

inspire subsidies for affected industries in energy, auto production, steel manufacture and other energy intensive verticals.⁷¹⁹

As countries develop their own national responses to Kyoto environmental taxes that apply directly to production processes are likely to play an increasingly important role. National measures such as energy efficiency standards or carbon and energy taxes that are not applied to imports might provide foreign competitors with an economic advantage, if they are not Kyoto signatories. As well subsidies to domestic producers would have an ill effect on foreign competition. Carbon and energy taxes have been introduced in some Kyoto signing nations, and all include compensation for local industry, including tax write offs, subsidies, ceilings on taxes, reduced energy rates and so on.⁷²⁰ These compensatory measures were given to industries who complained that other nations which did not impose carbon and energy taxes were operating at a significant advantage. It is unclear how goods and services produced in vertical markets operating with such tax and subsidy regimes will be treated by the WTO.

An example of how Kyoto and such tax and subsidy schemes could contravene the WTO would be border taxes. National governments are free to choose their own internal tax regime but are constrained on the taxation of goods internationally. Through border tax adjustment, countries, may impose domestic taxes and charges on imports, and exempt or reimburse them on exports. The objective is to preserve competitive equality between imports and exports. Which taxes can be imposed or rebated is not a clear area however within the WTO.⁷²¹ Under existing rules product taxes and charges can be adjusted at the border but process taxes and charges cannot. Since Kyoto based taxes are largely process oriented, WTO rules may cause domestic producers competitive problems.

Kyoto also proposes that there would be instituted an emissions credit trading scheme. Industrial countries exceeding their Kyoto targets could buy reduction units that would count against their total emissions, from poorer nations. This is very new in international trade and technically it would fall under the GATS though this has yet to be determined. Further important questions include whether, or under what conditions, such allocations of emission units would be consistent

with WTO rules, in particular the Subsidies Agreement, and the consistency with that agreement of direct subsidies and tax credits for climate policy purposes. Some guidance on these matters is required especially given that Kyoto is extremely vague in the policies it allows for the domestic implementation to meet reduction targets. Such vagueness and non-standard compliance will only add to trade confusion.

One reason for the relative success of the GATT/WTO process is the uniform applicability of clear standards with marginal variation between trading nations. When standards differ between countries they have the potential to disrupt trade. In fact many in business consider this the most significant barrier to trade.⁷²² Determining what is appropriate and what constitutes a standard in light of evidence is very contentious. The WTO encourages standards such as the ISO. If national technical regulations differ from international standards and have an important effect on trade, than the WTO members should be notified through the Secretariat of the WTO.

Such disparities in standards and vague language afflict Kyoto which does not conform to the WTO's TBT [technical barrier to trade] regulations. This lack of clarity will only add to environmentally based trade disputes. In the late 1990s about 2000 notifications per year were made under various obligations of the WTO.⁷²³ About 15 % of these were made under the TBT agreement. The TBT tries to ensure the legitimacy of regulations and standards. There exists much disagreement on the type of coverage within the TBT as it pertains to Kyoto. For example there is no agreement that eco-labelling schemes are valid under the WTO.⁷²⁴

Government procurement will also be a serious issue under Kyoto. Governments purchase between 10-25 % of GDP within the OECD nations. In order to meet targets government's may specify that their purchasing of goods will go to those producers using renewable energy sources or to firms that aid in the attainment of emissions targets. This production based discrimination is not technically allowed under the WTO. However, government procurement regulations which are under the Agreement on Government Procurement,