



WORLD TRADE
ORGANIZATION

TRADE AND CLIMATE CHANGE

Information brief n° 2



Climate change in
regional trade agreements

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CLIMATE CHANGE IN REGIONAL TRADE AGREEMENTS¹

Information brief n° 2

KEY POINTS

- The inclusion of explicit environmental provisions in regional trade agreements (RTAs) is not a recent phenomenon: 97 per cent of all RTAs notified to the WTO include at least one environmental provision. The most common environmental provisions in RTAs largely mirror the approach followed in WTO agreements with preambular language and/or a general exception related to the environment.
- The number and level of detail of environmental provisions in RTAs has, on average, increased significantly over the years. High-income countries remain, however, the main proponents of detailed environmental provisions in RTAs.
- Although most environmental provisions differ in terms of language, scope and enforceability, they often tend to address relatively similar broad environmental concerns, including the guarantee of a level playing field in terms of environmental policies, the implementation of multilateral environmental agreements, and the promotion of environmental goods and services.
- An increasing number of RTAs address specific environmental issues, including biodiversity, sustainable management of forests and fisheries, and climate change.
- Explicit provisions on climate change are found in an increasing number of RTAs. In comparison with other types of environmental provisions, however, explicit provisions remain less detailed.
- Cooperation on climate change mitigation and adaptation is the most common type of climate change provision in RTAs. Other types of climate change provisions range from recognizing the importance of addressing climate change, including through trade in environmental goods and services, to commitments to develop and adopt climate change policies.
- These explicit provisions on climate change are complemented by other environmental provisions, including provisions that address renewable and alternative energy and the transition to a low-emission economy. Similarly, and unless specified otherwise in the RTA, general environmental provisions, including level playing field commitments, can apply to climate policy.

1. INTRODUCTION

The last 30 years have seen a rapid proliferation of regional trade agreements (RTAs). While RTAs are traditionally aimed at lowering tariff and non-tariff trade barriers, an increasing number of RTAs contains environmental provisions. This note is based on previously published analysis² presented and discussed at the Committee on Trade and Environment. It has been extended and updated, where appropriate, to provide an overview of the evolution and main types of RTA provisions on the environment focusing more specifically on provisions relating to climate change.

A review of notified RTAs shows a relative increase in the number and level of detail of environmental provisions contained in some of the more recent RTAs.

As such, this note does not seek to examine the suitability or effectiveness of environmental provisions included in RTAs, but rather to offer a factual mapping of recent developments in the area. While environmental provisions remain heterogeneous, they often address the same broad environmental issues. With a few exceptions, provisions on climate change are usually formulated in best-endeavour language, i.e., which puts the parties to the RTA in question under an obligation to make all necessary efforts to fulfil the provisions.

2. ENVIRONMENTAL PROVISIONS IN RTAS

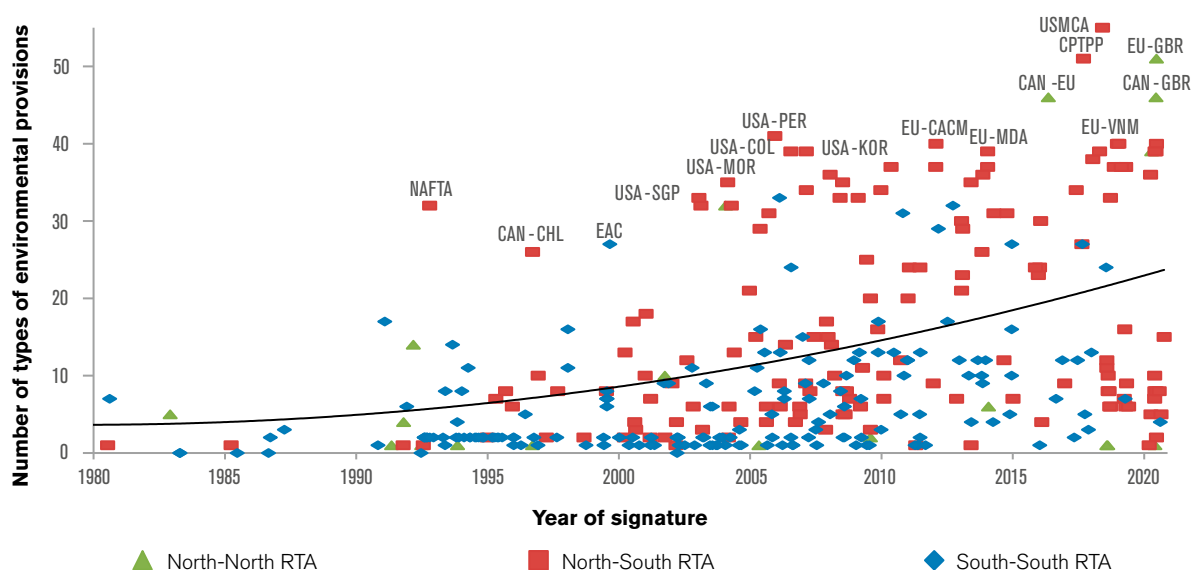
A detailed review of 349 RTAs notified to the WTO and currently in force reveals that the inclusion of environmental provisions in RTAs is not a recent phenomenon. In fact, 97 per cent of all notified RTAs include at least one environmental provision that largely mirrors the approach followed in the WTO, typically in the form of a general exception clause to trade obligations for environment-related considerations, or preambular language emphasizing the importance of environmental protection and sustainable development.

