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Mobilising EU trade policy for raising environmental standards: the example of climate action

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EXECUTIVE SUMMARY

The European Union plays a key role for the implementation of the Paris Agreement and the Agenda 2030. The next European Parliament and Commission will have to design policies in line with the two regimes. If the EU, as a long-standing driver behind the climate and SDG negotiations, fails to implement ambitious policies via its nationally determined contributions (NDCs) and via transforming its society to meet the SDGs, the multilateral approach as such would lose credibility. For the next steps of EU policymaking from 2019, there is a strategic role for interlinking the climate and trade policy agendas.

In this paper we discuss how the EU's trade policy can support the climate and sustainability policies in a strategic way. We focus on promising institutional interlinkages between the regimes. We point out standards and their export as a specific policy approach that involves EU trade partners through regional trade agreements. Standards, for example on efficiency or on monitoring of environmental impacts, belong into the tool box of effective policymaking as much as pricing policies that give directions to producers and consumers via market mechanisms. Standards might have ramifications for trade relations and therefore we identify links and synergies between the climate and trade regimes. We argue that an integrated environmental and trade strategy is becoming increasingly important to protect the multilateral approach in both climate and trade. The EU has the international creed to involve its trade partner countries over the long-term and to credibly support its idea of a functioning multilateralism.

The multilateral sustainability agenda is a framework that gives directions for EU trade partners and international investors, embedding an EU strategy in the global context is paramount. If stricter climate policies and climate-related standards are applied only domestically, EU producers can face declining competitiveness in the short term. If applied to both domestic and foreign products, there can be allegations of green protectionism. In the longer term though, the implementation of stricter policies through standard setting could help create new markets for environmentally friendly goods. In a globalized world, this holds across almost all countries.

There is a strong background on which ratcheting up ambition can be based. The EU trade agreements (Regional Trade Agreements, RTAs) include already general clauses, such as references to sustainable development, or they safeguard national environmental standards through mutual recognition clauses. The explicit mentioning of the Paris Agreement was introduced in 2018 in the EU-Japan Economic Partnership Agreement (EPA). The history of EU trade deals also shows how EU standards and rules have been spreading via trade agreements to developing and emerging countries.

Climate-related standards can take a lead in the next few years in trade policy and in trade agreements. This will have spill-overs also for SDGs and for the protection of other public global resources. Climate policy that is connected via the Paris Agreement framework with other countries' activities can deliver positive effects for other important environmental issues, such as efficiency in material use, recycling, or renewable energy production.

Effective climate action needs information. In trade data and input-output statistics, information on embedded carbon in products already exists. Information on how much emissions enter and leave the EU via trade builds the basis for a consistent EU climate protection policy under the Paris Agreement.

The EU should work on a common standardization of a carbon footprint measurement together with its trade partners.

An effective circular economy regulation has to include transboundary value-chains. The application of ambitious standards for reducing material flows under the EU's Circular Economy Package has to be safeguarded in the trade agreements of the EU and the international trade system. In case of diverging interests, the EU would need to develop common approaches with trade partners.

Drafting a systematic approach that integrates climate and trade agendas over time. The EU's policies should be part of a strategy that is consistent over times on sustainability and on trade and it should support multilateralism. The European Commission acts as the initiator, the European Parliament could bring about more momentum for an integrated strategy and Member States are important to find negotiating compromises on concrete actions. Suggested steps for setting up a strategy are:

1. Short term (2019-2020):

- Intensify work on increasing the visibility of the links that exist between the policy fields. Consider consistent monitoring standards on CO₂ embedded in trade flows as a starting point.
- In the light of international disruptions stemming from the US defections on multilateralism, forge more alliances with other trade partners that explicitly link trade, climate and sustainability.
- Develop a comprehensive agreement with the UK that can serve as a blueprint and a pioneer approach, in particular on handling climate-related tools.

2. Medium-term (2020-2025):

- Follow up on common approaches and on announcements made with relevant trade partners, such as UK or China.
- Provide analyses on market potentials for low-emission goods, material efficiency and production technologies. Target specific issues relating to energy-intensive sectors and to establishing a circular economy across borders.
- Revive the Environmental Goods Agreement (EGA) talks under the WTO.
- Strengthen the WTO on all possible ends, in particular the functioning of its dispute settlement.

3. Long-term (after 2025):

- Envisage multilateral rules on trade and sustainable resource use and climate protection.
- Take the pioneering approaches by the EU and its partners as useful examples and drivers for changes in the WTO regime, with the aim of creating more legal certainty for countries implementing their NDCs.

1 Introduction

The European Union plays a key role for the implementation of the Paris Agreement and the Agenda 2030 for Sustainable Development. The performance as a frontrunner relates both to delivering on the agreed targets of the regimes, and to the EU's overall role as an international leader in promoting multilateralism. Regulatory approaches like EU standard setting have been indispensable for achieving environmental targets in the past and they will have to become more prominent in the EU policy agenda in the future. However, on the backdrop of globalization, preserving natural resources and the global atmosphere from overexploitation can only be achieved in cooperation with EU partners. For this, trade policy will have to play a much more prominent part in this agenda than it did so far, because trade policy cooperation can safeguard national policy achievements, it can be a vehicle to develop common standards with trade partners and it can contribute to a ratcheting up of ambitions.

This paper looks into how the integration of environmental and trade policy making can help the EU to achieve its climate and sustainable production targets over time. In particular, we highlight two ideas: (1) the promotion of agreed standards for an accounting system for embedded carbon in trade that helps the EU and its trade partner countries to develop and implement their NDCs in light of international trade interactions, and (2) the promotion of a circular economy approach¹ in the international trading system via a systematic incorporation of related clauses in EU trade agreements. Our focus is on a strategy that aims at increasing and safeguarding standards together with trade partners in the short-, medium- and long-run. Developing such a strategy departs from a situation where massive disruptions of the multilateral trade system occurred, driven by US announcements and implementations of tariffs against the EU and China. The climate regime suffers from an US policy turnaround and the Agenda 2030 as well is burdened by the US retreat from the United Nations forums.² Yet, in both policy fields the EU's strategic thinking should remain consistent and pronounce basic EU principles, like the protection of global public goods, an open trade system and multilateralism.³

The SDGs in general and the circular economy agenda more specifically have to be part of a sustainable EU trade agenda. Climate-related standards cover a number of common interests with the circular economy concept such as low-emission production and consumption, as well as lower material use and recycling. Also, climate measures can contribute to SDGs such as clean water (SDG 6), clean energy (SDG 7), and responsible consumption and production (SDG 12). Either, low-emission standards cover other environmental targets directly (e.g. less material throughput, waste or biodiversity loss or protection of land and forests), or they could pave the way for ratcheting up the ambitions for them. There are, however, also examples of detrimental EU standards, most prominently the biofuels standards that were introduced to reduce car emissions, and led to deforestation, land degradation and other environmental harms within and outside the EU.⁴

For the period after 2020, the EU already has a climate target in place which it submitted to the UNFCCC. The nationally determined contribution (NDC) of the EU is to reduce emissions by minus 40

¹ The European Commission defines the concept as follows: "'closing the loop' of product lifecycles through greater recycling and re-use, and bring benefits for both the environment and the economy", European Commission, 2018 Circular Economy Package, http://ec.europa.eu/environment/circular-economy/index_en.htm (accessed 10 October 2018).

