I&III GATT (non-discrimination)
Art XX (b), (g) GATT (environmental exceptions)
(GATT)/WTO case law
Art 3.1 UNFCCC: common but differentiated responsibilies and respective capacities
Art 3.5 UNFCCC: avoid trade restrictions
Art 2.3 KP: minimize adverse trade effects
Tools
Border Tax Adjustments (BTA)
Subsidies, Countervailing Measures
Technical Barriers to Trade (TBT)
Art 6,12,17 KP: flexible mechanisms
Art 6 PA: voluntary cooperative approaches
Art 10 PA: Transfer of climate-friendly Technology
Regime evolutions
WTO Environmental Goods Agreement
Environmental provisions in RTAs
Climate policies inside/ outside Paris Agreement: mechanisms, sectors
INDCs: national support for renewables
Technology transfer
WTO (1995)
GATT, GATS, TRIPS, TBT SCM, …
Dispute Settlement Body
Regional Trade Agreements
NAFTA, CETA, …
UNFCCC (1992)
Kyoto Protocol (1997)
Paris Agreement (2015)
(I)NDCs


Trade Regime
Climate Regime
Solutions
UNFCCC (1992)
Dispute Settlement Body
WTO (1995)
GATT, GATS, TRIPS, TBT. SCM, …
Kyoto Protocol (1997)
How the trade regime could support climate action
Paris Agreement (2015)
Regional Trade Agreements
NAFTA, CETA, …
Institutional
- Improve transparency and accountability between WTO and UNFCCC
INDCs
Rules
- Authorative interpretation of GATT
- Reform DSB: upgrading standing of UNFCCC and Paris Agreement
Tools
- More climate expertise in WTO dispute settlement mechanisms
Regime evolution
- Including climate policy rules in RTA negotiations
- Intensify negotiations of plurilateral agreements under WTO (e.g. EGA)

Making the Trade System more Supportive of the Paris Agreement: Options

1. Legal changes: WTO

2. Procedural changes in institutions and practices

3. Actions under Plurilateral/Regional Trade Agreements

Mapping the Options (1)

1. Legal changes: WTO

- **1(A). Amending** the text of the WTO agreements
- **1(B).** Adopting **'Waivers'** releasing Members from legal obligation under the WTO agreements
- **1(C).** Adopting an **'Authoritative Interpretation'** of WTO agreements/provisions
- **1(D).** Adopting a **Peace Clause** for 'climate measures'

2. Procedural changes in institutions and practices

3. Actions under Plurilateral/Regional Trade Agreements

Mapping the Options (2)

1. Legal changes: WTO

2. Procedural changes in institutions and practices

2(A). Ensuring **technical expertise** on climate change in relevant WTO dispute panels and the Appellate Body

2(B). Enhancing **coordinated efforts** between the WTO and UNFCCC through more intensive use of existing forums (e.g. CTE, SBSTA)

2(C). Creating a **new** institutional setup under the WTO [e.g. a WTO 'Committee on Trade, Environment and Climate Change']

2(D). Modification of the **product classification** system (World Custom Organization's Harmonized Commodity Description and Coding System)

3. Actions under Plurilateral/Regional Trade Agreements

Mapping the Options (3)