97 per cent of all notified RTAs include at least one environmental provision.

However, a review of notified RTAs also shows a relative increase in the number and level of detail of environmental provisions contained in some of the more recent RTAs (see Figure 1). The most detailed environmental provisions can be found in RTA chapters dedicated to the environment or to sustainable development, or, in some cases, within environmental cooperation agreements. The main proponents of detailed environmental

provisions in RTAs are mostly high-income economies or groups, including Canada, Chile, the European Union and the United States.

Figure 1: The number of environmental provisions in RTAs continues to expand



Source: Monteiro (2016), updated to include more recent data.

Although most environmental provisions differ in terms of language, scope and enforceability, they often tend to address relatively similar broadly environmental concerns. Some provisions, most commonly found in RTAs between developed and developing countries, and in some RTAs between developing countries, refer to the stringency level and enforcement of domestic environmental laws. They may commit parties to setting a high level of environmental protection (found in 17 per cent of notified RTAs), improving their respective level of environmental protection (18 per cent) or, in some cases, adopting environmental laws (4 per cent). A related obligation, referring to the adoption of laws necessary to comply with the parties' obligations under specific multilateral environmental agreements (MEAs), was included in 10 relatively recent RTAs (3 per cent of notified RTAs).

The level playing field of environmental policies is a related but more common issue explicitly addressed in RTAs, initially in the context of investment. An increasing number of RTAs – 31 per cent of notified RTAs – requires the parties to “effectively apply”, “not waive”, “not derogate from” or “not relax” their environmental laws, in order to encourage investment or trade in their territories. In some RTAs, the parties further commit to the effective implementation in their laws and practices of the MEAs to which they are party. For instance, under the RTAs to which the United States is a party with Colombia, the Republic of Korea, Panama and Peru, the parties agreed to adopt, maintain and implement laws to fulfil their obligations under specific MEAs, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and they also committed not to fail to enforce these laws effectively.

Other environmental issues addressed in an increasing number of RTAs include the relationships between trade agreements and MEAs, environmental goods and services, biodiversity and traditional knowledge, patents and plant variety protection, sustainable management of forests and fisheries, trade in forest and fish products, energy and mineral resource management, natural disaster management, corporate social responsibility and climate change. Public participation in policymaking processes, transparency, access to justice and remedies in environmental matters are also found in some RTAs. Besides environmental exception clauses, some RTAs include provisions that foresee other exemptions, exclusions and safeguards, to enable the parties to implement policies to protect the environment without breaching the RTA's obligations. In the area of subsidies, for instance, the Caribbean Community (CARICOM) Agreement provides for a set of non-actionable subsidies that support stated environmental objectives between the parties.

Besides general exceptions and preambular language, cooperation on environmental matters is the most common type of environmental provision (found in 45 per cent of notified RTAs), but it remains highly heterogeneous in terms of the environmental issues and sectors that it covers. Some provisions identify environmental protection as a general cooperation area, often as part of a non-exhaustive list of potential cooperation areas, without providing any additional details or defining any actions.

Cooperation on environmental matters is the most common type of environmental provision (45 per cent of notified RTAs), but it remains highly heterogeneous in terms of the environmental issues and sectors that it covers.

Conversely, some RTAs, mostly with a dedicated chapter on environment, or with a side environmental cooperation agreement, establish comprehensive and detailed environmental cooperation.

The most detailed cooperation provisions often aim to support the implementation of some of the environmental provisions set out in the RTAs. Some RTAs include provisions on building institutional capacity to improve the enforcement of environmental laws and to maintain a high level of environmental protection. For instance, the RTA between Armenia and the European Union lists environmental governance (which includes strategic planning, environmental impact assessment and strategic environmental assessment, education and training, monitoring and environmental information

systems, and inspection and enforcement) as a cooperation area. Other common environmental issues explicitly listed in environmental cooperation provisions include water management, clean energy, energy efficiency, waste management and natural resources. Moreover, some RTAs provide avenues for the private sector and civil society to participate in the identification and implementation of environmental cooperation activities.

Although the number and level of detail of environmental provisions has slowly continued to increase over the years, the most recent RTAs negotiated by Canada, the European Union, the United Kingdom and the United States include the most detailed and comprehensive environmental provisions to date. These RTAs build on previous environmental provisions, but extend the scope of issues explicitly addressed.

The EU RTAs concluded in 2019-20, including the EU-Japan Economic Partnership Agreement, the EU-Singapore Economic Partnership Agreement, and the EU-Viet Nam Trade and Investment Protection Agreement, follow the approach of other EU RTAs³ negotiated in the last 15 years and contain separate chapters on trade and sustainable development. Not unlike older EU RTAs, they include a large number of

The number and level of detail of environmental provisions has slowly continued to increase over the years.

the environment-related provisions described above. However, as discussed below, one important new feature of the most recent EU RTAs is the inclusion of a dedicated chapter on non-tariff barriers to trade and investment in renewable energy generation.

