

"Balancing Benefits and Risks: The Case for Carbon Tariffs in the Fight Against Climate Change"

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Abstract

Carbon tariffs have become an increasingly popular tool in the fight against climate change. These tariffs impose fees on imports from countries that do not have sufficiently strict environmental regulations, which makes it more expensive for companies to import goods from those countries. The goal of these tariffs is to level the playing field for domestic companies that are subject to strict environmental regulations, and to incentivize countries to adopt stronger climate policies. However, while carbon tariffs may have some benefits, there are also several potential perils that need to be taken into account. One of the main benefits of carbon tariffs is that they can help reduce global emissions by incentivizing countries to adopt stronger climate policies. If countries know that they will face tariffs on their exports if they do not take action on climate change, they may be more likely to adopt policies that reduce emissions. This could help drive global progress on climate change and help prevent the worst impacts of global warming. Another benefit of carbon tariffs is that they can help level the playing field for domestic companies that are subject to strict environmental regulations. If domestic companies are required to reduce their emissions, but their competitors in other countries are not, then the domestic companies may be at a disadvantage. Carbon tariffs can help ensure that all companies are subject to the same environmental regulations, which can promote fair competition and help protect domestic industries. However, there are also several potential perils associated with carbon tariffs. One concern is that they could lead to trade tensions and disputes between countries. If countries start imposing tariffs on each other, it could lead to a trade war that harms the global economy. This could be particularly problematic if countries start retaliating against each other by imposing even higher tariffs.

Keywords: Carbon tariffs; Climate change; Benefits; Perils; Policy.

Introduction

Recent years have seen a rise in worry about the implications of climate change on the world, leading a number of countries to look into new strategies for reducing greenhouse gas emissions. The adoption of carbon pricing is one such proposal that has gained traction. A trade strategy known as carbon tariffs would impose additional charges on imports from nations with high greenhouse gas emissions. Carbon tariffs are intended to motivate nations to minimize their carbon footprints and switch to cleaner energy sources.

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Although the idea of carbon pricing is favorable for the environment, it also poses a number of economic and political issues. For instance, the imposition of carbon tariffs may raise the cost of goods for consumers, particularly those with lower incomes, and may even result in a world trade war. Carbon taxes may also have unforeseen effects, such as motivating nations to conceal their emissions in order to avoid being fined. The advantages and dangers of carbon pricing will be discussed in this essay, along with the difficulties and compromises required in putting this policy into practice. We will look at how carbon tariffs might affect the economy and the environment, as well as how they might be crafted to balance the interests of all parties involved. By doing this, we intend to add to the ongoing discussion on climate policy and offer suggestions for how countries may cooperate to address the pressing problem of climate change.¹

As global warming and climate change continue to be among the most significant challenges facing the world today, there is an increasing need for countries to adopt policies and strategies that reduce their carbon footprint. One of the most effective ways to do this is by introducing carbon tariffs, which are taxes imposed on imported goods based on their carbon footprint. The purpose of this article is to explore the promise and perils of carbon tariffs and the implications they have for global trade, climate change, and economic growth.

What are Carbon Tariffs?

Carbon tariffs, also known as border carbon adjustments (BCAs), are taxes or duties imposed on imported goods based on their carbon footprint. The basic premise behind carbon tariffs is that countries that have implemented measures to reduce their carbon emissions should not be at a competitive disadvantage compared to countries that have not. Carbon tariffs are intended to level the playing field and ensure that producers of high-carbon goods face the same costs as those in countries with stringent environmental regulations.

Carbon tariffs can take different forms. They can be imposed as a tax on the carbon content of imported goods or as a duty based on the emissions generated during the production of those goods. The amount of the tax or duty is calculated based on the carbon footprint of the imported goods, which is determined by the amount of greenhouse gas emissions generated during their production and transportation.²

Carbon tariffs can serve as a powerful tool to encourage countries to work together to address climate change. By imposing tariffs on goods from countries with lax environmental regulations, carbon tariffs create a strong incentive for those countries to adopt more ambitious climate policies.