1. Legal changes: WTO

2. Procedural changes in institutions and practices

3. Actions under Plurilateral/Regional Trade Agreements

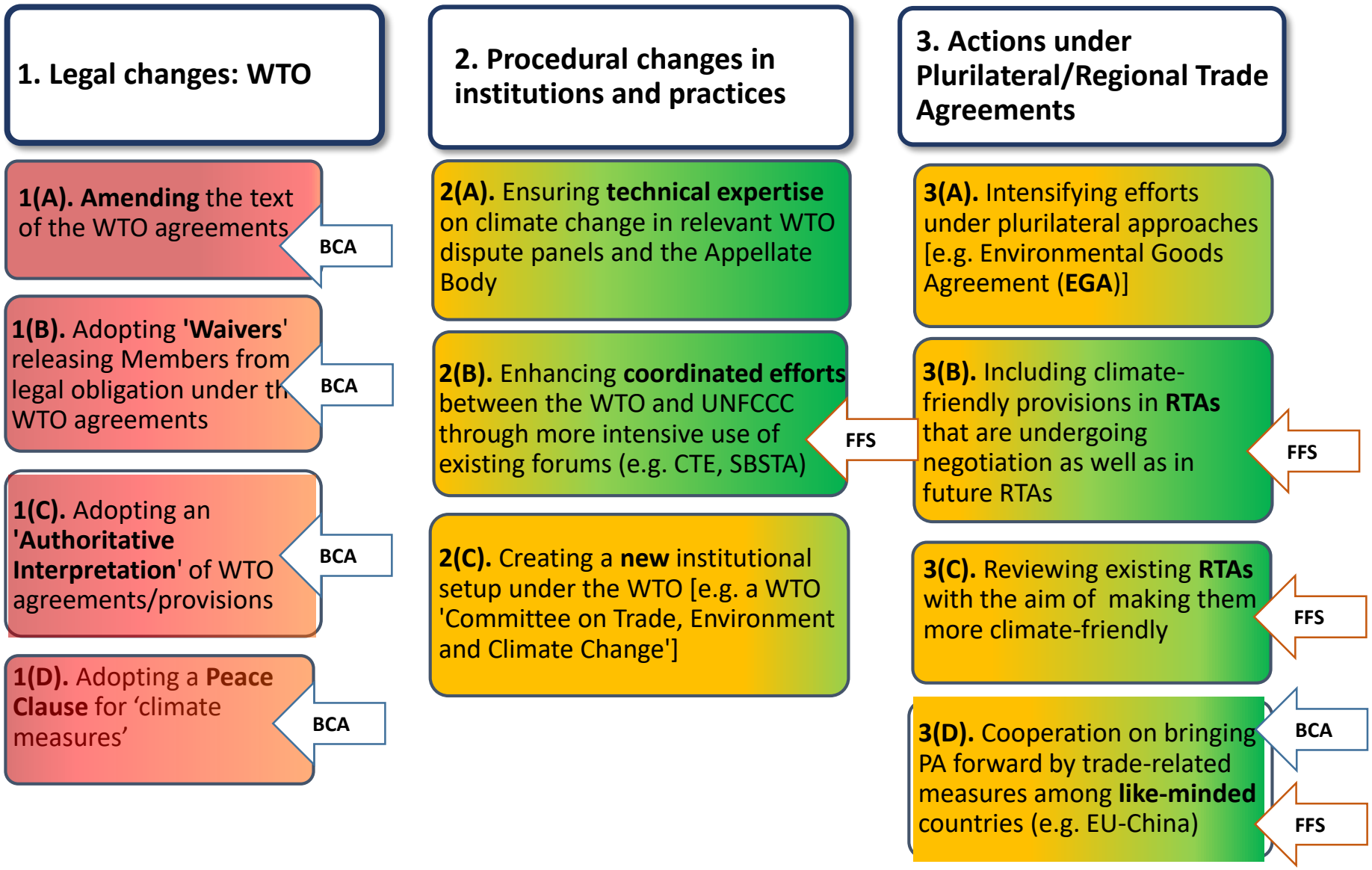
3(A). Intensifying efforts under plurilateral approaches [e.g. Environmental Goods Agreement (**EGA**)]

3(B). Including climate-friendly provisions in **RTAs** that are undergoing negotiation as well as in future RTAs

3(C). Reviewing existing **RTAs** with the aim of making them more climate-friendly

3(D). Cooperation on bringing PA forward by trade-related measures among **like-minded** countries (e.g. EU-China)