The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), signed in 2018, is another recent RTA with detailed environmental provisions and featuring a comprehensive chapter on the environment, with new types of provisions on topics such as the protection of the ozone layer, the transition to a low-emissions economy, invasive alien species, the protection of the marine environment from ship pollution, and sustainable fisheries management, including through the prohibition of subsidies that negatively affect overfished stocks and subsidies for vessels engaged in illegal fishing.

The 1992 North American Free Trade Agreement (NAFTA) was the first RTA to contain detailed environment-related provisions, including a dedicated environmental cooperation agreement.

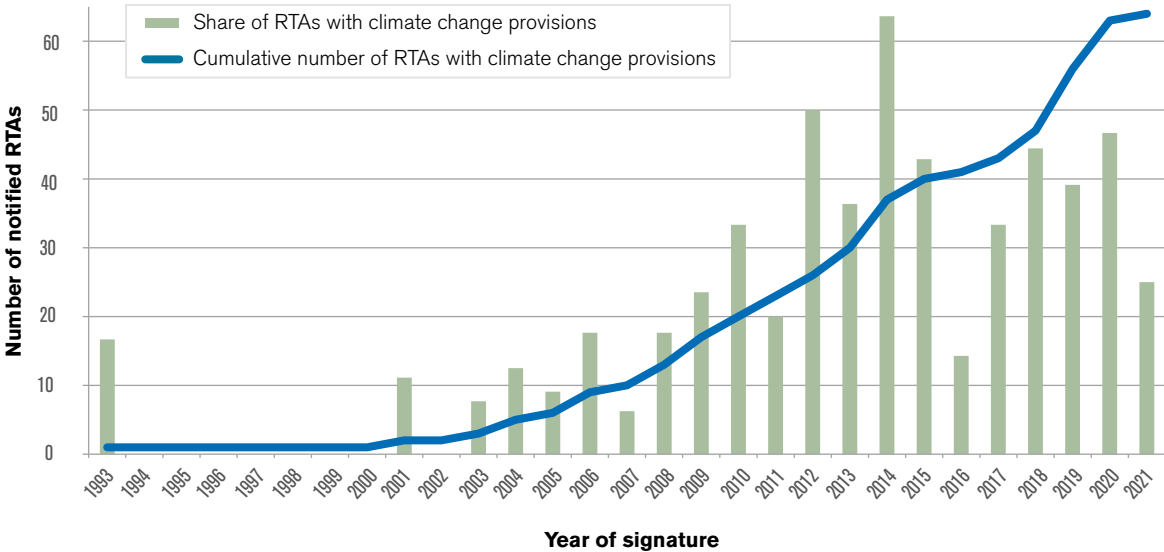
As for the most recent US RTAs, it is worth recalling that the 1992 North American Free Trade Agreement (NAFTA) was the first RTA to contain detailed environment-related provisions, including a dedicated environmental cooperation agreement. Its successor, the United States-Mexico-Canada Agreement (USMCA), which entered into force in 2020, contains a detailed environmental chapter that follows the approach of the most recent US RTAs, but also builds on the environmental provisions found in the CPTPP. The USMCA includes, however, a few new specific types of environmental provisions on air pollution and marine litter, calling the parties to further cooperate on these issues.

3. CLIMATE CHANGE PROVISIONS

RTAs are sometimes viewed as a “laboratory” in which new types of provisions are designed to address new issues and challenges. This is the case with provisions that explicitly address climate change. An increasing number of RTAs, namely 64 agreements (18 per cent of notified RTAs) include at least one provision referring explicitly to climate change, global warming, reducing greenhouse gases (GHGs) or creating a low-emission economy (see Figure 2). Compared to other environmental topics, such as biodiversity, or sustainable fishery or forestry management, specific provisions on climate change are relatively fewer and less detailed. Provisions on climate change in RTAs are particularly heterogeneous across agreements, with some types of provisions only found in a single or couple of RTAs.

18 per cent of notified RTAs – 64 agreements – include at least one provision referring explicitly to climate change.

Figure 2: An increasing number of RTAs includes explicit provisions on climate change



Source: Monteiro (2016) updated to include more recent data.

Provisions on climate change can take many forms. Some provisions underscore the importance of addressing climate change, including through trade in environmental goods and services, while others refer to the development and adoption of climate change policies and the United Nations Framework Convention on Climate Change (UNFCCC). The most common type of provisions on climate change, found in 58 RTAs, identify climate change mitigation and adaptation as an area for cooperation.

The most common type of provisions on climate change, found in 58 RTAs, identify climate change mitigation and adaptation as an area for cooperation.