¹ Böhringer, Christoph, Jared C. Carbone, and Thomas F. Rutherford. "Embodied carbon tariffs." *The Scandinavian Journal of Economics* 120.1 (2018): 183-210.

² Larch, Mario, and Joschka Wanner. "Carbon tariffs: An analysis of the trade, welfare, and emission effects." *Journal of International Economics* 109 (2017): 195-213.

This, in turn, can lead to greater international cooperation and coordination on climate change mitigation efforts.

For example, the European Union (EU) has proposed the introduction of a carbon border tax to discourage imports of carbon-intensive goods and incentivize their domestic production. This proposal is seen as a way to encourage other countries to adopt more ambitious climate policies and work towards a more sustainable future.

Creating a Level Playing Field for Producers

Imports of items that have been manufactured in a way that produces a lot of carbon emissions are subject to carbon tariffs, which are essentially taxes. By making it more expensive to create goods with a high carbon footprint, these tariffs are meant to encourage producers to reduce their greenhouse gas emissions. Carbon tariffs' main objective is to lower overall carbon emissions and lessen the impact of climate change.³

Carbon tariffs are sometimes considered a solution to the problem of carbon leakage, which happens when businesses relocate their operations to nations with laxer environmental legislation in order to avoid the expenses related to lowering their carbon emissions. As a result, there may be more emissions produced per unit of output in the nations with laxer rules, which may result in a rise in overall global emissions.

While carbon tariffs can be a useful tool for tackling carbon leakage, there are also certain dangers and disadvantages to consider. One potential issue is that they might trigger a trade war between nations since they might retaliate with their own tariffs. In the end, this might hurt the world economy and make climate change a bigger issue.

Another potential problem with carbon pricing is that they would disproportionately harm developing nations, who might have fewer infrastructure and resources to reduce their carbon emissions. This could result in a situation where rich nations, which historically have made the largest contributions to climate change, are able to impose costs on developing nations without providing enough support for them to switch to more environmentally friendly manufacturing techniques.

Carbon tariffs can, in general, be a useful instrument for tackling carbon leakage and levelling the playing field for producers, but they must be administered wisely and in a way that is just to all the concerned nations. Working towards a global solution that addresses climate change while

³ Veel, Paul-Erik. "Carbon tariffs and the WTO: An evaluation of feasible policies." *Journal of International Economic Law* 12.3 (2009): 749-800.

minimising negative effects on the global economy and vulnerable populations, it is critical to take into account the potential risks and disadvantages of carbon pricing.⁴

Encouraging the Adoption of Low-Carbon Technologies

Carbon tariffs can create income that can be used to finance climate action in addition to encouraging the adoption of low-carbon technologies and developing a market for low-carbon goods. As a result, there may be less need for government subsidies and a new source of money for climate change initiatives.

A variety of climate change projects, including investments in renewable energy, energy efficiency, and adaptation measures, can be financed with the money raised by carbon pricing. This might hasten the shift to a low-carbon economy and lessen our reliance on fossil fuels.⁵

The usage of clean energy sources like wind, solar, and hydropower can be increased, and greenhouse gas emissions from energy production can be decreased, with the help of investments in renewable energy. Energy consumption and emissions from industrial processes, transportation, and buildings can be decreased with the use of energy efficiency methods. Resilience to the effects of climate change, such as rising sea levels, more frequent and severe heatwaves, and more intense storms, can be increased with the help of adaptation techniques.⁶

The money raised by carbon levies can also be used to pay employees and communities that might suffer harm as a result of the transition to a low-carbon economy, in addition to funding climate action. This can assist in making sure that everyone benefits equally from the transition and that no one is left behind.

The adoption of low-carbon technologies and the generation of funds for climate action are both dependent on the efficiency of carbon levies, it is crucial to remember that. Trade tensions and conflicts may result from carbon tariffs that are too high or that are not imposed uniformly across industries and nations. Therefore, to ensure that carbon prices are effective in accomplishing their intended purposes without having unexpected repercussions, significant deliberation and international cooperation are required.⁷

⁴ Larch, Mario, and Joschka Wanner. "Carbon tariffs: An analysis of the trade, welfare, and emission effects." *Journal of International Economics* 109 (2017): 195-213.

