



Food and Agriculture Organization  
of the United Nations

# INTERNATIONAL TECHNICAL CONFERENCE ON CLIMATE CHANGE, AGRICULTURAL TRADE AND FOOD SECURITY

15 -17 November 2017

FAO Headquarters, Rome Italy





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INTERNATIONAL TECHNICAL CONFERENCE ON  
**CLIMATE CHANGE, AGRICULTURAL TRADE AND FOOD SECURITY**

**Climate change affects  
conditions of competition**

# **Potential Conflicts between Agricultural Trade Rules and Climate Change Mitigation and Adaptation Commitments**

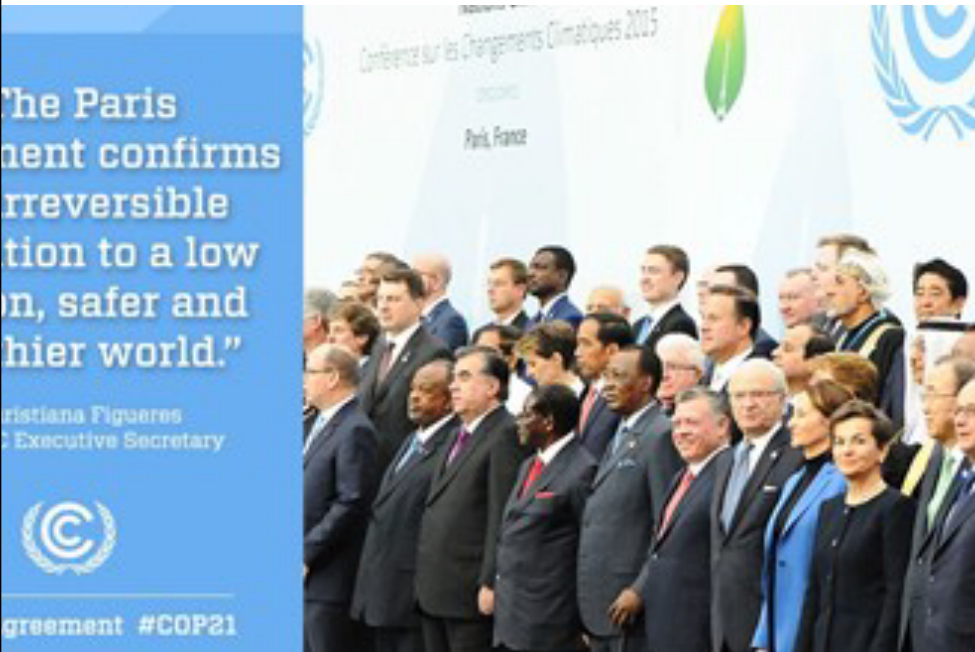
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Rome, 16 November 2017



# The Paris Agreement (UNFCCC)



**Ratified (170 Parties) and IN FORCE since 4/11/2016**



**Adopted (12/12/2015)**

**Signed (197 Parties)**

**Parties and Signatories  
(November 2017)**

Source (as of 14/11/17):  
UNFCCC <http://unfccc.int/2860.php>



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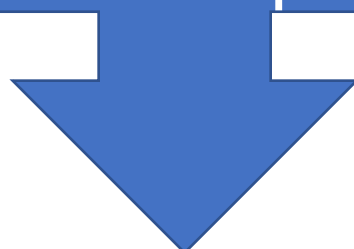
## Top-down Commitments

**All parties to address climate change**

Overall Reduction Targets

**Technology and Finance Transfers**

(required by developing countries)



**Nationally Determined Contributions (NDC)**

(FAO 2018)



## Bottom-up obligations

**Progressively** mitigate global warming  
Account for **delivery** and **performance**

**GATT vs PIL**

Art. XX  
VCLT

**Common but Differentiated  
Responsibilities (and  
Respective Capabilities)  
(CBRD)**

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# How to do mitigate and adapt?