² See Michael Mehling, Harro van Asselt, Kasturi Das and Susanne Droege (2018): Beat protectionism and emissions at a stroke, *Nature* 559, 321-324, DOI: 10.1038/d41586-018-05708-7.

³ Susanne Droege, Felix Schenuit (2018): EU Trade and Climate Policy Linkages: Potentials in Times of Repositioning, SWP Comment, German Institute for International and Security Affairs.

⁴ For a critical perspective on EU's biofuel policy see e.g. Chris Charles et al. (2013): Biofuels at what cost? A review of cost and benefits of EU biofuel policies, Research Report, International Institute for Sustainable Development.

percent in 2030. In the light of the Paris Agreement's climate policy targets of 2 degrees or even 1.5 degrees limitation of global warming and the target to achieve a "balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century" (Article 4.1 Paris Agreement), the EU announcement will not suffice to speed up mitigation in time.⁵ In particular, the decarbonization of the economy will need a more stringent approach to signal to investors, companies and consumers that their carbon footprint needs to be reduced faster, also beyond the EU's territory. Standards produce such signals. They belong into the tool box of effective policymaking, as do pricing policies that give directions via market mechanisms. At the same time, attempts at stricter standards are confronted with some (potential) short term detrimental effects to economic performance. Negative effects on competitiveness were anticipated repeatedly in context with the EU's emissions trading scheme (EU ETS) and also for the 2011 REACH directive that places the responsibility on the industry to inform about and to manage risks from chemical substances.⁶ Evidence, however, is limited as EU policymakers incorporated measures to ease the cost burden caused by regulation.⁷

The threat of companies leaving the EU member countries and producing in countries with less environmental ambitions, so-called carbon leakage in the climate debate,⁸ is an important aspect when policymakers consider increasing existing or introducing new standards. The next European Parliament and Commission will face again related challenges in implementing policies in line with the agreed upon climate and other sustainability targets. Even though many important compromises have been reached in the EU's energy and climate policy processes recently, the ambition gap to reach these targets will again give rise to disputes among member states and political actors in the EU. Pushing for a climate and trade strategy which supports multilateralism in the long-term and sets consistent incentives in the short- and medium term can help to guide EU member states and to provide economic actors with the guidance they need for investment decisions. In this context, developing common standards with trade partner countries should become more important in promoting the international agendas.

1.1 Standards in the policymix

Standards belong to the toolbox of environmental policy making alongside with taxes and information tools (e.g. labels). Environmental standards are a way of regulating economic activities that have detrimental effects on the environment. They are implemented as part of legislative processes, which can either take place at the EU-level or as part of member states' decisions to implement EU directives.⁹ Environmental standards can relate to input, output or processes. Input standards specify the use of certain raw materials, output standards relate to particular products and their production. They can prescribe the environmentally relevant features of goods, for example the level of car emissions. Process standards regulate the performance across an industry, such as "best available technology"-standards or for the production of particular goods. Moreover, standards can regulate

⁵ See Climate Action Tracker for the EU: <https://climateactiontracker.org/countries/eu/> (accessed 10 October 2018).

⁶ For an overview of REACH regulation, see http://ec.europa.eu/environment/chemicals/reach/reach_en.htm (accessed 10 October 2018).

⁷ For an evaluation of REACH, see for instance Martin Führ (2014), Boxenstopp für die REACH-Verordnung, Zeitschrift für Umweltrecht, p. 270-280 and p. 329-333

⁸ Deepak Rajagopal (2016): A synthesis of unilateral approaches to mitigating emissions leakage under incomplete policies, Climate Policy, DOI: 10.1080/14693062.2016.1150249

⁹ An overview on EU regulation tools can be accessed here: https://ec.europa.eu/info/sites/info/files/file_import/better-regulation-toolbox-18_en_0.pdf (accessed 10 October 2018).

monitoring of the environmental performance of products and production processes, for example auditing standards.¹⁰

Technological standards are important for companies to guarantee the quality of their products and to codify and coordinate production processes along the value-chain. There are many examples of how private standards can dominate markets (e.g. software standards). The prescription of standards by policymakers is therefore depending on knowledge about technological options. This is a critical point for regulators and the lack of knowledge is a strong argument for “technology-neutral” environmental policy approaches, such as taxes. Standards should be applied, however, if it is known that specific technologies would lead to desired results in a fast and effective manner. Also, the announcement, the introduction or their improvement of environmental standards give guidance for investors and do not always fully prescribe technologies if they aim for particular emissions patterns.

International cooperation on and coordination of norms and industry standards has a long tradition. The International Standards Organization (ISO) standards apply globally and help companies to reduce their transaction costs through applying these common standards. Yet, many standards are not harmonized and trade agreements need to specify how to handle the different levels, either by agreeing on mutual recognition or by negotiating a common approach. The WTO has a specific agreement (Agreement on Technical Barriers to Trade, TBT) and a committee (Committee on Technical Barriers to Trade, CTBT) that address this issue. The general WTO-principle is that technical standards must not be applied to traded goods in a discriminatory manner when they compete with domestic “like” products.¹¹ This means that from a legal point of view, national emissions standards can be applied to imported goods without causing conflict with international trade law, as long as there is no discrimination among the trade partner countries. The EU is party to numerous regional or bilateral trade agreements and is further intensifying negotiations. These agreements have been playing an important role in indirectly “exporting” standards to trade partner countries over the last decades.

A number of private and voluntary standards have evolved over time, parallel or as a reaction to legislative proposals. One prominent example is the ‘Greenhouse Gas Protocol’, an initiative by the World Resources Institute and the World Business Council for Sustainable Development started in 1997. In 2001, the GHG Protocol published the first standards to measure emissions in companies and since then it has been developing standards, tools and online training that helps countries and cities track progress towards their climate goals.¹² Since the Paris Agreement started to include non-state actors, voluntary standards can be a useful tool for engaging civil society. However, the function of voluntary standards should not be overestimated – they are mostly unregulated and their proliferation raises concern about “greenwashing” of products¹³ as well as conflicts with the WTO-norms of transparency and non-discrimination.¹⁴

Standards on greenhouse gas emissions accounting should be systematically extended to include the consumption perspective. Up to now, territorial GHG accounting captures production for good reasons. It records emission at their sources in order to determine a country’s overall emissions from its territory. The Kyoto Protocol’s international accounting registry of GHG uses this approach. The aim was that industrial countries reduce their production of GHG. In light of the NDCs and the support

¹⁰ Nick Hanley; Jason F. Shogren and Ben White (2007): *Environmental Economics in Theory and Practice*, Palgrave Macmillan, Hampshire.