Assessing the Feasibility of Options



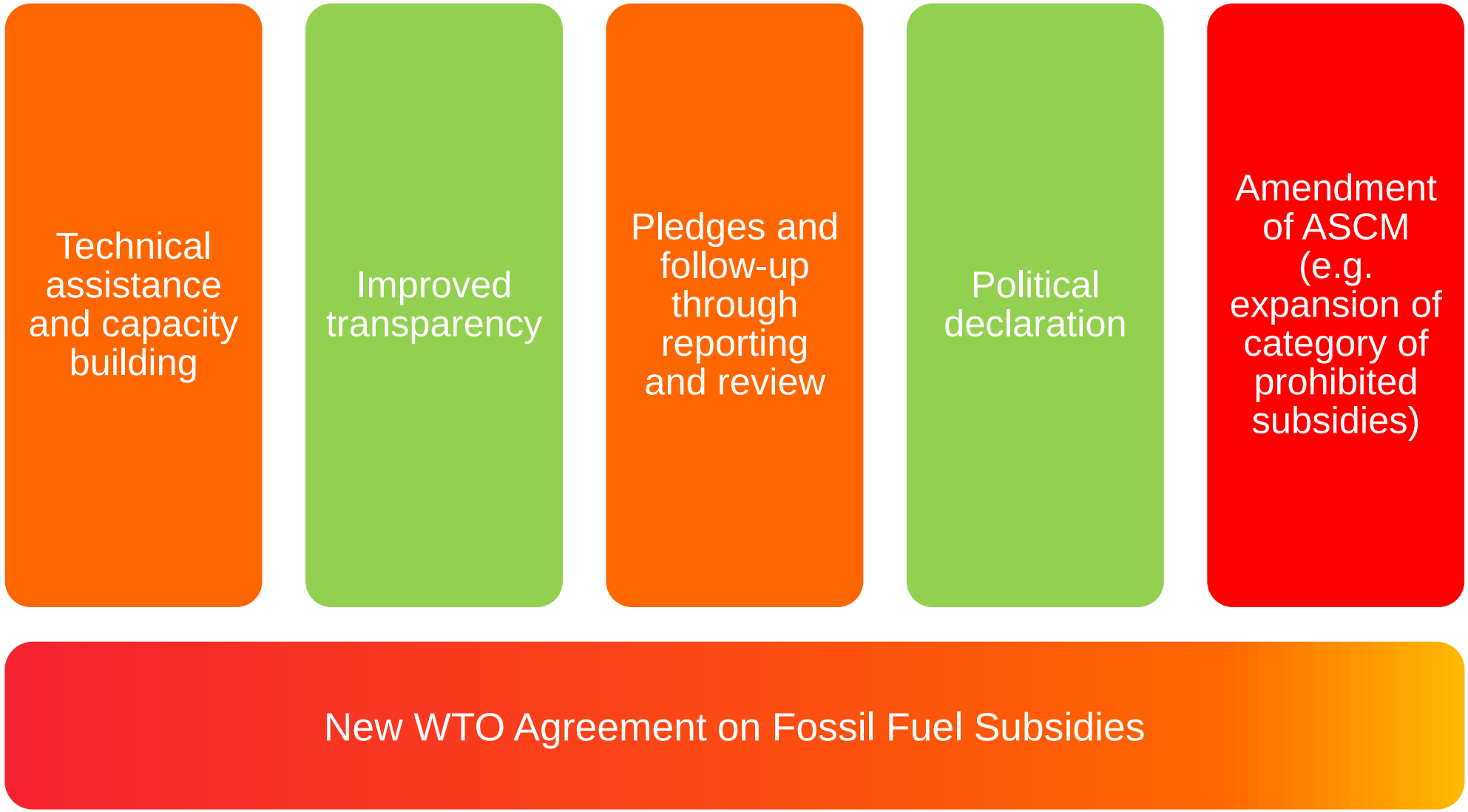
Facilitating Fossil Fuel Subsidy Reform: Rationale

- Fossil fuel subsidy: “A government intervention that supports the producers or consumers of fossil fuels”
- Various forms, e.g. producer or consumer tax rebates, price supports, direct transfers, unpriced externalities
- Estimated between US$ 260-5,300 billion/year
- Undermine mitigation efforts, divert public funds, tend to be regressive, distort trade and investment

G20 commitment in September 2009:

“phase out and rationalise over the medium term inefficient fossil fuel subsidies”, a pledge echoed by the Asia Pacific Economic Cooperation (APEC) group.

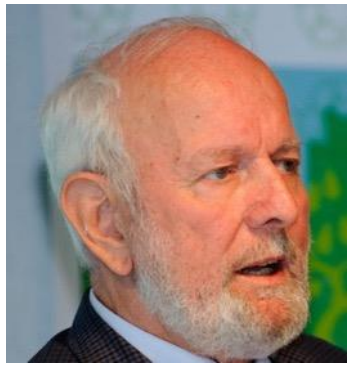
Facilitating Fossil Fuel Subsidy Reform: Options



What Are Border Carbon Adjustments (BCAs)?