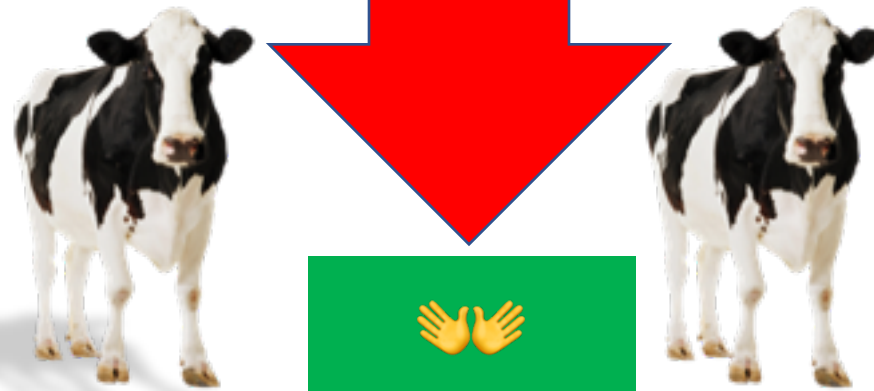


United Nations  
Framework Convention on  
Climate Change

Prescribes  
(product and  
country)  
***differentiation***



Different production and  
processing methods  
(PPM)  
« non-product related »



Brandi (ICTSD 2017), Holzer (2014)



WORLD TRADE  
ORGANIZATION

Prohibits  
***discrimination***  
at the border  
(MFN/NT) and  
limits or  
prohibits  
certain NTM,  
subsidies, and  
other incentives



## A «Climate Action Toolbox»

Production: subsidies, production risk insurance schemes, stockpiles, access to credits, meteorology, biofuels, biotech, organic

Context issues: land tenure, indigenous peoples' and communal rights, cooperatives reform, (small) farmer support schemes, gender measures, food aid, emergency measures, migration policies

Investment: international protection agreements and instruments, investment and production credits, FDI incentives and investment contracts

Commerce: commodity exchanges, risk hedging, stockpiles, consumer information

*Which tools are «smart»?  
Climate correlation?  
Trade impacting?*

Trade: tariffs, quotas, other border measures (BAM, ETS, differential GHG taxation, performance requirements), safeguards, export restrictions, trade defence, import standards and regulations

Source: Häberli (2016+2017)



# Did you say « Renewable Energy »?\*



Source: IISD (160706)

\* Thirteen renewable energy dispute cases were ± lost by the respondents.

# Risk Management / Hedging

- ❖ *Crop Insurance Support Programs (US, Canada, Spain)*
- ❖ *Weather Based Crop Insurance Schemes (India, Ethiopia etc.)*

## Questions from WTO

- Who pays? For what risks?
- Trade distortion?
- A matter of size?

(IFPRI 2017, Glauber 2016, OECD 2015)





## Did you say "Labelling"(nudging)?



(Boza 2016, Limenta 2017, Häberli 2017)

\* Nineteen legal provisions in the  
WTO Agreement need to be  
revisited for «Paris» mplementation.

# Did you say « Mutual Supportiveness »?\*

## WTO Agreements

GATT (Art. II:1b + XVIII  
+ XX + XXIV + XXVIII)

GATS (Art. II + XIV  
+ XVI + XVII + XVIII  
+ Schedules)

SPS Art. 3.4 Safeguards

TRIPS (Art. 10)

LIC + PSI + VAL + RoO + TFA

SCM (Art. 3 + Fish)

Antidumping (Art.3.5)

Agriculture

(Art. 6 + Annex 2)

## Paris Agreement

DSU (+VCLT!)

TBT Art. 2.2

NFIDC

GPA (Art. V)

TRIMS

(Häberli 2017)



## Summing up (I) Negotiate or Litigate\*

But before you do either, here is the challenge:

- ❖ Provide maximum policy space for climate mitigation and adaptation...
- ❖ ... without negatively impacting on other countries, or unduly restricting trade and investment especially in poor developing countries

*if you are rich enough) -  
(or self-discriminate -*



**Don't bet on it...**

## Summing up (II) Solutions – Any?

For all countries

- ❖ A “**Paris Waiver**” to be added to the list of measures in GATT-Article XX (VCLT won't do!)
- ❖ A «**Climate-smart Green Box**» allowing for efficient and effective climate mitigation support measures based on internationally recognised standards (e.g. best agricultural practices, GRP, ISO etc).

Only for poor developing countries: a real SDT!?

- ❖ «**Developing Country Green Box**» (Art. 6.2 AoA) to be available for climate-friendly investments and certain agricultural input subsidies, for low-income or resource-poor producers.
- ❖ Allow clearly defined **infant industry protection** for climate-friendly start-ups in poor developing countries (Art.XVIII:c GATT)



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**merci / gracias**



**For questions & suggestions please contact**  
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**For information visit my websites at**  
**<http://www.nccr-trade.org/people/haeberli/>** or  
**<http://ssrn.com/author=1380616>**



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