Jaime de Melo

December 17 2015 | Nairobi, Kenya

The Climate and WTO Regimes: Reforms to avoid collision

Melo Jaime de, *Scientific Director, FERDI (Fondation pour les études et Recherches sur le développement international)*

GATT/WTO is a negative contract

Countries are free to choose their environment policies so long as they do not undo the exchange of market access negotiated at GATT

- What can WTO members wishing to avert climate change do?
  - Border Tax Adjustments (BTAs) likely to be invoked because of slow convergence of carbon prices (here) and high leakage rates (here). BTAs allowed but only safe if invoked under art. XX(g) with chapeau to avoid 'likeness' challenge under tariffs

- What WTO members cannot do.
  - Green subsidies cannot be used (they are actionable as art. 31 of SCM was not renewed in 2000)
  - Tariffs to discourage free-riding in a carbon-club.

- What is uncertain under WTO law
  - Labelling: Uncertain under case law (see recent US-Tuna II (Mexico)) where likeness was decided by consumers.

Shift WTO to a positive contract (I)

- Obligation to address environmental damage. To this end:

- Reverse AB case law relying on consumer-based decision-making on likeness should be a question of policy not market-likeness as perceived by consumers.
- Reform HS system at WCO to reflect environmental concerns.
- Allow for 'green' subsidies (re-instate art. 31 SCM) to re-establish distinction "good"-"bad" subsidies.
- Fossil fuels. Compulsory monitoring of subsidies for fossil fuels. A voluntary supply of similar information is disincentivizing so need to agree that reporting be compulsory. This would be equivalent to currently compulsory TPRM

Legalize environmental labelling via recourse to ISO standards (now outcome is uncertain under case law). Using an ISO std. guarantees immunization from challenges at the WTO.

Shift WTO to a positive contract (II)

- ❑ Variable geometry will be key for WTS to progress on SDGs.
- o Country-based plurilaterals under art. XXIV on RTAs include some environment provisions but these are weak--see e.g. TPP critique (here)
- o Issue-based plurilaterals to liberalize environment-friendly trade (like the Environment Goods Agreement (EGA) negotiations) at WTO. Offers possibility to be multilateralized.

o Punishment for non-participation in a carbon-club. Nordhaus (2015): Take a carbon-club (for OECD) with a social cost of carbon in the $10-50$ range. Punish free-riding with an across-the-board tariff on imports for shirkers. This punishment is incentive compatible.

⇨ Requires a change in WTO law as currently, a club of countries cannot raise their bound tariffs –even in non-discriminatory manner—against non-members (under PTAs you cannot raise tariffs against non-members). See Mavroidis and Melo (2015)

References

Barrett, Scott, Carlo Carraro, Jaime de Melo eds. *Towards a Workable and Effective Climate Regime* CEPR and FERDI http://www.ferdi.fr/en/publication/ouv-towards-workable-and-effective-climate-regime

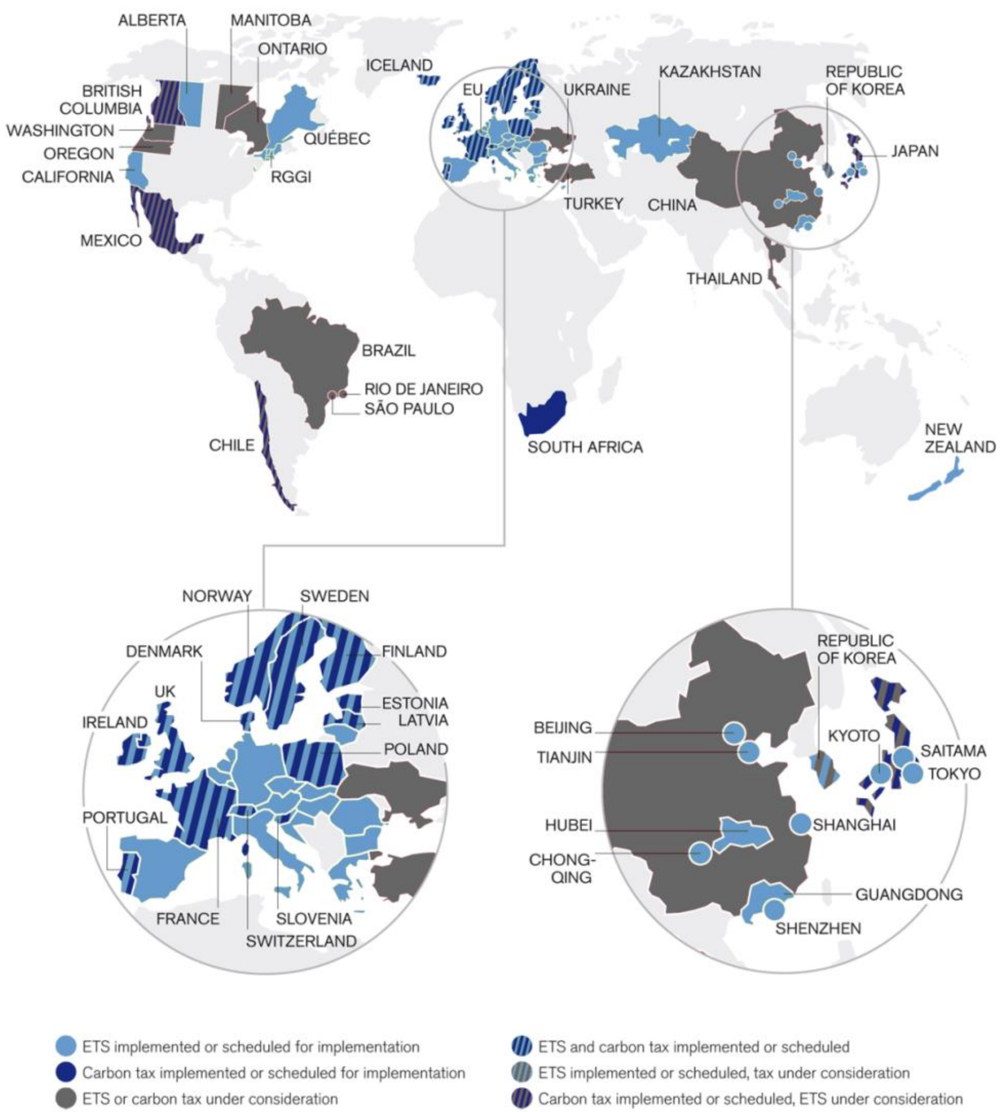
Fischer, Carolyn « Options for Avoiding Carbon Leakage » in Barrett et al. eds.