Although the inclusion of provisions on climate change in RTAs has accelerated since 2012, it is not a recent phenomenon. The first provision on climate change included in an RTA is to be found in the 1993 Agreement establishing the Common Market for Eastern and Southern Africa (COMESA). The agreement refers to the parties' agreement to accede to the UNFCCC. For many years, RTAs either did not include any provisions on climate change, or included a few cooperation provisions. For instance, the RTA between the European Union and Montenegro (in force since 2008) specifies that the cooperation of the parties in the environmental field shall include special attention paid to the ratification and the implementation of the Kyoto Protocol,⁴ and facilitated support of clean development mechanism⁵ applications.

Some of the first more comprehensive provisions on climate change are found in the 2012 RTA between the European Union, Colombia, Ecuador and Peru.⁶ The RTA reaffirms the parties' commitment to effectively implement the Kyoto Protocol in their laws and practices. In addition, other provisions are found in a specific article on climate change within the agreement's chapter on trade and sustainable development. One of these provisions recognises that climate change is an issue of common and global concern that calls for the widest possible cooperation. The provision further commits the parties to enhancing their efforts regarding climate change, including through the promotion of domestic policies and suitable international initiatives based on the equity principle and in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions.

The first provision on climate change included in an RTA is to be found in the 1993 Agreement establishing the Common Market for Eastern and Southern Africa (COMESA).

In that context, another provision on environmental goods and services commits the parties to promote trade and investment measures that promote and facilitate access, dissemination and the use of the best available technologies for clean energy production and use, and for mitigation of and adaptation to climate change. The provision also specifies that the parties should consider implementing climate change actions, such as facilitating the removal of trade and investment barriers to access to goods, services and technologies that can contribute to mitigation or adaptation, and the innovation, development and deployment of those goods, services and technologies, taking into account the circumstances of developing countries. The RTA also mentions

various possible cooperation areas, including activities related to the reduction of emissions from deforestation and forest degradation, as well as activities related to aspects of the international climate change regime with relevance for trade.

The RTA between Peru and the Republic of Korea, which entered into force in 2011, is one of the few South-South RTAs with detailed provisions on climate change. These provisions, found in a specific article on climate change, commit the parties, under their international commitments, to promote joint measures to limit or reduce the adverse effects of climate change. In addition, each party is required, within its own capacities, to adopt policies and measures on issues such as improving energy efficiency, evaluating vulnerability and adaptation to climate change, and researching, promoting, developing and using new and renewable energy, technologies of carbon dioxide capture, and environmental technologies that do not affect food security or the conservation of biological diversity.

More recently, the RTAs to which the European Union is a party with the Republic of Moldova and Georgia – both in effect since 2016 – have also incorporated different climate change-related provisions found in a specific chapter on climate action and in the chapter on trade and sustainable development. These RTAs commit the parties to developing and strengthening their cooperation to tackle climate change, including in the following areas: climate change mitigation and adaptation; carbon trading; research into and development, demonstration, deployment and diffusion of safe and sustainable low-carbon and adaptation technologies; mainstreaming of climate considerations into sector policies; and awareness-raising, education and training.

In the RTA to which the European Union is a party with the Republic of Moldova, Georgia and Ukraine, another provision commits the European Union's counterparts to gradually approximate specific EU legislation and international instruments in their own legislations, within stipulated timeframes. Specifically, within two years of entry into force of the agreement, the Republic of Moldova, Georgia and Ukraine were to have implemented a number of provisions from the EU directive establishing a scheme for GHG emissions allowance trading within the European Union and for EU regulations on certain fluorinated GHGs and on substances that deplete the ozone layer.

The most recent EU RTAs, such as those with Japan (in force since February 2019), Singapore (in force since November 2019) and Viet Nam (signed in June 2019), build on climate provisions found in previous RTAs and, in some cases, establish more specific commitments. The parties to these agreements reaffirm their commitment to reach the ultimate objective of UNFCCC and agree to implement and cooperate on the implementation of the UNFCCC, the Kyoto Protocol and, more recently, the Paris Agreement.⁷ The EU-Singapore RTA also refers to the parties' commitment to strengthen the multilateral rules-based regime under the UNFCCC, building on the UNFCCC's agreed decisions, and to develop a post-2020 international climate change agreement under the UNFCCC and applicable to all parties. The EU-Viet Nam RTA recognises the role of domestic policies in addressing climate change within the UNFCCC framework, and commits the parties to consulting and sharing information and experiences of priority or of mutual interest, including best practices and lessons learned in designing, implementing and operating mechanisms for pricing carbon.

The EU-Singapore RTA also specifically refers to the parties' shared goal of progressively reducing subsidies for fossil fuels and acknowledges that reductions may be accompanied by measures to alleviate the social consequences associated with the transition to low-carbon fuels (i.e., adverse employment impacts in emissions-intensive sectors). The agreement also sets out that the parties should promote the development of a sustainable and safe low-carbon economy, such as through investment in renewable energies and energy-efficient solutions. The EU RTAs with Japan and Singapore go further, with the parties undertaking to facilitate trade and investment in goods and services of particular relevance for climate change mitigation, such as sustainable renewable energy and energy-efficient goods and services, including through the development of policy frameworks conducive to the deployment of best available technologies.