- **Border carbon adjustments (BCAs)** seek to alleviate negative impacts of uneven climate policies by including imports or exempting exports
- They can take different **forms**, e.g.:
  - a tariff or other fiscal measure applied to imported goods
  - extension of other regulatory compliance obligations to imports
  - instance through tax or regulatory relief for exports
- They have three main **objectives**:
  - level the playing field in competitive markets
  - prevent leakage of carbon emissions to jurisdictions with weaker policies
  - incentivise trade partners to strengthen their own climate efforts

Growing Calls for BCAs (1)



Ernst-Ulrich von Weizsäcker, President of the Club of Rome (2 June 2017):
'it would, symbolically, be a lovely idea'

Rachel S. Williams, Managing Director, Sandbag Climate Campaign (11 October 2017):
'border carbon adjustments merit reconsideration'

Lakshmi Mittal, Chairman and CEO, ArcelorMittal (13 February 2017): *'A carbon border tax is the best answer on climate change'*

Growing Calls for BCAs (2)

Emmanuel Macron, President of France (26 September 2017):

'une taxe aux frontières de l'Europe sur le carbone, c'est indispensable.'

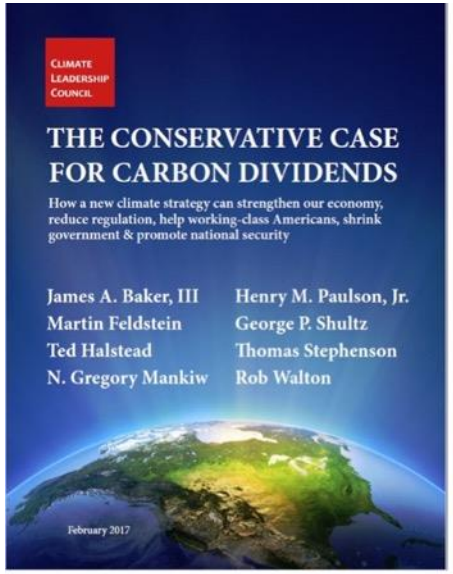
Catherine McKenna, Minister of Environment and Climate Change, Canada (11 October 2017):

'Border carbon adjustments are something we need to look at, ideally through the World Trade Organisation'

Growing Calls for BCAs (3)

Rodolfo Lacy Tamayo, Undersecretary for Environmental Policy and Planning, Ministry of the Environment, Mexico (November 2016):
'A carbon tariff against the U.S. is an option for us'

Climate Leadership Council (7 February 2017): *'Border adjustments for the carbon content of both imports and exports would protect American competitiveness and punish free-riding by other nations, encouraging them to adopt carbon pricing of their own.'*