Mavroidis, Petros and Jaime de Melo « Climate Change Policies and the WTO: Greening the GATT, Revisited », in Barrett et al. eds.

Nordhaus, W. (2015) « Climate Clubs: Overcoming Free riding in international Climate Policy », *American Economic Review*, 105(4), 1339-70

Extra slides

Carbon Pricing on the rise but convergence will take time…



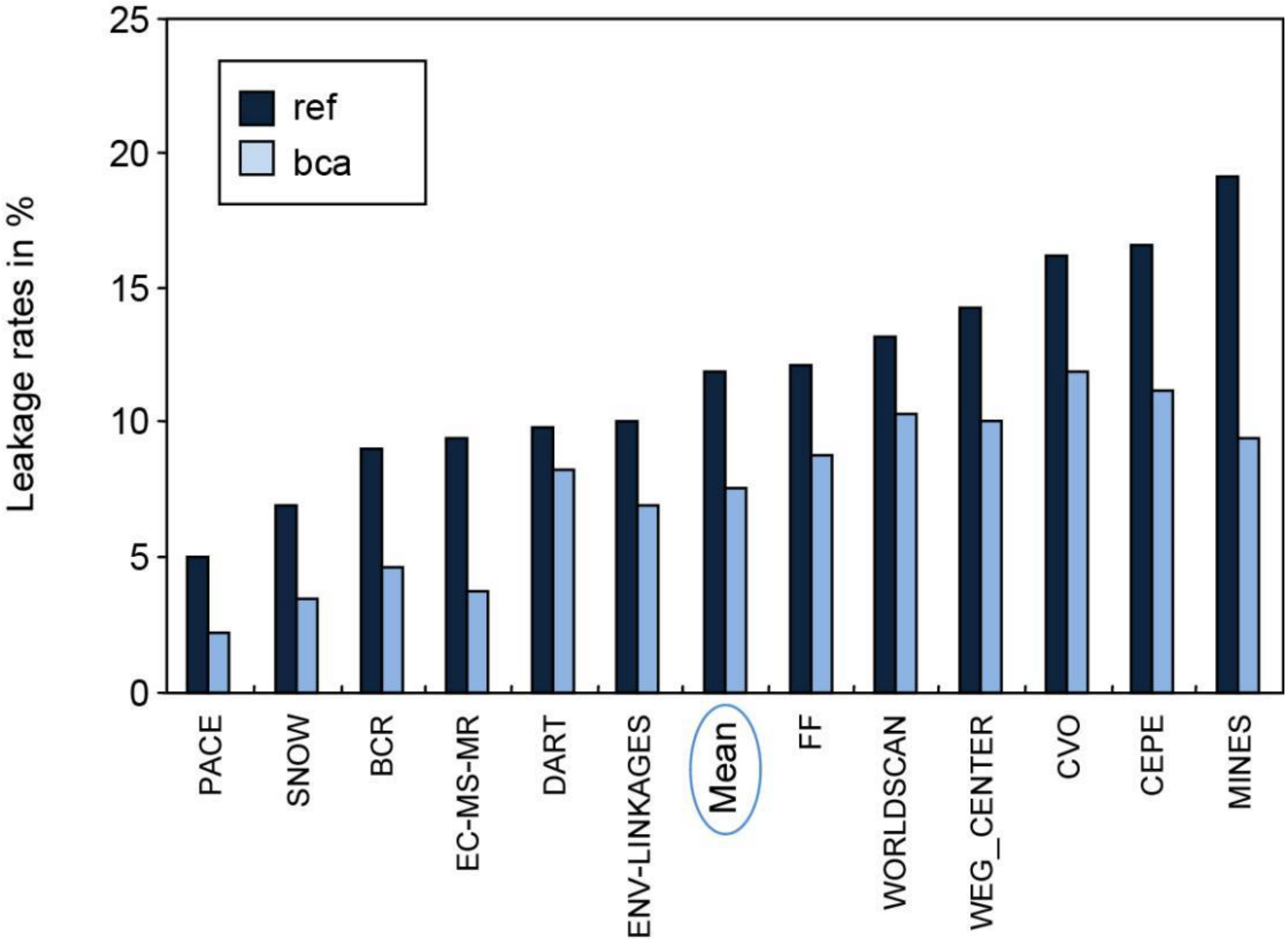
Existing, emerging, and potential regional, national and subnational carbon pricing

ETS= Emissions Trading system

Average worldwide CO2 price per ton ≈$15 (Sweden ≈$130)

(back)

Carbon leakage rates (light blue with BCA) from OECD coalition to reduce emissions by 20% from BAU



Mean leakage rate estimate ≈12%

Border carbon adjustment (bca) for energy-intensive trade-exposed sectors (aluminium, steel, cement,…) cuts leakage rate from emissions pricing in OECD by about one third (See Fischer (2015))

(back)