More recently, the RTA between the European Union and the United Kingdom (in force since 2021) requires each party to have in place an effective system of carbon pricing. The agreement also calls on the parties to cooperate on carbon pricing and give serious consideration to linking their respective carbon pricing systems in a way that preserves the integrity of these systems and provides for the possibility to increase their effectiveness (see the Annex for more examples of recent climate change provisions in RTAs).

These explicit provisions on climate change are complemented by other types of environmental provisions discussed in the previous section, even though they do not make any explicit references to climate change or global warming. This is the case with provisions addressing renewable and alternative energies, energy efficiency and the transition to a low-emission economy.

While the CPTPP and the USMCA do not explicitly refer to the notion of "climate change", both include specific provisions on low-emission economies. The CPTPP acknowledges that the transition to a low-emissions economy requires collective action, and recognizes that each party's actions should reflect domestic circumstances and capabilities. The USMCA also acknowledges the critical role of forests in providing numerous ecosystem services, including "carbon storage". Both the CPTPP and USMCA further commit their respective parties to cooperate on: energy efficiency; developing cost-effective, low-emissions technologies and alternative, clean and renewable energy sources; developing sustainable transport and sustainable urban infrastructure; addressing deforestation and forest degradation; monitoring emissions; improving market and non-market mechanisms; lowering emissions, developing resilience and sharing information and experiences to address these issues.⁸ The CPTPP also requires the parties to engage in cooperative and capacity-building activities related to transitioning to a low emissions economy.

The USMCA acknowledges the critical role of forests in providing numerous ecosystem services, including "carbon storage".

There are other detailed explicit provisions on renewable energy in the EU-Singapore and EU-Viet Nam trade agreements. Their respective chapters on non-tariff barriers to trade and investment in renewable energy generation recognize the shared objectives of promoting, developing and increasing energy generation from renewable and sustainable non-fossil sources, particularly by facilitating trade and investment. To this effect, both RTAs commit parties to cooperating in removing or reducing non-tariff barriers and fostering cooperation, taking into account regional and international standards, where appropriate. Both RTAs also specify that companies investing in the renewable energy generation sector shall not be subjected to mandatory local sourcing requirements, nor be required to form partnerships with local companies, unless such local partnerships are necessary for technical reasons. In addition, both RTAs require the rules concerning authorization, certification and licensing procedures relating to investment in the renewable energy generation sector to be objective, transparent, non-arbitrary and non-discriminatory. Where international or regional standards exist with respect to products for the generation of energy from renewable and sustainable non-fossil sources, the parties commit to using those standards as a basis for their technical regulations, except if ineffective or inappropriate to fulfil the legitimate objectives.

Likewise, it is worth mentioning that provisions in RTAs dealing with technical barriers to trade, and in particular horizontal chapters on good regulatory practices and regulatory cooperation, can play a role in advancing environmental objectives by removing unnecessary obstacles to trade. This is particularly clear when it comes to environmental goods, such as photovoltaic cells, wind turbines, energy-efficient light bulbs and equipment for wastewater treatment, where enhanced trade contributes to the scaling-up of environmental technology.⁹

4. IMPLEMENTATION OF PROVISIONS ON CLIMATE CHANGE

As with other environmental provisions, the effectiveness of climate change provisions in promoting environmental protection depends – at least partially – on their implementation. Most RTAs with detailed environmental and climate change provisions establish institutional arrangements, such as committees, to ensure dialogue on implementation, public accountability mechanisms, and *ex post* reviews of the implementation of the commitments agreed under the respective agreement. Mechanisms for resolving disputes are also put in place, to serve as tools for ensuring implementation.

All EU RTAs concluded since 2011, including those with Japan, Singapore and Viet Nam, contain detailed provisions in this regard. Most EU RTAs with a chapter on sustainable development commit the parties to jointly or individually monitoring and assessing the impact of the agreements' implementation on sustainable development. Institutional set-ups and monitoring mechanisms are also put in place to establish committees or boards on trade and sustainable development, to oversee the implementation of the chapter. Each meeting of these bodies must include a public session with stakeholders and parties to promote a balanced representation of the relevant interests, including those of employers, workers, business groups and the environment. Parties also establish consultative mechanisms with domestic advisory groups, comprising a balanced representation of economic, social and environmental stakeholders. Finally, EU RTAs have traditionally excluded the chapters on trade and sustainable development from their general dispute settlement provisions. Instead, they provide for government consultations followed by an examination of the matter by panels of experts with specialized knowledge.

Most US RTAs, as well as the CPTPP, place particular emphasis on promoting public awareness of environmental laws and policies and on domestic accountability by requiring parties to ensure that there are investigations into alleged violations of such laws, access to administrative and judicial proceedings, and appropriate sanctions and remedies. Both the CPTPP and the USMCA require the parties to use or establish national advisory committees to provide views on matters related to the implementation of the chapter and procedures for the receipt and consideration of written submissions on such matters must be put in place. Parties further agree to cooperate on a bilateral or plurilateral basis to address matters of joint or common interest, designate national contact points, and report periodically to an environmental committee established under the respective RTA. In turn, this committee's purpose is to oversee the implementation of the chapter. Parties must endeavour to resolve interpretation and application disagreements through consultations. If unsuccessful, they must request that the committee representatives from the consulting parties convene to consider the matter and thereafter, if still necessary, refer it to the relevant ministers for consideration. Only then, and if the issue still remains unresolved, may parties request consultations under the ordinary dispute settlement procedures of the RTA.