Legal Context

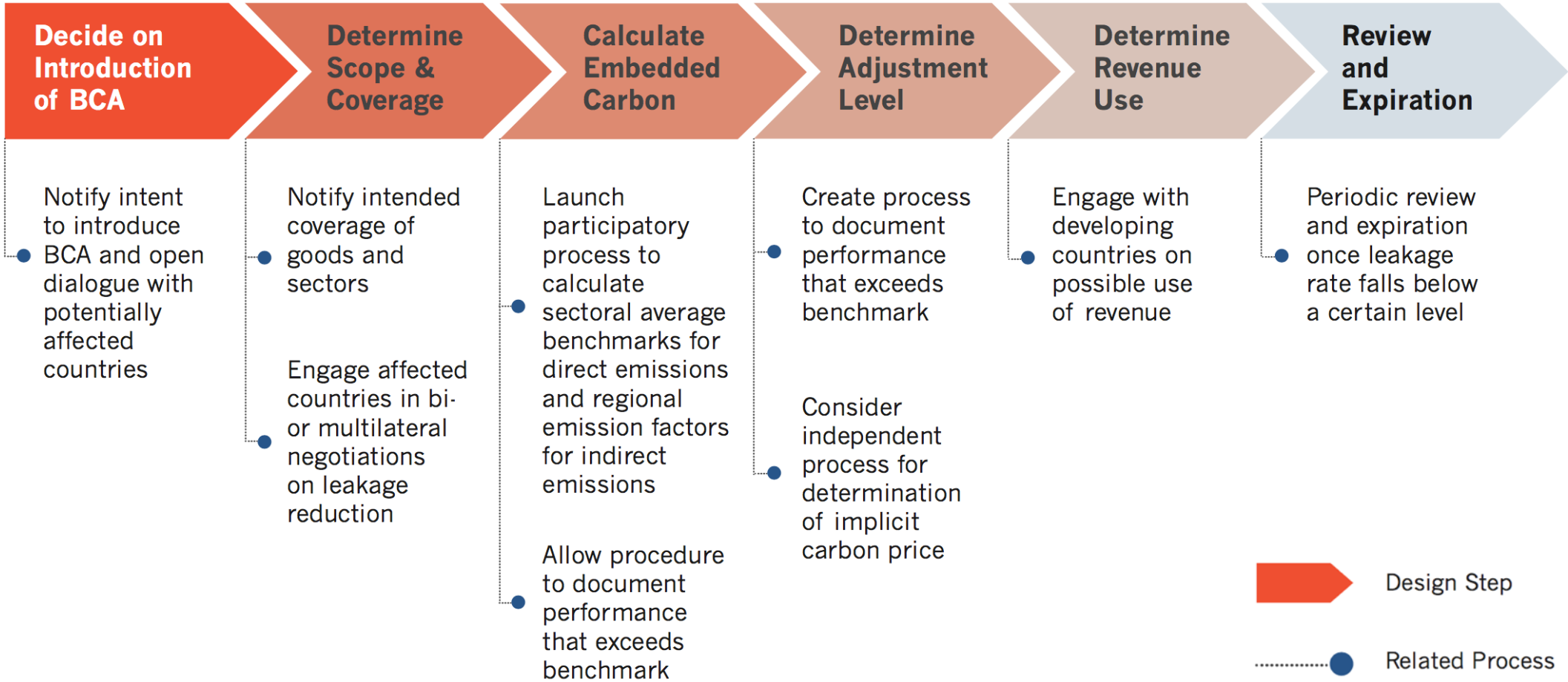
- **Non-discrimination principles** in WTO law:
  - Most-Favoured-Nation: equal treatment of trading partners (Art. I GATT)
  - National Treatment: equal treatment of domestic & foreign products (Art. III GATT)
- **Exemptions** are possible under specific circumstances:
  - Art. XX (b) GATT: measures 'necessary' to protect human, animal or plant life or health
  - Art. XX (g) GATT: measures 'relating to' the conservation of exhaustible natural resources
- Some **consequences for BCAs**:
  - BCAs should avoid differentiating between trade partners
  - BCAs should account for climate efforts of trade partners
  - BCAs should ensure basic fairness and due process during design and implementation
  - Introduction of a BCA should be preceded by serious, across-the-board negotiations
  - BCAs should demonstrate a sufficient environmental nexus

Name	Year	Region	Coverage	Calculation Basis
Future Allowance Import Requirement (FAIR)	2007	European Union	Imports and exports of goods at risk of carbon leakage, in relation to countries without comparable action	Average carbon intensity of EU goods, corrected for average free allowance allocation to production (multiplied by the imported weight)
Carbon Inclusion Mechanism (CIM)	2009	European Union	Imported and exported goods at risk of carbon leakage, in relation to countries which do not cooperate under a new international climate agreement on mitigation, or without carbon pricing for the sectors covered by the EU ETS	Average direct emissions of a European producer, minus the free allocation received based on product benchmarks, multiplied by the volume of imported goods
Border Adjustment Proposal for the Cement Sector	2016	European Union	Imported cement and clinker from countries without adequate mitigation efforts and/or carbon content pricing equivalent to EU	Average emissions from EU production (or less, if lower emissions can be proven) minus European benchmark-based free allocation value, multiplied by the number of goods imported
American Climate and Energy Security Act (HR 2454)	2009	United States	Goods from eligible industrial sectors and manufactured items for consumption from countries that do not meet specific standards outlined in the bill, and that are not exempted for low emissions or a low level of development	National greenhouse gas intensity rate in covered countries for a category of covered goods; an allowance adjustment factor for the allowances that were allocated free of charge in the United States; and an economic adjustment ratio for foreign countries
Californian Emissions Trading System	2011	California	Electricity imported into California from neighbouring states, provided these are not linked to the Californian Emissions Trading System	All emissions reported for imported electricity from unspecified sources are considered above the coverage threshold, and subject to a default emissions factor multiplied by a transmission loss correction factor
Climate Leadership Council (CLC)	2017	United States	Exports from sectors with greater than 5% energy cost in final value should have any carbon taxes rebated, and non-emissive fossil fuel products should be exempt; not further specified	Not further specified