¹¹ Susanne Droege, Harro van Asselt, Kasturi Das, Michael Mehling (2018): *Mobilising Trade Policy for Climate Action under the Paris Agreement. Options for the European Union*, SWP Research Paper 2018/RP1, p. 21

¹² See, GHG Protocol website <https://ghgprotocol.org/about-us> (accessed 10 October 2018).

¹³ For the discussion of the role private standards and its implications for trade, development and governance, see Vera Thorstensen, Reinhard Weissinger, and Xinhua Sun (2015): *Private Standards—Implications for Trade, Development, and Governance*, The E15 Initiative, ICTSD, World Economic Forum,

¹⁴ Petros C. Mavroidis and Robert Wolfe (2017): *Private Standards and the WTO: Reclusive No More*, *World Trade Review* 16(1), p. 1-24.

that developing countries would like to receive under the Paris Agreement for their own climate policy ambitions, the consumption-based accounting of emissions in industrial countries will become critical. Consumption accounting includes emissions that relate to all stages of goods (cradle-to-grave). Various standards for calculating the consumption-based carbon footprint have been developed,¹⁵ yet, there is not an agreed approach globally.¹⁶ This holds as well for the ecological footprint. Due to the international division of labour during the last two decades of globalization, the carbon footprint of imported goods of the EU differs considerably from the territorial emissions. The EU's performance in protecting the climate would differ by 25 to 30 percent if embedded carbon would be included in calculations since 1990.¹⁷

Statistical standards to count the carbon embedded in trade would be a first step to address the EU's footprints. The next step would be to negotiate with trade partners how the footprint could be reduced, e.g. through technological support or through a reduction of material flows. This way, the EU would not only strengthen its role as a climate change pioneer, but also create incentives for other economies to use more of the low-carbon and recycling technologies in which EU member states' companies have a competitive edge. It would also allow the EU to promote a clear picture of its ideas of the international trading system and to play a proactive role in shaping it.

1.2 Frontrunners matter

For the protection of global resources, the international codification of standards is the best choice, ideally via the ISO (International Standards Organization) and via a strong legal enforcement. This helps to reduce frictions between trade partners and it reduces transaction costs for companies. However, the international political and economic landscape is developing dynamically. This means there are frontrunners and followers, there are competitiveness concerns, and there are also defectants in environmental policy. Environmental standards always will need a strong leader. A strong lead is a bet on the creation of new markets, and it drives the size of existing markets for environmentally-friendly goods and technologies. The demand for these products is not only being driven by a strong lead of single countries, they are also co-created via multilateral agreements such as the Paris Agreement. Trade partners also have to address how to handle different standards. There are a number of trade agreements, including the WTO regime, that either ask for mutual recognition of domestic standards or that help to support aligning standards over time, e.g. via forums in which countries inform each other.

The EU has been regarded as a frontrunner, because it integrates sustainability language in its trade regime, which includes labour standards and human rights as well as environmental targets. In fact, the EU is one of the most innovative actors in this field. In 1989, it started to integrate references to GHG effects in a trade agreement. From 2008 it took a highly standardized rather than an eclectic approach.¹⁸ All recent EU trade agreements include similar provisions, using access to its markets as a lever for issues like climate change.¹⁹ For example the text of the CETA chapter 24 regulates “trade

¹⁵ See Simon Bolwig, Peter Ribbon (2009): Counting Carbon in the Marketplace, OECD Global Forum on Trade.

¹⁶ Gao, Tao; Liu, Qing; Wang, Jianping (2014): A comparative study of carbon footprint and assessment standards. In: *Int. J. Low-Carbon Tech.* 9 (3), S. 237–243. DOI: 10.1093/ijlct/ctt041.

¹⁷ Glen P. Peters; Edgar G. Hertwich (2009): CO₂ Embodied in International Trade with Implications for Global Climate Policy, *Environmental Science & Technology* 42(5), DOI: 10.1021/es072023k. Latest data are included in this report: Moran, Daniel; Hasanbeigi, Ali; Springer, Cecilia (2018): The Carbon Loophole in Climate Policy: Quantifying the Embodied Carbon in Traded Products.

¹⁸ See Jean Frédéric Morin, Joost Pauwelyn, James Hollway (2017): The Trade Regime as a Complex Adaptive System: Exploration and Exploitation of Environmental Norms, in: *Journal of International Economic Law* 20:2.

¹⁹ See Axel Berger, Clara Brandi, Dominique Bruhn (2017): Environmental Provisions in Trade Agreements: Promises at the Trade and Environment Interface, German Development Institute, Briefing Paper 16/2017, Environmental Provisions in Trade Agreements: Promises at the Trade and Environment Interface (accessed 2 July 2018).

and environment". The agreement between the EU and the Caribbean states also contains agreements on poverty reduction and environmental protection that support sustainable development.²⁰ Lately, the European Commission has started to add, in addition to the general sustainability clause, a statement that the signatories to trade agreements with the EU are parties to the Paris Agreement and do follow up on its implementation. The EU-Japan Economic Partnership Agreement of 2018 is the first one with such a clause and a sustainable development chapter encompassing environment (and labour-related as well as biodiversity) commitments, including a specific reference to the Paris Agreement on climate change. In addition, the agreement includes the task for the Trade and Sustainable Development (TSD) committee to interact with civil society.²¹ The agreement is awaiting the approval by the European and Japanese parliaments and is planned to take effect in 2019.²²

In the future, the EU will have to give also guidance on the trade-offs between climate policy measures and other sustainability targets. Its own experience with detrimental effects of biofuels imports on biodiversity taught a lesson. These effects were anticipated already when a biofuel quota was introduced with the 2009 Renewable Energy Directive. Yet, only in 2018, after evidence mounted for several years (e.g. food price increases, deforestation and biodiversity loss due to expanding palm oil plantations), the EU took a decision to change the regime starting in 2020. From 2020, EU member states are no longer bound to use food-based biofuels for meeting a renewable energy quota aiming at a 14% renewable target until 2030. For those holding on to such biofuels, a share of 7 percent must not be exceeded.²³ This experience with trade-offs needs to be taken into account when the European Commission develops new climate strategies and promotes them externally.