The effectiveness of climate change provisions in promoting environmental protection depends – at least partially – on their implementation.

A specific type of provision, only found in a few US RTAs, including the USMCA, establishes a submission mechanism on enforcement matters. It offers the possibility for any person who is party to the agreement to file a submission asserting that a party is failing to enforce its environmental laws effectively. Such submissions are filed with the RTA's environmental institution which may request a response from the party concerned.

5. CONCLUSION

Although the inclusion of explicit provisions on climate change in RTAs is not new, the level of detail of these provisions has expanded since 2012 and is likely to continue to do so, if the latest RTAs are any indication. In comparison with other types of environmental provisions, however, explicit provisions on climate change remain less detailed. Most provisions on climate change provisions are worded in best-endeavour language. Cooperation on climate change remains the most common type of climate change provisions in RTAs. Other more comprehensive types of climate change provisions, found in a few RTAs, establish commitments to develop and adopt climate change policies. These explicit provisions on climate change are complemented by other environmental provisions, even though these do not refer explicitly to climate change.

Although there is no empirical evidence on the environmental effectiveness of provisions on climate change in RTAs to date, empirical research¹⁰ reports that environmental provisions in RTAs have a positive effect on the reduction of emissions of selected pollutants, including CO₂ emissions. Yet, despite increased explicit references to climate change in RTAs, more efforts are needed to gauge the effectiveness of these provisions in addressing climate change adaptation and mitigation.

ANNEX

RECENT EXAMPLES OF CLIMATE CHANGE PROVISIONS IN TRADE AGREEMENTS

Agreement	Provision
EU – Singapore	<p>Article 12.6</p> <p>Multilateral Environmental Standards and Agreements</p> <p>(...)</p> <p>3. Parties affirm their commitment to reaching the ultimate objective of the UN Framework Convention on Climate Change (hereinafter referred to as “UNFCCC”), and to effectively implementing the UNFCCC, its Kyoto Protocol, and the Paris Agreement of 12 December 2015 in a manner consistent with the principles and provisions of the UNFCCC. They commit to work together to strengthen the multilateral, rules-based regime under the UNFCCC building on the UNFCCC’s agreed decisions, and to support efforts to develop a post-2020 international climate change agreement under the UNFCCC applicable to all parties.</p>
EU – Vietnam	<p>Article 13.6</p> <p>Climate Change</p> <p>(...)</p> <p>2. Within the UNFCCC framework, the Parties recognise the role of domestic policies in addressing climate change. Accordingly, the Parties shall consult and share information and experiences of priority or of mutual interest, including:</p> <ul style="list-style-type: none">(a) best practices and lessons learned in designing, implementing, and operating mechanisms for pricing carbon;(b) the promotion of domestic and international carbon markets, including through mechanisms such as Emissions Trading Schemes and Reducing Emissions from Deforestation and Forest Degradation; and(c) the promotion of energy efficiency, low-emission technology and renewable energy.
EU – Singapore	<p>Article 12.11</p> <p>Trade and Investment Promoting Sustainable Development</p> <p>(...)</p> <p>2. The Parties shall pay special attention to facilitating the removal of obstacles to trade or investment concerning climate-friendly goods and services, such as sustainable renewable energy goods and related services and energy efficient products and services, including through the adoption of policy frameworks conducive to the deployment of best available technologies and through the promotion of standards that respond to environmental and economic needs and minimise technical obstacles to trade.</p> <p>3. The Parties recognise the need to ensure that, when developing public support systems for fossil fuels, proper account is taken of the need to reduce greenhouse gas emissions and of the need to limit distortions of trade as much as possible. While subparagraph 2(b) of Article 11.7 (Prohibited Subsidies) does not apply to subsidies to the coal industry, the Parties share the goal of progressively reducing subsidies for fossil fuels. Such reductions may be accompanied by measures to alleviate the social consequences associated with the transition to low carbon fuels. In addition, both Parties will actively promote the development of a sustainable and safe low-carbon economy, such as through investment in renewable energies and energy efficient solutions.</p>