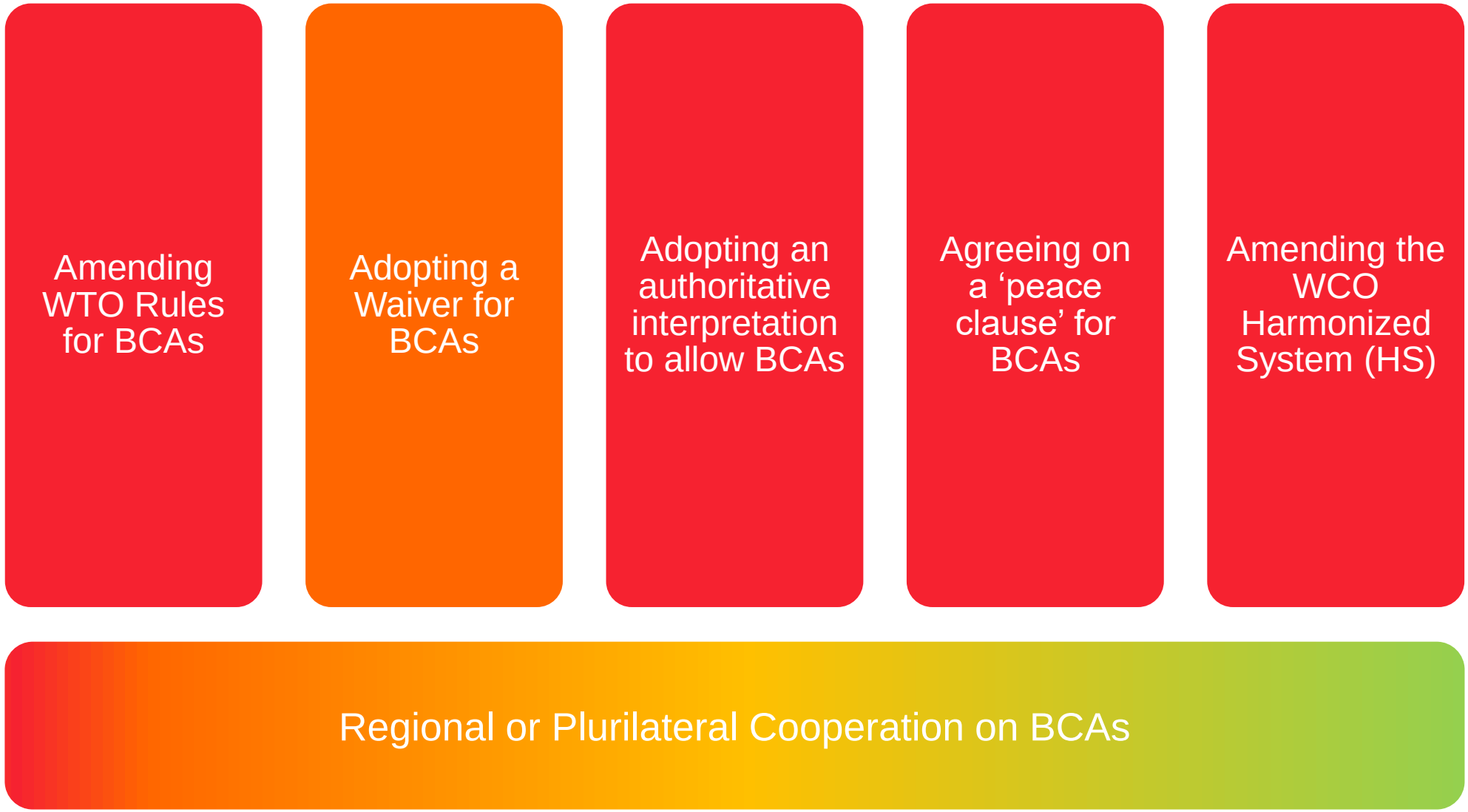
Five Design Steps

1	Determine Scope and Coverage	Products and trade flows, affected countries, and climate policies
2	Calculate the Embedded Carbon	Scope of covered emissions and methodology used for their calculation
3	Determine Adjustment Level	Differential between domestic and foreign carbon constraints
4	Determine Revenue Use	Allocation of revenue to specified countries and purposes
5	Decide Expiration	Periodic review and expiration once leakage rate falls below a certain level

