



WORLD TRADE ORGANIZATION
ORGANISATION MONDIALE DU COMMERCE
ORGANIZACIÓN MUNDIAL DEL COMERCIO

UNFCCC, Poznan, 10 December 2008

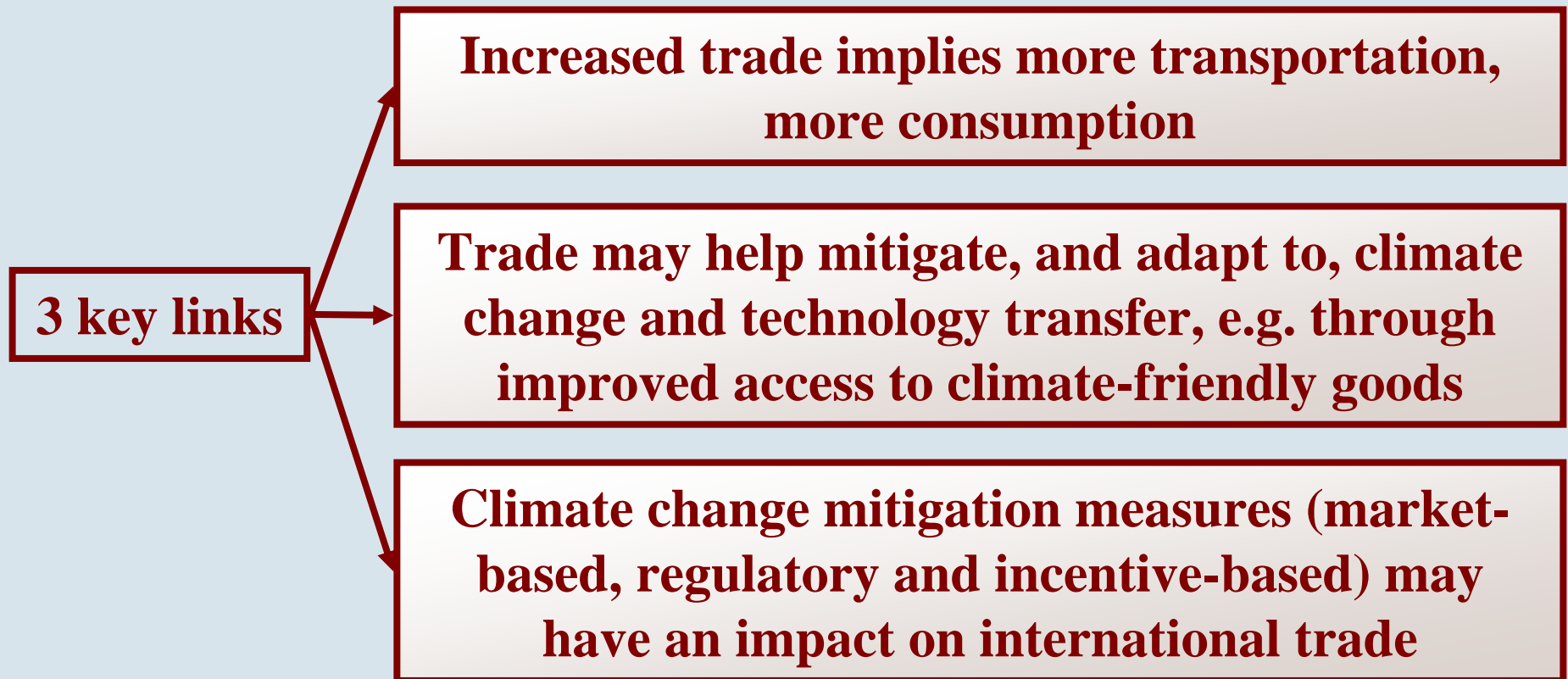
Joint UNCTAD/WTO Side Event

*Capturing trade and development
opportunities under the climate change regime*

**Vesile Kulaçoğlu, Director,
WTO, Trade and Environment Division**



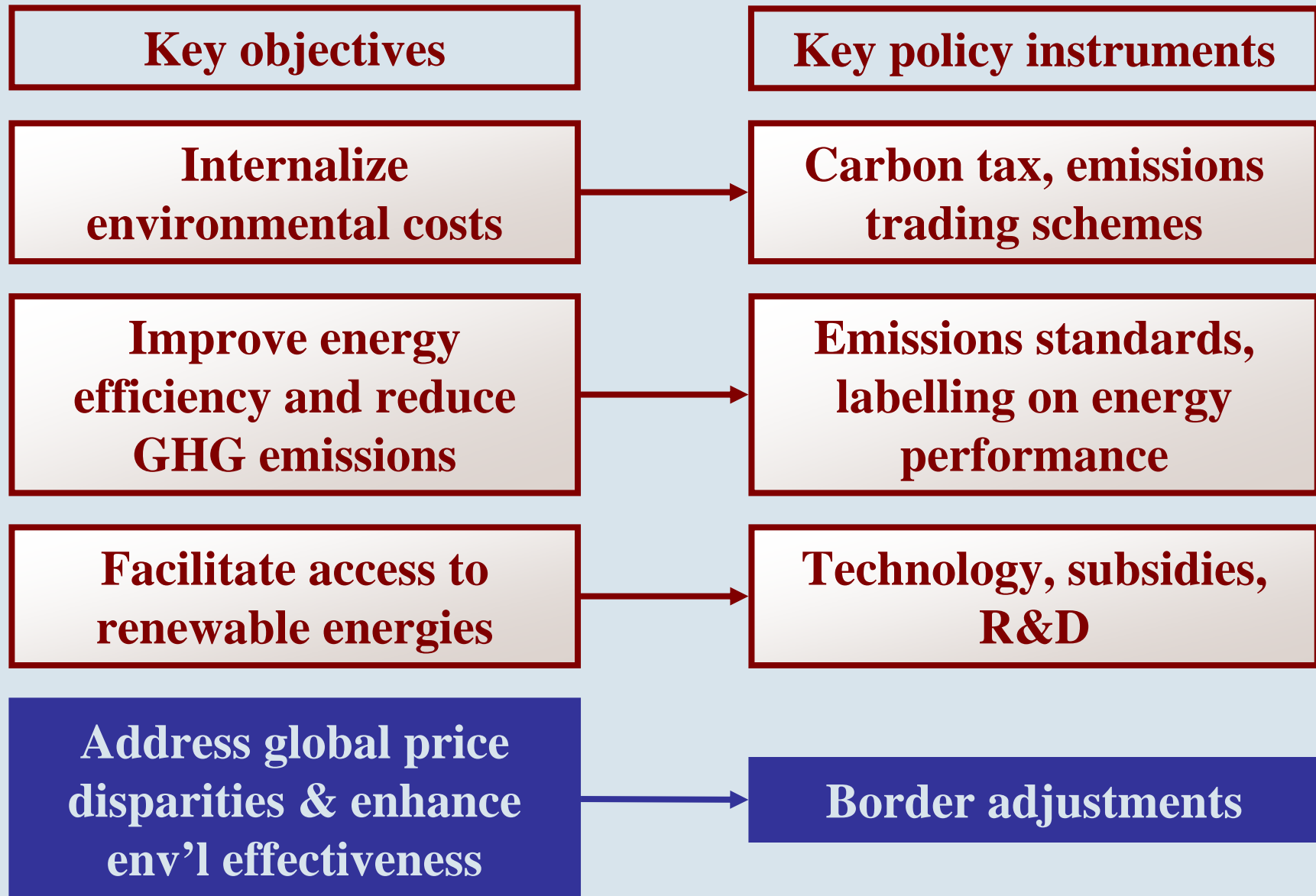
Trade and climate change



...and discussion on adopting unilateral trade measures in order to address competitiveness and carbon leakage concerns



Climate change mitigation measures





Climate change and the WTO