⁵ Böhringer, Christoph, Jan Schneider, and Emmanuel Asane-Otoo. "Trade in carbon and carbon tariffs." *Environmental and Resource Economics* 78 (2021): 669-708.

⁶ Gillingham, Kenneth, and James Sweeney. "Barriers to implementing low-carbon technologies." *Climate Change Economics* 3.04 (2012): 1250019.

⁷ Fang, Yuan, et al. "The effect of carbon tariffs on global emission control: A global supply chain model." *Transportation Research Part E: Logistics and Transportation Review* 133 (2020): 101818.

Principles of International Law and State Responsibility

International trade laws are complex and unclear when it comes to the compatibility of carbon tariffs. However, international environmental laws have a growing body of treaty and customary international law that aims to guide state action regarding the environment. Proponents of carbon tariffs argue that they are lawful measures aimed at inducing compliance with international climate obligations.

International environmental law addresses a wide range of issues, but it does not provide a clear basis for a binding international obligation on states to address climate change. The two primary sources of international legal obligations on states are treaty law and customary international law. The United Nations Framework Convention on Climate Change (UNFCCC) was implemented in 1992 and parties to the agreement have committed themselves to anticipate, prevent, or minimize the causes of climate change and mitigate its adverse effects. The Paris Agreement reflects the latest iteration of those treaty obligations and commits its 183 state parties to holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C.⁸

However, despite these treaty obligations, international environmental law does not yet supply a binding obligation on states to respond to climate change. Moreover, the doctrine of state responsibility may not be suitable for addressing the wide-ranging temporal and geographic scope of the climate crisis. Therefore, background principles of international law, including trade law and environmental law, do little to clarify the permissibility of carbon tariffs.

Advancing Amidst the Uncertainty

Carbon tariffs are on the horizon, despite their unclear status under international trade and environmental law. This section argues that they may be necessary to prompt action on climate change, but the legal implications of their arrival are still uncertain. Even if the final model of carbon tariffs is not yet clear, this section offers some possible impacts on the international legal system. It is too early to say whether the benefits will outweigh the negative effects of carbon tariffs, but policymakers and climate advocates should be aware of the potential side effects of this tool.⁹

Implications for Trade Law - As outlined in section B, there is uncertainty about whether carbon tariffs can be authorized as border adjustment taxes or as permitted exceptions to GATT obligations. Both routes would require parties to accept new interpretations of existing WTO case

⁸ Böhringer, Christoph, et al. "Targeted carbon tariffs: Export response, leakage and welfare." *Resource and Energy Economics* 50 (2017): 51-73.

⁹ Courchene, Thomas J., and John R. Allan. "Climate change: the case for a carbon tariff/tax." *POLICY OPTIONS-MONTREAL*- 29.3 (2008): 59.

law and accepted understandings of the reach of GATT health and natural-resource exceptions. The prospects for these shifts seem unclear, given the WTO's recent struggles to forge consensus. The WTO's legitimacy crisis could be exacerbated by disputes over the legality of carbon tariffs that remain unresolved due to deadlock at the Appellate Body. This could threaten the stability of the dispute settlement system and raise the risk of trade wars. Expansive interpretations of the GATT's national security exceptions by the Trump Administration sparked a flurry of still-unresolved claims at the WTO and reprisals by trading partners; a drawn-out dispute over the legality of carbon tariffs could further undermine the WTO system. Whether the WTO can handle the added pressure remains to be seen.

The potential implications of carbon tariffs on international law extend beyond the WTO system. While their impact on the development of customary international law and state responsibility doctrine may offer some reasons for optimism, they do not provide a comprehensive solution to the challenges facing climate change policy. However, as carbon tariffs are implemented, they could help to strengthen international environmental law principles and contribute to the emergence of customary international law norms related to responding to climate change.