Design Steps and Related Process



Facilitating Border Carbon Adjustments: Options



Summary of Proposal:

559 *Nature* (2018): 321 et sqq. (19 July 2018)

https://go.nature.com/2KXN75b

COMMENT

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IRAN Trump will not crush scientists who have withstood decades of sanctions p.331

KEVIN FRAYER/GETTY

China is clamping down on unauthorized coal-fired factories, such as this one, to reduce carbon emissions.

Beat protectionism and emissions at a stroke

Applying carbon charges, not trade tariffs, to imports would bolster the Paris Agreement, argue **Michael Mehling** and colleagues.

Two huge multilateral issues — free trade and climate change — top policymakers' agendas in 2018. This offers a chance to couple them.

More and more countries are shielding domestic producers from foreign competition — a process known as protectionism. Since January, US President Donald Trump has slapped tariffs of up to 50% on many imports, including washing machines, solar cells, soya beans, steel and aluminium. Hopes that allied countries would be exempt were dashed after a tumultuous G7 meeting in June.

Economies affected have begun to respond in kind. China hit back with levies on US$34 billion worth of US goods. The European Union increased tariffs on jeans, motorbikes and bourbon imported from the United ▸

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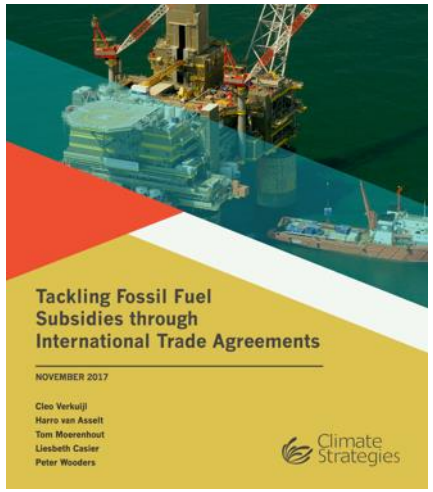
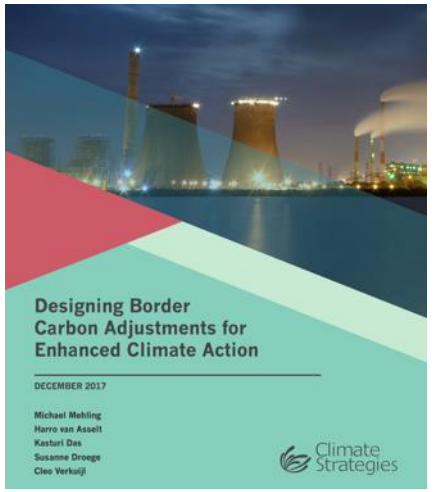
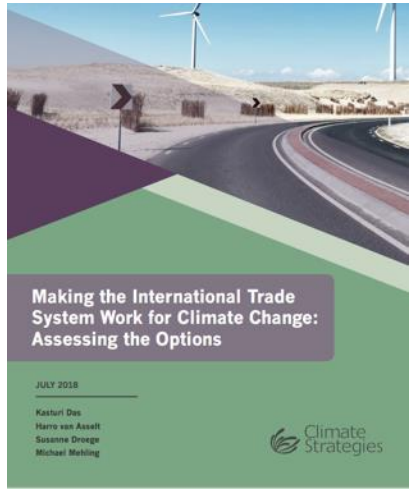
Policy Report on Climate/Trade Interactions: https://bit.ly/2tWhVgM
Policy Report on BCAs: https://bit.ly/2s3qIfg
Policy Report on FFS: https://bit.ly/2z9lZzz
Policy Report on Policy Options: https://bit.ly/2wd0Tv4







Questions? *Please ask, or contact me at:*

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