1.3 Follow-up

Europe From 2019 onwards, the newly elected European Parliament and European Commission will have several opportunities to shape a frontrunner role. In particular, the EU could strengthen its efforts in climate and trade diplomacy²⁴, drawing on the European Parliament resolution from 3 July 2018²⁵ on climate diplomacy. The EU should develop schemes for embedded carbon in trade, develop and deploy its circular economy approach, and push for overall progress in implementation and enforcement of comprehensive sustainability provisions in free trade agreements. The following situations could provide a political window of opportunity: negotiation of new, and implementation and enforcement of already finished regional trade agreements (e.g. with Japan and a Brexit-related agreement with UK), plurilateral initiatives such as negotiations of the Environmental Goods

²⁰ Susanne Droege, Harro van Asselt, Kasturi Das and Michael Mehling (2018): Mobilising Trade Policy for Climate Action under the Paris Agreement. Options for the European Union, SWP Research Paper 1/2018 (Berlin: Stiftung Wissenschaft und Politik, February 2018).

²¹ Eurogroup for Animals, Transport & environment, FERN and CONCORD (2018): From CETA to JEEPA – The variations in the „Trade and Sustainable Development“ provisions in EU free trade agreements, Report.

²² See ICTSD, Regional Trade Agreements (RTAs). EU, Japan Leaders Sign Trade Deal, Look Towards 2019 for Entry into Force, Bridges, Volume 22 - Number 26, 19 July 2018.

²³ See Dave Keating (14.06.2018): Palm oil to be phased out in EU by 2030, Euractiv.com, <https://www.euractiv.com/section/future-of-mobility/news/palm-oil-to-be-phased-out-in-eu-by-2030/> (accessed 10 October 2018).

²⁴ See Susanne Droege (2016): International Climate Diplomacy after the Trump Election Victory: Germany and the EU Should Intensify Their Outreach to Climate Allies, SWP-Comment 2016/C 50, German Institute for International and Security Affairs.

²⁵ See European Parliament (2018): Climate diplomacy. European Parliament resolution of 3 July 2018 on climate diplomacy (2017/2272(INI)), available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2018-0280&language=EN&ring=A8-2018-0221> (accessed 31 October 2018)

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Agreement (EGA) and promotion of reforming international institutions in a way that more effectively addresses the intersection of sustainability and trade.

2 EU's role in linking climate and trade

2.1 Background

The EU's role in both the climate and the trade regime is driven by the principle of multilateralism. As the legal frameworks do not connect the two policy fields in depth, this is a task the EU will need to work on.

The Paris Agreement contains no particular cross-references to trade rules. The 1992 UNFCCC and the 1997 Kyoto Protocol, in contrast, both specify that climate policy must not conflict with free trade rules, citing the relevant free trade postulate from the international trade regime (World Trade Organization, WTO). Still, trade issues also matter in the new climate regime. First, the design of cooperative approaches (Article 6, PA) includes emissions trading schemes and other schemes that generate internationally tradable units. In addition, Article 6 mentions the formation of coalitions of countries that could cooperate on market mechanisms (e.g. on ETS). Such groups could seek to deliver climate goals via trade in certificates, but also more generally via preferential trade relations. Trade thus is an integral part of Article 6, explicitly and implicitly. Second, after 2020, it is left at the discretion of the parties whether they want to include their trade policy agendas in the design of their NDCs.²⁶ China and India are already practicing this in their energy policies today. Initial inventories show that many NDCs that were submitted in 2015 have trade-relevant aspects, be it due to emissions trading in the countries concerned, the explicit demand for international technology transfer, or the ambitious plans for increasing renewable energies.²⁷

Within the international trade regime, standards and environmental provisions have been incorporated into many regional free trade agreements already.²⁸ Provisions can be general environmental-protection clauses, such as the goal of sustainable development, or they can safeguard national environmental standards by allowing for higher standards (mutual recognition clause). Explicit standards are not part of such agreements. The WTO has a separate Agreement on Technical Barriers to Trade (TBT), which specifies the types and handling of standards²⁹, and there is a surveillance system at the WTO where countries report about national regulations, new standards and their technical details (Trade Policy Review Mechanism). In some free trade agreements, tariff reductions for environmental goods and services or intentions to intensify cooperation on climate protection can also be found.³⁰

Starting in the early 1990s, the GATT case law and, subsequently, the dispute settlement bodies of the WTO have been specifying how environmental- and climate-protection provisions have to be taken

²⁶ An institutional space for critical issues that come along with climate policy implementations exists since 2010, when parties to the UNFCCC created a forum on the impact of the implementation of response measures. This forum could take up trade issues if countries face related negative impacts from climate actions. For an in-depth analysis of climate/ trade institutions, see Susanne Droege, Harro van Asselt, Kasturi Das and Michael Mehling (2018): Mobilising Trade Policy for Climate Action under the Paris Agreement. Options for the European Union, SWP Research Paper 1/2018 (Berlin: Stiftung Wissenschaft und Politik, February 2018), p. 10.

²⁷ For an analysis of NDCs with regard to trade, see Rana Elkahwagy, Vandana Gyanchandani, and Dario Piselli (2017): UNFCCC Nationally Determined Contributions: Climate Change and Trade, Centre for Trade and Economic Integration (CTEI) Working Paper 2017-02, Geneva: CTEI, Graduate Institute of International and Development Studies (accessed 10 October 2018).

²⁸ See Trade and Environment Database by German Development Institute: <https://klimalog.die-gdi.de/trend/index.html> (accessed 10 October 2018).

²⁹ See Susanne Droege, Harro van Asselt, Kasturi Das, Michael Mehling (2016): The trade system and climate action: ways forward under the Paris Agreement, Working Paper Oktober 2016, Climate Strategies, p.21.

³⁰ See Trade and Environment Database by German Development Institute: <https://klimalog.die-gdi.de/trend/index.html>. Axel Berger, Clara Brandi, Domonique Bruhn (2017), Environmental Provisions in

into account in international trade law or where the application of national standards violate it. In the 1990s, particular cases rose to attention because the WTO panels declared that trade measures to protect the environment were legitimate if certain conditions, such as the purpose of protecting a global resource, were met.³¹ Thus, exceptions to free trade are possible if trade measures are designed in a way that meets the legal preconditions. A critical issue, however, are clauses that determine the so-called local content of goods. By prescribing that a share of the value-added or specific parts of investment have to come from domestic sources, these clauses give privilege to domestic over foreign producers. Related disputes over national energy-policy measures with local content requirements have been increasing since 2010. China has called for WTO consultations on various feed-in laws in Europe, which contain local content clauses, thereby favouring national solar-energy products and discriminating against Chinese suppliers.³² Four lawsuits have been filed against the alleged preference for bio-diesel produced in EU member states.³³

2.2 The EU's climate and trade efforts in times of weakening multilateralism

Intensifying efforts to implement the EU's NDC as part of its overall climate agenda after 2020 will require efforts by the member states, as well as in external relations. If the United States follows up on its 2017 announcement and withdraws from the Paris Agreement in 2021, there is reason to expect that international efforts to protect the climate will slow down. The EU cannot fill this gap on its own and needs more capacity to mobilise its partners and deepen existing cooperation. With a renaissance of protectionism, aggravated by the US government's aggressive stance towards its trading partners, the multilateral trading system will get even weaker.³⁴