The core functions of the WTO may have a place in the trade and climate change debate:

A negotiating forum

Specialized committees

The administration of a set of rules



Climate change border adjustments

Relevant WTO rules?

*The WTO Dispute settlement body:
a case by case analysis*



WTO Tool Box of Rules

Disciplines on tariffs (border measures)

General prohibition against border quotas

General non-discrimination principle, consisting of the most-favoured-nation and national treatment principles

Rules on subsidies

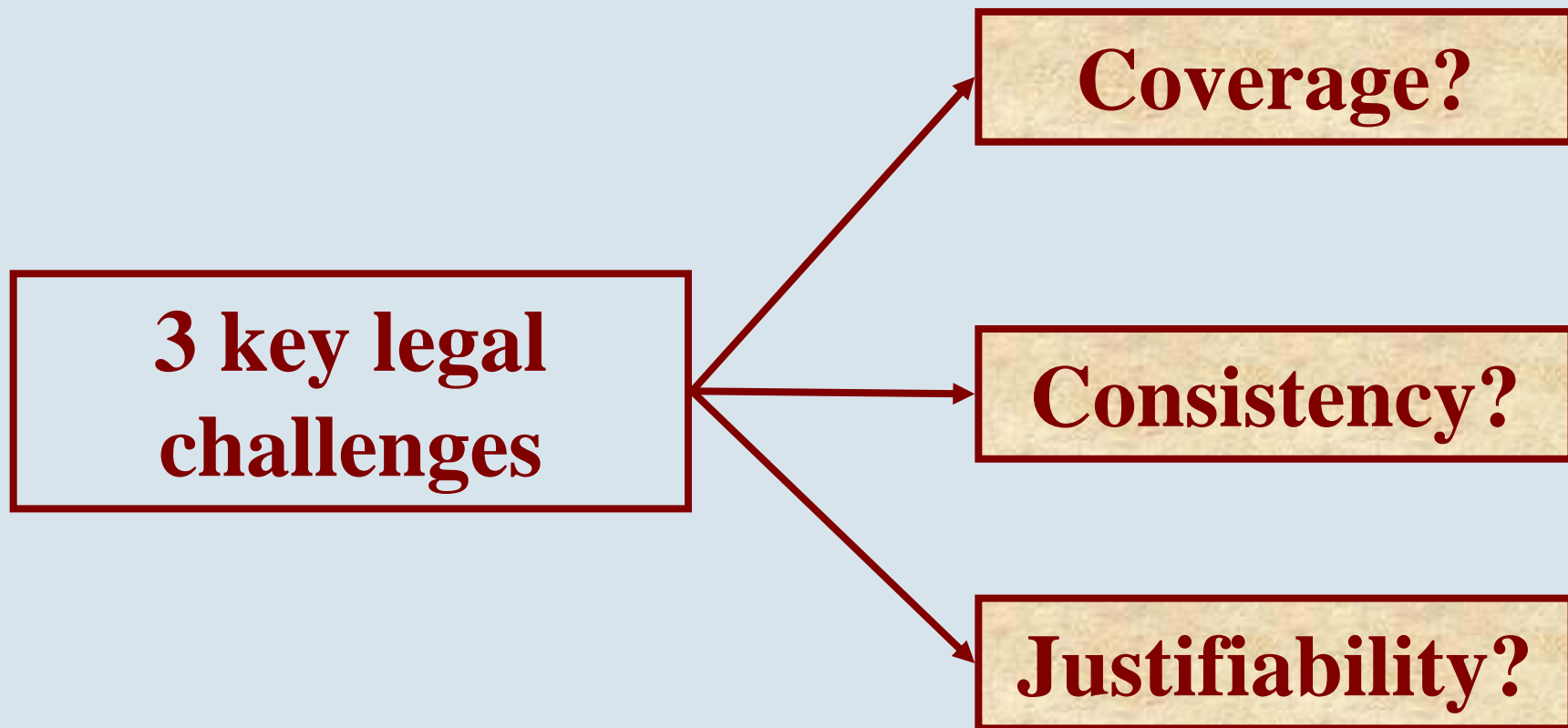
Rules on technical regulations and standards

