Introduction

The international trade and climate change regimes intersect in a multitude of different ways. The question of potential conflict between climate change mitigation measures and WTO rules has generated interesting debates in economic and legal spheres. National measures to reduce greenhouse gas emissions or increase energy efficiency - whether they are regulations, standards, market based instruments or financial mechanisms - could give rise to issues of WTO compatibility. A lot of attention has been given in particular to measures aimed at offsetting the loss of competitiveness resulting from climate action and at preventing carbon leakage.

Some authors have compared this potential conflict between climate change and WTO rules to a looming “train wreck” that would call for WTO members to address upfront the effects of trade-related climate measures and to take action before a clash occurs. In the same vein, it has been argued that in the current state of climate negotiations and in light of what was achieved in Copenhagen, the trading system could no longer afford to wait for the climate regime to give guidance on these issues.

There is no doubt that the conclusion of an international agreement on climate change could go some way in alleviating the risk of friction between the trade and climate regimes. For one thing, within a multilateral framework, the use of unilateral trade measures to tackle climate change may prove more difficult to justify.

At the same time it would seem that existing WTO rules give considerable scope for environmental concerns to be taken into account. Nothing in the WTO rule book prevents members from putting in place measures to address environmental challenges at the level of protection they deem appropriate,
provided they comply with obligations such as non-discrimination. The previous presentation touched upon some of these questions analysing the relevant case law under Article XX.

In my presentation I would like to focus on immediate ways in which the trading system can contribute to global efforts to tackle climate change. The current DDA agenda offers opportunities to develop positive synergies between the trade and climate regimes. I would like to mention three examples here.

**Opportunities for WTO to contribute to climate change mitigation efforts**

**Coherence between the trade and environment regimes**

The trade and environment chapter of the DDA covers the relationship between the trade and environment regimes. It calls for negotiations on the relationship between trade rules and multilateral environmental rules, more specifically environmental agreements that have a trade component.

Many WTO Members, including Australia, believe that the best way of ensuring coherence between the trade and environment regimes is to strengthen coordination at the national level between trade and environment experts in the negotiation and implementation of environmental agreements. This is one of the key messages that they would like to see emphasized as a result of this negotiation.

Improving mechanisms for continued cooperation and information exchange between the WTO and the secretariats of environmental agreements such as UNFCCC could also contribute to achieving greater coherence between the trade and environment regimes.

Negotiations on these issues are unlikely to result in the crafting of new rules or in any change to existing rules. Some proposals suggest that the final outcome could be in the form of a ministerial decision similar to the 1994 Marrakech Decision on Trade and Environment. Nevertheless the mandate does provide an opportunity to reinforce WTO members’ commitment to ensuring that the trade and environment regimes continue to evolve in a coherent and mutually supportive manner.

**Better access to green goods and services**

The DDA is also seeking to open markets in environmental goods and services. Negotiations in this area could facilitate access to goods and technologies that can help countries meet future energy demand and reduce their GHG emissions below current levels. Some studies have shown that the elimination of tariff and non-tariff barriers on four basic clean energy technologies in the wind, solar, clean coal and efficient lighting sectors could actually result in an increase in trade volumes of up to 14% in 18 of the high-emitting developing countries.

To date, several climate-related goods and technologies have been put forward e.g. in relation to renewable energy production and energy efficiency. There is also one proposal by a developing country to liberalize goods required for projects undertaken under the Clean Development Mechanism of the Kyoto Protocol.

There is still no consensus at this stage on what products might qualify as “environmental goods”. A number of questions have surfaced in relation to the identification of such goods, including for instance with regard to the relative contribution of the good to the environment (the inclusion of natural gas was proposed by Saudi Arabia and Qatar); the multiple uses of the goods proposed (i.e. the fact that most of the goods have other uses than environmental ones); and the inclusion of agricultural goods such as ethanol.
The mandate also overlaps with other areas of the DDA negotiations (most of the goods put forward will be subject to tariff cuts as a result of NAMA negotiations), so progress in these discussions depends to some extent on what Members believe can be achieved in other areas of the Round.

Further efforts will need to be made to take on issues of interest to developing countries and to address their particular needs, including through special and differential treatment provisions. More work also needs to be undertaken on non tariff barriers, for example by exploring greater harmonization and convergence of standards in the area of energy efficiency.

*Green subsidies*

Another area of potential relevance is covered by the Rules negotiations and relates to the category of non actionable subsidies under the SCM Agreement. Article 8 of the SCM Agreement creates a “green light” category for certain types of subsidies, including for R&D and environmental protection, considered as non actionable (i.e. safe from WTO challenge). However, this provision of the SCM Agreement expired in 1999 and there has been no agreement to extend its application. A few proposals on green subsidies were made in the early stages of the negotiations but the issue has remained dormant since.

In a context where countries are adopting new policies to curb carbon emissions in an effort to meet their climate mitigation goals, it could be interesting to review the issue of flexibilities provided under the SCM Agreement for subsidies aimed at supporting the costs of adaptation to new environmental regulations and R&D in climate friendly technologies.

While much of the debate on trade and climate change has focused on the potential tensions that may arise, it is important to bear in mind that the current agenda offers some opportunities for WTO to foster coherence and promote mutual supportiveness between the trade and climate change regimes. Progress in the areas mentioned could send the right signals about the capacity of the trading system not only to adjust to emission reduction goals, but to actively contribute to their realization.