The transatlantic tensions in both fields have accelerated EU-plans to cooperate more closely with China, but also with Canada, Mexico and probably more countries that are of particular interest to the US anti-free-trade policy agenda. Building coalitions with like-minded partners is a promising way forward but will by no means materialize quickly and effortlessly. In light of the US tariff conflict, the EU-China summit in July 2018 brought about some substantial results regarding climate policies. In their Leaders' Statement on Climate Change and Clean Energy, both sides agreed on enhancing their climate cooperation. Also, they recognized the "importance of developing global free trade and investment, and promoting the multilateral rule-based system to allow the full development of the low greenhouse gas emissions economy with all its benefits". Climate policies and clean energy production are identified as main pillars of the EU-China partnership.³⁵ A Memorandum of Understanding was signed to enhance cooperation on emissions trading and explore prospects of broader carbon market collaboration.³⁶ Even though China's role as climate frontrunner should not be

Trade Agreements: Promises at the Trade and Environment Interface, German Development Institute, Briefing Paper 16/2017, Environmental Provisions in Trade Agreements: Promises at the Trade and Environment Interface (accessed 10 October 2018).

³¹ See Droege, S.; van Asselt, H.; Das, K.; Mehling, M. (2016): The trade system and climate action: ways forward under the Paris Agreement, Working Paper Oktober 2016, Climate Strategies, p.21.

³² For a list of climate-related disputes see Susanne Droege, Harro van Asselt, Kasturi Das, Michael Mehling (2016): The trade system and climate action: ways forward under the Paris Agreement, Working Paper Oktober 2016, Climate Strategies, p. 52ff.

³³ ICTSD (2016): WTO Panel Deals Mixed Ruling in Argentina-EU Biodiesel Row, <https://www.ictsd.org/bridges-news/bridges/news/wto-panel-deals-mixed-ruling-in-argentina-eu-biodiesel-row> (accessed 10 October 2018).

³⁴ See Evita Schmiege (2018): Power in the International Trading System: Trump Administration Risks Destroying World Trade Order, SWP-Comment 2018/C 30, German Institute for International and Security Affairs.

³⁵ EU-China Leaders' Statement on Climate Change and Clean Energy (16.07.2018), https://ec.europa.eu/clima/sites/clima/files/news/20180713_statement_en.pdf (accessed 10 October 2018).

³⁶ Memorandum of Understanding to Enhance Cooperation on Emissions Trading between the European Commission and the Ministry of Ecology and Environment of the People's Republic of China (16.07.2018), https://ec.europa.eu/clima/sites/clima/files/news/20180713_mou_en.pdf (accessed 10 October 2018).

overestimated³⁷, the cooperation with China is a key question to be tackled with respect to generating an impact of the EU's environmental engagement.

In addition to changes in the US climate and trade policy, the Brexit is another challenge for the EU's stance on the climate-trade intersections. After the end of the Brexit transition phase in 2019 the EU will have to redefine its cooperation with the UK, a member state advocating for both progressive climate-policy and free trade. Although it is still unclear how the negotiators from Brussels and London will regulate British access to the internal market and climate policy cooperation for the post-transition period, the UK departure will reshuffle EU-internal and external alliances and cooperations in the fields of climate and trade policy. The White Paper on Brexit published by the British government in July 2018 suggests that the UK would agree to a so-called "non-regression provision" to environmental standards.³⁸ The EU's chief negotiator Barnier had made it clear that "[t]here will be no ambitions partnership without guarantees on fair competition, social standards, tax dumping and not least environmental standards"³⁹. Although it is unclear how such a non-regression clause could work in practice effectively, implementing it in the EU-UK agreement would set a precedent for all trade agreements and lay the foundations for a pioneering partnership in environmental standards. In addition to that, a pioneering partnership could be composed of agreements on increasing standards jointly in the future, joining forces in diplomatic efforts in the field of climate change, co-investments in clean energy infrastructure and research and development projects. UK's continuing participation in the EU ETS needs to be included, a policy instrument that is strongly interwoven with British climate policy.⁴⁰ In order to give new weight to monitoring the embedded carbon in trade, the pioneering partnership could also agree on implementing a mechanism for accounting carbon in their trade relationships.

2.3 Far reaching competences – the EU mandates in climate and trade policy

The EU has many responsibilities and a strong mandate in trade and climate policy. Trade policy falls within the group of "exclusive competences" of the EU (Art. 3 TFEU). It is therefore up to the European Commission to negotiate agreements with third countries. Although the EU's trade policy approach is guided by multilateralism and the leading role of the WTO, the EU also began negotiating bilateral agreements in the 1990s, for example with emerging economies and countries of the Organisation for Economic Cooperation and Development (OECD). A Partnership Agreement has been in place with the African, Caribbean and Pacific (ACP) countries since 2008.⁴¹ The Transatlantic Trade and Investment Partnership (TTIP) agreement with the US has been on hold since Donald Trump was elected president, and negotiations are not expected to continue any time soon. By contrast, the European-Canadian

³⁷ Engels, Anita (2018): Understanding how China is championing climate change mitigation. In: Palgrave Communications 4 (1), S. 101. DOI: 10.1057/s41599-018-0150-4.

³⁸ UK Government (2018): The United Kingdom's exit from and new partnership with the European Union White Paper, <https://www.gov.uk/government/publications/the-future-relationship-between-the-united-kingdom-and-the-european-union> (accessed 10 October 2018).

³⁹ Daniel Boffey (10.04.2018): EU will seek 'non-regression' clause to tie UK to environmental standards, The Guardian, <https://www.theguardian.com/environment/2018/apr/10/eu-will-see-non-regression-clause-to-tie-uk-to-environmental-standards> (accessed 10 October 2018).

⁴⁰ For a collection of potential components of an agreement see e.g. letter coordinated by E3G and signed by several UK companies: Prioritising EU27/UK cooperation on climate change and energy to Jean-Claude Juncker und Theresa May, 04. September 2018 https://www.e3g.org/docs/Brexit_coalition_letter.pdf (accessed 10 October 2018).

⁴¹ Susanne Droege, Harro van Asselt, Kasturi Das and Michael Mehling, Mobilising Trade Policy for Climate Action under the Paris Agreement. Options for the European Union, SWP Research Paper 1/2018 (Berlin: Stiftung Wissenschaft und Politik, February 2018).

free trade agreement CETA (Comprehensive Economic and Trade Agreement) was adopted in autumn 2017, despite difficult coordination processes within the EU.

