WHAT IMPACT WILL THE MIXTURE OF SOFT AND HARD LAW MEASURES OF THE PARIS AGREEMENT HAVE ON TRADE?

Based on
Francesco Sindico and Julie Gibson: “Soft, Complex and Fragmented International Climate Change Practice: What Implications for International Trade Law?”
In the book edited by Paolo Farah, Francesco Sindico and Julie Gibson examine the shift in trends that has involved climate change practices. In fact, we notice that, since the Kyoto Protocol entered into force in 2005, there has been a consistent tendency towards regulating climate change efforts with soft-law instruments. As the chapter points out, the movement was marked by the Bali Action Plan (2007), the Copenhagen Accord (2009) and the Durban Platform for Enhancing Action (2011). The latest international climate change effort, namely, the Paris Agreement (2015) has taken on the trend and, as a climate change instrument, contains both hard and soft law measures. In fact, the main body of the treaty is made of a series of 'recommendations', mixed in with hard obligations that call on ‘each party’ to take action.

The mixed nature of the Paris Agreement commitments - i.e. hard obligations on mitigation and transparency; softer commitment on adaptation, finance and capacity building; as well as some non-obligations; are the product of disagreement between the parties on the scope of the treaty. Climate change is an extremely complex topic to address, especially when considering all its’ elements at all levels. Moreover, there is also conflict between local, national, and international interests on climate change efforts. This concept has played out in the system of ‘intended national commitments.’ In fact, negotiations leading up to the Paris Agreement brought to light a variety of different points of view on the issue of climate change; yet, the overall feeling that action was necessary prevailed.

Climate change is a complex and pressing global issue, that requires collective action. It was paramount to prompt all stakeholders to take responsibility for their own actions and to act as efficiently as they can to effectively counteract the negative impacts of climate change. As the chapter points out, the Paris Agreement is a comprehensive and remarkable treaty, a significant commitment to the fight on climate change. It is certainly ambitious in nature, but as the international community reiterates: a ‘business as usual’ scenario is no more viable. In fact, as the context that brought about the Paris Agreement confirms, the international community as developed a more mature approach to climate change agreements. Climate change efforts have developed over the past three decades, stakeholders have acquired experience in mitigation and adaptation measures in a variety of fields. Climate change actors, who participated to COP21, were motivated and recognize the importance of effective climate change efforts at all levels and across all sectors. Moreover, the current climate change stakeholders are extremely varied - as to demonstrate that the challenge climate change poses is truly of global relevance.

The 2015 Paris Agreement, relies heavily on economic, social, and political obligations; more than it does on legal functions. It is still based on the well-known model of ‘pledge and review.’ Each party must commit to a specific target, and be subject to constant review - both internal and external. The method has been proven effective for climate actions. In fact, prior to COP21, many were the countries that had already put forwards their intended national commitments. This reaffirms the great potential of the Paris Agreement, that will be especially effective in its international dimension - as a cohesive example of climate change commitments.
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**OUR MISSION**

To collaborate with Government, Civil society and business community to balance the excess of globalization with Non Trade Concerns.

**OUR GOALS**

To influence policymakers, to raise awareness over Non Trade Concerns, to encourage stakeholder participation, and to disseminate gLAWcal’s publication results.

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**Cite as:** gLAWcal Comment #04 “What impact will the mixture of soft and hard law measures of the Paris Agreement have on trade?” (2017) based on Francesco Sindico and Julie Gibson, “Soft, Complex and Fragmented International Climate Change Practice: What Implications for International Trade Law?”, in Paolo Davide Farah & Elena Cima (Editors), China’s Influence on Non-Trade Concerns in International Economic Law, gLAWcal Book Series, Routledge Publishing (New-York/London), 2016, pp. 129–145

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