



Carbon-Related Border Adjustment and WTO Law

Kateryna Holzer

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'This monograph is the first to bring together and critically assess the extensive scholarship and practice on the burning topic of whether domestic climate change legislation can also be imposed on imports. No explicit WTO ruling exists on the matter. Yet, this book shows the way to implement WTO-consistent carbon-related border adjustment. It also uniquely assesses possible negotiated solutions especially in the context of preferential trade agreements. An excellent reference work for students, scholars and legislators concerned about effectively fighting climate change in line with international trade commitments.'

- Professor Joost Pauwelyn, Graduate Institute of International and Development Studies, Geneva, Switzerland

'Holzer has authored a fine study of how world trade law supervises important actual and potential climate measures. The book skillfully examines the relevant WTO rules and then applies them to various carbon-related border adjustments. The author concludes that some carbon measures may be in conflict with trade rules and makes recommendations for how to head off such conflicts. Her innovative suggestions include recourse to preferential trade agreements.'

- Professor Steve Charnovitz, The George Washington University Law School, US

By expounding the legal foundations of border tax adjustments in international trade regulation, this book lays out the scope and limitations within which border carbon adjustments need to operate.

The author examines the extent to which countries can lawfully impose border adjustment measures in relation to the carbon footprint of products on importation and exportation. In doing so, she provides a thorough analysis of the provisions of the WTO Agreement applicable to border carbon adjustments, offers a comprehensive review of relevant case law and engages with the extensive literature on the subject. Given the probability of conflict with non-discrimination rules of the GATT and uncertainty over justification of different designs of carbon-related border adjustment schemes under the exceptions of GATT Article XX, the book argues for a negotiated solution and discusses the possibility of the use of border carbon adjustments under preferential trade agreements.

Carbon-Related Border Adjustment and WTO Law will be of great benefit to policymakers and practitioners working in the area of climate policy and trade regulation. Researchers and advanced students in international economic law and international environmental law will also find much to interest them in this work.

Contents: 1. Introduction Part I: Carbon-related Border Adjustment: Putting the Issue into Context 2. Human-induced Climate Change and Global Action 3. Border Adjustment as it Relates to Climate Policy 4. Border Adjustment Practices in International Trade Part II: WTO Legal Issues Concerning Carbon-related Border Adjustment 5. PPM-based Border Adjustment Under WTO Law 6. The Possibility of Defense Under General Exceptions of GATT Article XX 7. Testing WTO Compliance of Various Forms of Carbon-related BAMs 8. Legal Issues Arising from the Implementation of Carbon-related BAMs Part III: Solutions to the WTO-Inconsistency of Carbon-related Border Adjustment 9. The Potential of and Limits to a Multilateral Approach 10. A Bilateral Approach to Imposing Carbon-related Border Adjustments 11. Summary of Main Findings Index

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