The “exclusive competence” of the EU in trade issues has been challenged in the course of CETA and TTIP approvals. With regards to these mega-regional agreements, EU Member States argued that they should be categorised as “mixed agreements”. According to EU law, agreements with a mixed character need to be ratified by the domestic ratification procedures of EU Member States. In May 2017, the European Court of Justice (ECJ) issued its highly anticipated opinion on a procedure regarding the exclusive competence and clarified the distinction between exclusive and shared competences in the EU-Singapore trade agreement. Although the ECJ ruling deals with this particular agreement, it can be regarded as holding for EU treaties in general. The ECJ highlights the EU’s exclusive competency among others in the field of sustainable development issues in trade agreements⁴² and gives legitimacy to the EU’s approach to integrate environmental provisions in its free trade agreements.⁴³

Climate policy falls under the “shared competences” of the EU (Art. 4 TFEU), which means that it is not the sole responsibility of the Commission to conduct policies and measures. Nevertheless, the EU is one of the most important actors in international climate policy. Its strong position is based on its status as a party to the United Nations Framework Convention on Climate Change (UNFCCC) and the other climate agreements. The EU negotiating team at the Conferences of the Parties consists of members of the European Commission, representatives of the respective EU presidencies and the European External Action Service, and negotiators from the EU member states.⁴⁴ In addition to the external competencies, the EU has the competency to set legally binding targets in some areas, important examples are the EU ETS and the emissions reduction targets for the non-ETS sector.

⁴² Court of Justice of the European Union, “The Free Trade Agreement with Singapore Cannot, in Its Current Form, Be Concluded by the EU Alone”, Press Release no. 52/17.

⁴³ See non-Paper by the European Commission: „Feedback and way forward on improving the implementation and enforcement of Trade and Sustainable Development chapters in EU Free Trade Agreements“, http://trade.ec.europa.eu/doclib/docs/2018/february/tradoc_156618.pdf (accessed 10 October 2018).

⁴⁴ Susanne Droege and Vijeta Rattani, International Climate Policy Leadership after COP23, SWP-Comment 1/2018 (Berlin: Stiftung Wissenschaft und Politik, February 2018).

3 Mobilising trade policy towards more environmental ambition

The EU could mobilize its strong mandate in trade policy to support its environmental agenda in two specific fields.

3.1 Carbon embedded in trade

So far, the carbon embedded in trade is not systematically included in the carbon accounting of countries. However, in many cases, the national emissions reduction is only possible because consumed emission-intensive production as parts of the supply chain are located in countries such as China. In order to reflect on these “outsourced” emissions⁴⁵ and to show consumers which and how many emissions they actually cause at home and abroad, the carbon embedded in traded goods needs to be revealed in a consistent manner across countries. Table 1 shows the the top importers and exporters of embodied carbon in 2015 according to data collected for input-output models. Germany, France and the UK belong to this top ten group, led by US and China.

Table 1: CO₂ embodied in global imports and exports, 2015

Top embodied CO ₂ importers, 2015			Top embodied CO ₂ exporters, 2015		
Rank	Country	Embodied CO ₂ in Imports (Gt CO ₂)	Rank	Country	Embodied CO ₂ in Exports (Gt CO ₂)
1	U.S.	1.452	1	China	2.186
2	China	0,706	2	U.S.	0,734
3	Japan	0,567	3	Russia	0,625
4	Germany	0,395	4	India	0,488
5	UK	0,368	5	Germany	0,355
6	Hong Kong	0,349	6	Japan	0,349
7	France	0,281	7	South Korea	0,271
8	South Korea	0,272	8	Canada	0,186
9	India	0,233	9	Taiwan	0,164
10	Italy	0,233	10	Saudi Arabia	0,154
11	All others	4.007	11	All others	3.267

Source: Moran, Daniel; Hasanbeigi, Ali; Springer, Cecilia (2018): *The Carbon Loophole in Climate Policy: Quantifying the Embodied Carbon in Traded Products*, <https://buyclean.org/media/2016/12/The-Carbon-Loophole-in-Climate-Policy-Final.pdf>, data based on EORA MRIO model.

Developing common norms on how to measure and label emissions embedded in goods as well as systematic data collection is one important step. Lessons can be learned from ecological labelling systems that exist already. The inclusion of carbon embedded in imports in the EU regulation and the EU ETS would need to be (re)considered and needs to be connected to climate policy action taken in trade partner countries. In particular, common approaches to measurement and to technological benchmarks need to be promoted via trade policy and negotiated with like-minded countries.

When emerging economies and developing countries implement their NDCs, they too need consistent and accessible information on the ecological and carbon footprint of their traded goods. For the developing countries, the Paris Agreement foresees several means (finance, capacity building,

⁴⁵ Brad Plumer (04.09.2018): You’ve heard about outsourced Jobs, but Outsourced Pollution? It’s Real, and Though to Tally Up, New York Times, <https://www.nytimes.com/2018/09/04/climate/outsourcing-carbon-emissions.html> (accessed 10 October 2018).

technology transfer) to support their NDC implementation. If countries know their export of emissions to the EU, this directly helps to define their need for support, e.g. for investment in low-emission technologies. Moreover, reducing emissions outside the EU territory could become critical for the EU, should it define the target of a balanced emissions for the second half of this century (Article 4.1. PA) as a concept including non-EU territory. Thus, early cooperation and coordination on creating information about the EU carbon footprint could be in the interest of all parties. Not least, this also helps to underpin the regular global stocktake of emission reductions that is envisaged under the Paris Agreement.

3.2 Circular Economy

In 2015, the European Commission published its first Circular Economy Package. Since then, the importance of a circular economy approach for reaching the Paris climate targets and the Sustainable Development Goals has been highlighted within the EU.⁴⁶ The circular economy is defined as an economy “where the value of products, materials and resources is maintained in the economy for as long as possible, and the generation of waste minimized”.⁴⁷ The EU is a frontrunner with its approach. The Commission identified a set of ten indicators to monitor the progress of the circular economy, but was criticized by the European Parliament for focusing primarily on waste generation, while indicators to measure the decoupling of economic growth from resource use and environmental impacts are missing.⁴⁸ Also the links to international trade are weak. Especially as the EU economy is highly integrated in world markets, the circular economy concept cannot be limited to national or regional borders if it is taken seriously. The extent to which the circle of a circular economy closes depends also on the degree to which it can be anchored within international rule-based trading system. Its success will depend on how these interlinkages are designed. Thus, the development of related international standards and mutual recognition schemes will be crucial for the EU in the future.⁴⁹

3.3 Regional Trade Agreements give directions

When addressing climate ambitions worldwide, regional trade agreements (RTAs) have 25 years of experience to offer on how environmental regulation can be included in trade deals. For the mutual supportiveness of trade and environment rules, the North American Free Trade Agreement (NAFTA) was a milestone. In 1993, for the first time ever, environmental concerns were part of the negotiations on investment and free trade between the US, Canada and Mexico. In particular with a view to handling different national environmental regulation, the agreement stipulates that competitive advantages must not be created by lowering legal environmental standards. Also, environmental aspects have to be taken into account in dispute settlements, and environmental impacts of trade liberalisation have to be monitored. National environmental standards may be higher than those of trading partners under certain conditions, even if this could disadvantage imports.⁵⁰ As a consequence of the NAFTA approach, the preamble to the 1995 WTO agreement explicitly refers to the objective of

⁴⁶ Material Economics (2018): The Circular Economy: A powerful force for climate mitigation; Arno Behrens (2016): Time to connect dots: What is the link between climate change policy and the circular economy?, CEPS Policy Brief, Nr. 337.