Agreement	Provision
EU – Japan	<p>Article 16.5</p> <p>Trade and investment favouring sustainable development</p> <p>The Parties recognise the importance of enhancing the contribution of trade and investment to the goal of sustainable development in its economic, social and environmental dimensions. Accordingly, the Parties:</p> <p>(...)</p> <p>(c) shall strive to facilitate trade and investment in goods and services of particular relevance to climate change mitigation, such as those related to sustainable renewable energy and energy efficient goods and services, in a manner consistent with this Agreement;</p>
CPTPP	<p>Article 20.15: Transition to a Low Emissions and Resilient Economy</p> <p>1. The Parties acknowledge that transition to a low emissions economy requires collective action.</p> <p>2. The Parties recognise that each Party's actions to transition to a low emissions economy should reflect domestic circumstances and capabilities and, consistent with Article 20.12 (Cooperation Frameworks), Parties shall cooperate to address matters of joint or common interest. Areas of cooperation may include, but are not limited to: energy efficiency; development of cost-effective, low emissions technologies and alternative, clean and renewable energy sources; sustainable transport and sustainable urban infrastructure development; addressing deforestation and forest degradation; emissions monitoring; market and non-market mechanisms; low emissions, resilient development and sharing of information and experiences in addressing this issue. Further, the Parties shall, as appropriate, engage in cooperative and capacity-building activities related to transitioning to a low emissions economy.</p>
USMCA	<p>Article 24.1: Definitions</p> <p>For the purposes of this Chapter:</p> <p><u>environmental law</u> means a statute or regulation of a Party, or provision thereof, including any that implements the Party's obligations under a multilateral environmental agreement, the primary purpose of which is the protection of the environment, or the prevention of a danger to human life or health, through:</p> <p>(a) the prevention, abatement, or control of the release, discharge, or emission of pollutants or environmental contaminants; (...)</p>
USMCA	<p>Article 24.9: Protection of the Ozone Layer</p> <p>1. The Parties recognize that emissions of certain substances can significantly deplete and otherwise modify the ozone layer in a manner that is likely to result in adverse effects on human health and the environment. Accordingly, each Party shall take measures to control the production and consumption of, and trade in, substances controlled by the Montreal Protocol.</p>
USMCA	<p>Article 24.10: Protection of the Marine Environment from Ship Pollution</p> <p>(...)</p> <p>3. Consistent with Article 24.25 (Environmental Cooperation), the Parties shall cooperate to address matters of mutual interest with respect to pollution of the marine environment from ships. Areas of cooperation may include:</p> <p>(...)</p> <p>(e) emissions from ships;</p>

Agreement	Provision
USMCA	<p data-bbox="418 271 699 297">Article 24.11: Air Quality</p> <p data-bbox="418 327 459 353">(...)</p> <p data-bbox="418 383 1385 506">6. Recognizing that the Parties have made significant progress to address air pollution in other fora, and consistent with Article 24.25 (Environmental Cooperation), the Parties shall cooperate to address matters of mutual interest with respect to air quality. Cooperation may include exchanging information and experiences in areas related to:</p> <p data-bbox="418 535 459 562">(...)</p> <p data-bbox="418 591 1337 618">(c) measurement and inventory methodologies for air quality and emissions' measurements;</p>
USMCA	<p data-bbox="418 647 1075 674">Article 24.23: Sustainable Forest Management and Trade</p> <p data-bbox="418 703 459 730">(...)</p> <p data-bbox="418 759 887 786">2. The Parties acknowledge the importance of:</p> <p data-bbox="418 815 459 842">(...)</p> <p data-bbox="418 871 1385 958">(b) the critical role of forests in providing numerous ecosystem services, including carbon storage, maintaining water quantity and quality, stabilizing soils, and providing habitat for wild fauna and flora;</p>
USMCA	<p data-bbox="418 992 983 1019">Article 24.24: Environmental Goods and Services</p> <p data-bbox="418 1048 1385 1171">1. The Parties recognize the importance of trade and investment in environmental goods and services, including clean technologies, as a means of improving environmental and economic performance, contributing to green growth and jobs, and encouraging sustainable development, while addressing global environmental challenges.</p>