Carbon tariffs could facilitate the application of state responsibility doctrine by providing a framework for evaluating climate policies and determining which ones meet a minimum level of ambition. The introduction of carbon tariffs may also encourage influential states to establish consistent practices in implementing climate policies, potentially leading to the emergence of newer norms of customary international law. The EU-U.S. steel and aluminum deal indicates that common standards or accepted threshold levels of ambition may come into play, fostering international cooperation and coordination.¹⁰

Furthermore, the impact of carbon tariffs would not be limited to states implementing them; exporters seeking tariff exemptions would also need to demonstrate comparable emissions policies in their home jurisdictions, encouraging more trade-dependent economies to adopt climate policies and expand the body of state practice. While this may not produce a critical mass of legal obligation or overcome persistent objectors, it could nevertheless move the needle in the right direction.

Furthermore, as carbon tariffs become more prevalent, they may provide a more objective way to quantify the responsibility to address climate change. While challenges related to causation and the scope of state responsibility would persist, carbon tariffs could be a significant step towards facilitating the application of the doctrine of state responsibility in the climate context. The EU and U.S. models indicate that carbon tariff authorities will find a way to compare different climate regulatory structures. By doing so, they could develop a functional "carbon price equivalent" to

¹⁰ Heiskanen, Eva, et al. "Adoption and use of low-carbon technologies: Lessons from 100 Finnish pilot studies, field experiments and demonstrations." *Sustainability* 9.5 (2017): 847.

enable regulators to compare various climate policies, including those that directly price carbon and those that use non-pricing regulatory measures to limit emissions. The emergence of a broader body of state practice related to the measurement and comparison of carbon price equivalents could thus help solidify a consensus on the effective carbon price needed to address climate change.

However, the impact of carbon tariffs on customary international law related to climate change may also have inequitable consequences. Currently, neither the EU CBAM proposal nor the climate club model provide exemptions for LDCs. Although Senator soon's model proposes that LDCs will gain an exemption, the details of that exemption are unclear, and the viability of this approach is uncertain given the historical skepticism of the United States toward GHG emission reduction efforts that exempt developing countries. This stance is in tension with the "common but differentiated responsibilities" principle at the heart of the Paris Agreement, which carbon tariff supporters cite as justification for the measures. A carbon tariff regime that overlooks the development status and historical emissions of the states subject to sanctions could disproportionately penalize poorer states that have contributed less to historical GHG emissions and should arguably bear a relatively smaller share of the burden in mitigating climate change. Many of those states have advocated for tailored climate obligations, but whether these arguments will resonate with governments championing carbon tariffs remains uncertain. If they do not, carbon tariffs may accelerate the development of norms and state practice aimed at responding to climate change while disregarding a core commitment to global equity embodied in the Paris Agreement.¹¹

Conclusion

A relatively new tactic in the fight against climate change, carbon prices will have a significant impact on the global legal order once they are implemented. As the article argues, the implementation of carbon tariffs could cause considerable disruptions in the international legal norms and standards governing trade and the environment because of the uncertain legal validity of these taxes. Carbon tariffs, however, cannot be disregarded in the fight against climate change due to their potential advantages.

Carbon taxes' capability to level the playing field for producers and promote the use of low-carbon technologies is one of their advantages. This can address issues with competition and encourage businesses to innovate and lower their carbon footprint. A new source of funding for renewable energy, energy efficiency, and adaptation measures is available thanks to the cash generated by carbon tariffs, which can also be used to pay for climate action.

¹¹ Bickerstaff, Karen, Patrick Devine-Wright, and Catherine Butler. "Living with low carbon technologies: An agenda for sharing and comparing qualitative energy research." *Energy Policy* 84 (2015): 241-249.

To minimize the detrimental impacts on the international legal system, the implementation of carbon pricing will need to be carefully addressed. There are worries that the already precarious WTO system, which regulates international trade, could be further weakened by carbon tariffs. Carbon taxes must also be implemented in accordance with international legal guidelines and standards controlling trade and the environment.

Despite these reservations, carbon tariffs cannot be disregarded in the fight against climate change due to their potential advantages. States and citizens cannot afford to overlook any measures that could assist in addressing the difficulties of lowering emissions as the threat of climate change intensifies. Carbon tariffs must be implemented and in their final form for them to be a worthwhile addition to the toolkit for combating climate change.