⁴⁷ See European Commission, Circular Economy: <http://ec.europa.eu/environment/circular-economy/pdf/monitoring-framework.pdf> (accessed 10 October 2018).

⁴⁸ European Parliament Draft Motion for a Resolution, pursuant to Rule 133 of the Rules of Procedure on monitoring framework for the circular economy, B8-0000/2018, http://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/ENVI/RE/2018/09-13/1155453EN.pdf (accessed 10 October 2018).

⁴⁹ Malena Sell, Nani Pajunen (2018): The circular economy – What’s trade got to do with it?, ICTSD Opinion, <https://www.ictsd.org/opinion/the-circular-economy-> (accessed 10 October 2018).

⁵⁰ The NAFTA in 2018, however, is at the brink of a major overhaul and so are a number of other regional trade agreements.

sustainable development. The WTO has also established the Committee on Trade and Environment as a permanent point of contact for WTO members on environmental and trade issues.

The international trade regime has become increasingly dynamic, but also fragmented over the last two decades.⁵¹ The trend towards so-called mega-regional agreements has contributed to this. This category includes CETA, the currently frozen TTIP, and the Trans-Pacific Partnership (TPP) free trade agreement negotiated between Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the US, and Vietnam. Talks are also underway on a comprehensive Economic Partnership Agreement between the ASEAN member states and Australia, China, India, Japan, New Zealand, and South Korea.⁵² In this process it is important to ensure that regional trade agreements are not barriers to climate policy and sustainability goals. And while there is undoubtedly a long way to go, governments should start thinking about how the trade agreements they negotiate can actually contribute to avoiding dangerous climate change. The European Commission has – particularly in view of the public rejection of TTIP and CETA – made efforts to increase public participation in the development of such agreements (“Trade for All” strategy). If these efforts included the protection of global public goods, comprising not only the climate but also oceans and forests, and thus were to become more visible in the EU’s external economic relations, these linkages could increase the public’s acceptance of free trade agreements and thereby create meaningful synergies between trade and climate policy.

The Commission has published in 2017 how to improve the implementation and enforcement of trade and sustainable development chapters in EU free trade agreements.⁵³ Member States and representatives of the civil society took part in the discussions. The four issues for concrete and practical progress include “working together”, “enabling civil society to play a larger role in implementation”, “delivering” and “transparency and communication” reflect the desire to finally push ahead. There are strong demands that the European Commission should follow-up on its “Trade for All” strategy published in 2015⁵⁴ and put effective and enforceable trade and sustainable development (TSD) chapters at the core of EU trade policy.

3.4 Re-empowering the WTO dispute settlement

The weakness of the multilateral WTO framework, however, seems to be a deterrent for an ongoing integration of climate and trade agendas. It is very likely that the number of conflicts and the level of involvement of WTO dispute settlement bodies will increase as more and more countries implement their climate policies in accordance with the Paris Agreement while at the same time other countries might defect on the Paris obligations. This is likely as long as governments are not willing to jeopardise their industrial policy objectives. In order to reduce GHGs, states are resorting to subsidies for domestic “green” companies, taxes, and levies as well as to stricter regulations and standards. Due to

⁵¹ By February 2018, the WTO had been notified of a total of 669 regional free trade agreements, of which 455 were in force. In the 47 years leading up to the creation of the WTO in 1995, however, it had only been notified of 124.

⁵² Axel Berger, Clara Brandi, Domonique Bruhn (2017), Environmental Provisions in Trade Agreements: Promises at the Trade and Environment Interface, German Development Institute, Briefing Paper 16/2017, Environmental Provisions in Trade Agreements: Promises at the Trade and Environment Interface (accessed 2 July 2018).

⁵³ European Commission (2018): Feedback and way forward on improving the implementation and enforcement of Trade and Sustainable Development chapters in EU Free Trade Agreements http://trade.ec.europa.eu/doclib/docs/2018/february/tradoc_156618.pdf (accessed 10 October 2018).

⁵⁴ European Commission (2015): Trade for all: Towards a more responsible trade and investment policy, Feedback and way forward on improving the implementation and enforcement of Trade and Sustainable Development chapters in EU Free Trade Agreements (accessed 10 October 2018).

the deep integration of the global economy, such measures are also having an impact on traded goods and foreign investments, making disputes more likely.

In this context, the mal-functioning of the WTO dispute settlement bodies – which is a symptom of lacking political support for the WTO in general – poses a challenge for trade-climate intersection. A blockade of the US administration in the appointments of new judges to the WTO Appellate Body calls into question future arbitration rulings, at least in the short- and medium-term. If Washington continues to deny their approval, the panel of seven judges would shrink from the current four to two in the course of 2018, and would thus also formally no longer be able to work from 2019 onwards. For the interface of trade and climate policy, a weaker WTO is particularly problematic because, in recent years, an increasing awareness of the synergies has developed between the multilateral institutions of both trade and climate regime.⁵⁵

Progressive policy proposals are difficult to promote in the context of increasing protectionism and a weakened WTO. The EU, however, should nevertheless propose institutional reforms of the WTO that reflect upon the importance of the interface of global resource protection and an open trade system. The aim should be to safeguard such approaches in the international rule-based trading system in the long term. As long as progress is currently only possible in bilateral or plurilateral settings, the EU should strengthen its pioneering role there. Table 2 summarises the current drivers and deterrents that dominate in the field of climate and trade policy.

Table 2: Summary: drivers and deterrents of mobilising trade policy for climate action

Drivers	Deterrents
<ul style="list-style-type: none">• Awareness of the importance of integrating the agendas in both multilateral institutions: WTO & UNFCCC• Rising interest in and dynamics of RTA negotiations between like-minded countries (e.g. Brexit negotiations)• Intended climate partnership between China and the EU	<ul style="list-style-type: none">• Weakening multilateralism and increasing protectionism amplified by the US policies• WTO Disputes on renewable energy policies• Tensions in the transatlantic partnership between EU and U.S. – substantial part of trade not covered by integrated climate / trade agenda.

⁵⁵ Eurogroup for Animals, Transport & environment, FERN, and CONCORD (2018): From CETA to JEEPA – The variations in the „Trade and Sustainable Development“ provisions in EU free trade agreements, Report.