Agreement	Provision
EU – Singapore	<p data-bbox="418 271 628 297">CHAPTER SEVEN</p> <p data-bbox="418 318 1382 367">NON-TARIFF BARRIERS TO TRADE AND INVESTMENT IN RENEWABLE ENERGY GENERATION</p> <p data-bbox="418 387 561 414">ARTICLE 7.1</p> <p data-bbox="418 434 544 461">Objectives</p> <p data-bbox="418 481 1382 618">In line with global efforts to reduce greenhouse gas emissions, the Parties share the objective of promoting, developing and increasing the generation of energy from renewable and sustainable non-fossil sources, particularly through facilitating trade and investment. To this effect, the Parties shall cooperate towards removing or reducing tariffs as well as non-tariff barriers, and shall cooperate on fostering regulatory convergence with or towards regional and international standards. (...)</p> <p data-bbox="418 638 536 665">Article 7.3</p> <p data-bbox="418 685 520 712">Scope 1.</p> <p data-bbox="418 732 1382 869">1. This Chapter applies to measures which may affect trade and investment between the Parties related to the generation of energy from renewable and sustainable non-fossil sources, namely wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases, but not to the products from which energy is generated.</p> <p data-bbox="418 889 459 916">(...)</p> <p data-bbox="418 936 536 963">Article 7.4</p> <p data-bbox="418 983 536 1010">Principles</p> <p data-bbox="418 1030 587 1057">Each Party shall:</p> <p data-bbox="418 1077 1382 1131">(a) refrain from adopting measures providing for local content requirements or any other offset affecting the other Party's products, service suppliers, entrepreneurs or establishments;</p> <p data-bbox="418 1151 1382 1234">(b) refrain from adopting measures requiring the formation of partnerships with local companies, unless such partnerships are deemed necessary for technical reasons and the Party can demonstrate such technical reasons upon request by the other Party;</p> <p data-bbox="418 1254 1382 1359">(c) ensure that any rules concerning the authorisation, certification and licensing procedures that are applied, in particular to equipment, plants and associated transmission network infrastructures, are objective, transparent, and non-arbitrary, and do not discriminate against applicants from the other Party;</p> <p data-bbox="418 1379 1181 1406">(d) ensure that administrative charges imposed on or in connection with the:</p> <p data-bbox="418 1426 1382 1509">(i) importation and use of goods originating in the other Party, or affecting the provision of goods by the other Party's suppliers, are subject to Article 2.10 (Fees and Formalities Connected with Importation and Exportation); and</p> <p data-bbox="418 1529 1382 1612">(ii) provision of services by the other Party's suppliers are subject to Article 8.18 (Scope and Definitions), Article 8.19 (Conditions for Licensing and Qualification) and Article 8.20 (Licensing and Qualification Procedures); and</p> <p data-bbox="418 1632 1382 1686">(e) ensure that the terms, conditions and procedures for the connection and access to electricity transmission grids are transparent and do not discriminate against suppliers of the other Party.</p> <p data-bbox="418 1706 536 1733">Article 7.5</p> <p data-bbox="418 1753 1139 1780">Standards, Technical Regulations and Conformity Assessment</p> <p data-bbox="418 1800 1382 2018">1. Where international or regional standards exist with respect to products for the generation of energy from renewable and sustainable non-fossil sources, the Parties shall use those standards, or the relevant parts of those standards, as a basis for their technical regulations except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued. For the purpose of applying this paragraph, the International Organization for Standardization (hereinafter referred to as 'ISO') and the International Electrotechnical Commission (hereinafter referred to as 'IEC'), in particular, shall be considered relevant international standard-setting bodies. (...)</p>

ENDNOTES

- 1 This is an information note which represents research in progress. The opinions expressed in this paper are those of its authors. They are not intended to represent the positions or opinions of the WTO or its members and are without prejudice to members' rights and obligations under the WTO. Any errors are attributable to the authors. The note was written by Jose-Antonio Monteiro, Svetlana Chobanova and Daniel Ramos.
- 2 José-Antonio Monteiro, "Typology of Environment-related Provisions in Regional Trade Agreements", WTO Working Paper ERSD-2016-13.
- 3 E.g., the EU-Korea Free Trade Agreement and the EU-Colombia and Peru Trade Agreement.
- 4 The Kyoto Protocol commits industrialized countries and economies in transition to limit and reduce GHG emissions in accordance with agreed individual targets. See https://unfccc.int/kyoto_protocol.
- 5 The clean development mechanism is defined per <https://cdm.unfccc.int/about/index.html> as follows: "The CDM allows emission-reduction projects in developing countries to earn certified emission reduction (CER) credits, each equivalent to one tonne of CO₂. These CERs can be traded and sold, and used by industrialized countries to meet a part of their emission reduction targets under the Kyoto Protocol. The mechanism stimulates sustainable development and emission reductions, while giving industrialized countries some flexibility in how they meet their emission reduction targets. The CDM is the main source of income for the UNFCCC Adaptation Fund, which was established to finance adaptation projects and programmes in developing country Parties to the Kyoto Protocol that are particularly vulnerable to the adverse effects of climate change. The Adaptation Fund is financed by a 2% levy on CERs issued by the CDM."
- 6 This RTA has been provisionally in force with Peru since 1 March 2013 and with Colombia since 1 August 2013. On 1 January 2017 Ecuador also joined the agreement.
- 7 A total of 10 EU RTAs, some of which are still under negotiation, include a reference to the UNFCCC (i.e., those with the Andean Community, Australia, Indonesia, Japan, the Republic of Korea, Mercosur, Mexico, New Zealand, Singapore and Viet Nam), and eight of those also include a reference to the Paris Agreement (excluding those with the Andean Community and the Republic of Korea).
- 8 Importantly, the current US Trade Representative Katherine Tai has acknowledged the need to address climate change through trade policy – see "Remarks from Ambassador Katherine Tai on Trade Policy, the Environment and Climate Change" at <https://ustr.gov/about-us/policy-offices/press-office/speeches-and-remarks/2021/april/remarks-ambassador-katherine-tai-trade-policy-environment-and-climate-change>.
- 9 See Christophe Bellmann and Colette van der Ven, "Greening regional trade agreements on non-tariff measures through technical barriers to trade and regulatory co-operation", OECD Trade and Environment Working Papers 2020/04.
- 10 Baghdadi, L., Martinez-Zarzoso, I. and Zitouna, H. (2013), "Are RTA Agreements with Environmental Provisions Reducing Emissions?", *Journal of International Economics* 90(2):378-390; and Martinez-Zarzoso, I. and Oueslati, W. (2018), "Do Deep and Comprehensive Regional Trade Agreements Help in Reducing Air Pollution?", *International Environmental Agreements: Politics, Law and Economics* 18(6):743-777.



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