Disciplines relevant to trade in services

Rules for trade-related intellectual property rights



Climate change border adjustments and WTO rules





Climate change border adjustments and WTO rules

Coverage?

*Importance to define the instrument at hand to determine
relevant WTO/GATT provisions*

A border adjustment to a tax?

A border adjustment to a regulation, e.g. an ETS?



Climate change border adjustments and WTO rules

Consistency?

**With basic
principles, e.g. non
discrimination**

National treatment

Most Favored Clause



Prohibition to discriminate between “like” products

Except if...



Climate change border adjustments and WTO rules

Justifiability?

*WTO jurisprudence has confirmed that WTO rules do
not trump environment*

**Several disputes on
measures that sought
to achieve a variety of
policy objectives**

**Conservation of clean air from air
pollution**

**Conservation of sea turtles from
incidental capture in commercial fishing**

**Protection of human health from risks
posed by asbestos**

**Protection of human health from risks
posed by the accumulation of waste tyres**



Climate change border adjustments and WTO rules

Justifiability?

*Case law shows that implementation is
key!*



MEAs/WTO Relationship

**UNFCCC/WTO
do not operate
in “clinical”
isolation**

Article 3.5 of the UNFCCC and Article 2.3 of the Kyoto Protocol: CC measures should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade and should be implemented so as to minimize adverse effects, including on international trade, and social, environmental and economic impacts on other Parties

WTO rules leave sufficient policy space to accommodate under certain conditions the use of certain trade measures to protect the environment



Climate change and the WTO

The issue of climate change, *per se*, is not part of the WTO's work programme and no WTO rules are specific to climate change

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Negotiations on Environment (DDA Para. 31)

1

Relationship between existing WTO rules & *specific trade obligations* set out in MEAs

2

Procedures for *regular information exchange* between MEAs and relevant WTO committees and the criteria for the granting of *observer status*

3

Reduction/elimination of *tariff and non-tariff barriers* to *Environmental goods and services*



Negotiations on environmental goods

The key aim is to reduce or eliminate import tariffs and non tariff barriers on environmental goods: immediate deliverable for climate change mitigation

In the category of *renewable energy* products, on average, the MFN applied duty is:

**In developed country Members:
2% (0%-4.2%)**

**In developing country Members:
7% (0%-25.3%)**

**In LDC Members: 10%
(2.6%-30.7%)**



Negotiations on environmental goods

**Including on a number of
key climate change
mitigation technologies,
e.g.**

Hydropower turbines

Solar water heaters

**Tanks for the production of
biogas**

**Landfill liners for methane
collection**



Climate change and the WTO

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Specialized Committees

Committee on Trade and Environment (CTE)

Regular work program

E.g. discussion of the environmental benefits of removing restrictions in the energy sector, the effect of energy efficiency labeling on market access, etc..

November 2008 meeting Exchange of Information

Bali Trade Ministers Informal Dialogue

UNFCCC Secretariat briefing

ISO's works on climate change



Specialized Committees

**Committee
Technical Barriers
to Trade (CTBT)**

In recent years the CTBT discussed a number of product standards and labelling requirements targeted to energy efficiency or emission control

**Examples of regulations
discussed so far include:**

Fuel economy standards for cars

**Eco-design requirements for
energy-using products**

**Energy efficiency programmes
for consumer products**

**Emission limit values for diesel
engines**



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