4 Policy recommendations

The Commission and the European Parliament can build on a well-prepared set of concepts and experiences that relate to implementation of environmental standards, in particular in view of the future implementation of the EU's NDC and the SDGs. In a new effort to push the international agendas, standards should become more important. We highlight two ideas: (a) the proposition of an accounting system for embedded carbon in trade that helps the EU and its trade partner countries to develop their NDCs in light of international trade interactions. This is especially important given the climate protection activities by civil society and the need for a common approach to measure and monitor GHG emissions. Such a proposition could be undertaken with key trade partners, starting with the UK in the Brexit negotiations that relate to climate, and with China as a major trade partner of the EU. (b) Related to this, the concept of the circular economy could be included in trade talks which are already under way or which are envisaged.

These two ideas will have to be part of a broader EU strategy on trade and sustainability, in particular implementing the climate agenda under the Paris Agreement. The strategy should have a focus on immediate and mid-term measures, but also on how trade agreements (and WTO law) can be interpreted and expanded to advance climate policy objectives in the longer term. The EU also needs to define the policy instruments it intends to use when including the implementation of the Paris Agreement in the wider context of trade relations. An important aspect is to reduce transaction costs (e.g. different standards and clauses) for firms as well as cost of compliance with standards. As this is a multifaceted and longlasting project, an EU strategy across the two policy fields has a threefold (short-, medium, and long-term) dimension.

4.1 Short term (before 2020): preparing for an EU strategy on trade and climate, climate and trade

With the European Parliament elections in May 2019 a first opportunity arises to follow up on the international political disruptions experienced in both climate and trade policy making. A new Parliament and a new Commission should start with increasing the visibility of synergies at the intersection of climate and trade policy. Based on the far-reaching competencies in both fields, the Parliament as well as the new Commission should intensify the integration of the Agenda 2030 (Sustainable Development Goals) and the Paris Agreement targets into the trade agenda (Trade for All; RTA negotiations) and initiate a process towards a **2030-strategy**. Such a strategy would need to be in line with and discussed as part of the EU's 2050 long-term climate strategy. It should include initiating new regional and plurilateral cooperation **on disclosing embedded carbon**, developing agreements, treaties or declarations which **promote various** standards for a more sustainable economy and link them to the goals of the Paris Agreement as well as the Agenda 2030. The circular economy concept is a particular candidate for these talks.

The strategic thinking behind and the narrative of such an announcement has three dimensions. First, the status of the EU as a climate leader would improve. Second, the EU institutions, foremost the Commission, could offer a fresh start on trade initiatives after the resistance EU trade projects like CETA and TTIP provoked during the last years. Third, by actively shaping its trade policy, the EU could pursue its political, economic, and geo-strategic interests – which will be increasingly important in a contested and polarized international trade system. Aiming at deeper cooperation with old and new trade partners in the short term will give a spin to the economic and political transatlantic setting, too. The initiative thus would need to demonstrate the EU's standing and credibility on multilateral cooperation and its will to create future markets for new technologies that promote growth, jobs, and environmental protection. To this end, also the Brexit transition period and the **future UK-EU-agreements** need to be included in such an initiative. Finalising the Brexit transition period and the negotiations on the arrangement of UK's departure should aim at a new trade agreement with the UK that is more comprehensive than previous regional agreements and fully integrate trade- and

investment-related climate targets. It could serve as a blueprint for linking trade and environmental policy also towards other trade partners. A non-regression clause, as suggested by the EU and the UK White Paper on Brexit, would be precedent for all trade agreements and therefore would for example in combination with agreements on common increase of standards over time, joint investments in low-carbon technologies and joint forces in the field of international climate diplomacy establish a pioneering concept of cooperation with third countries.

4.2 Medium term (2020 onwards): pushing for and highlighting examples

Depending on the international situation, in particular the US policies, the European Commission should focus even more on other trading partners and consider where interests are converging. A **detailed report** that informs the EU Member States could focus on future markets for low-emission technologies. The EU market should also be part of such analysis. A report should also look back and include the experiences that the EU Member States witnessed during the last 30 years with setting environmental standards and creating competitive edges in international markets. This would need to cover best practices examples and identification of success factors.

Following up on President Xi Jinping's climate policy leadership claims⁵⁶ and the Chinese "Made in China 2025"⁵⁷ programme, **working with China on common standards** for environmental protection, emissions reductions, recycling and product quality, would be an option. An interesting sector for testing the ground is **steel**, as overcapacity has been addressed several times, e.g. in the G20, and has led to several disputes between the EU and China. The **emissions trading scheme** in China, which also covers the country's steel producers, would be suited for deeper cooperation on how to incentivize industries to produce less resource-intensively. This relates as well to the circular economy agenda, as trade and resource use are closely interdependent.

As part for a policy approach after 2020, the negotiations on the EGA and the future of FTAs more generally should be taken further. The EU–China relationship is crucial for a revival of the Environmental Goods Agreement (EGA) talks under the WTO. With a revitalised EGA initiative, the European Commission and Member States (in particular Germany and France) could not only follow up with concrete measures to achieve their climate targets (namely: promoting faster deployment of climate-friendly goods through open markets) or the concept of a circular economy. At the same time, the agreement would also strengthen the WTO as an international organisation, and thus the multilateral orientation of European trade policy.

4.3 Long term: a multilateral agenda with improved legal guidance

The long-term guiding idea of an EU trade-and-climate initiative should be to keep an eye on one of the most important foreign policy principle of the EU: multilateralism. Both climate protection and sustainability standards across the board (ecologic, social and economic) and trade liberalization do need a strong multilateral backing.

This is not in conflict with the promotion of regional agreements as long as those do not contrast multilateral principles. The same holds for standards that serve the protection of global resources.

⁵⁶ Keith Bradsher and Lisa Friedman (19.12.2017): China Unveils an Ambitious Plan to Curb Climate Change Emissions, The New York Times, <https://www.nytimes.com/2017/12/19/climate/china-carbon-market-climate-change-emissions.html> (accessed 10 October 2018).

⁵⁷ Jost Wübbke, Mirjam Meissner, May J. Zenglein, Jaqueline Ives, Björn Conrad (2016): Made in China 2020: The making of a high-tech superpower and consequences for industrial countries, Merics Papers on China, No. 2.

They do need pioneering policies initiated by the EU and its trade partners, if a top-down approach does not work.

The reform of WTO rules and the institutional settings and their transparency can be a long-term vision laid out by the EU. Another ultimate benefit from proposing more multilateral rules is a decline in disputes at the WTO. Should the WTO dispute settlement system be confronted with more lawsuits in the future due to the large number of conceivable climate policy measures, this could lead to an overload. It is therefore important to specify WTO rules to clarify how climate policy and the SDG agenda can be reconciled with the trade regime. The discussion on the trade policy implications of the Sustainable Development Goals (SDGs) and on the implementation of Agenda 2030 also shows that the WTO trade rules need to be more specific to exploit synergies and avoid conflicts in the longer term. In particular, the mandate of the Committee on Trade and Environment could be extended to a forum for the intersection of trade and sustainability that could play an important role in monitoring, implementation and dispute prevention.