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George Washington University

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[P E R S P E C T I V E S]

AMERICA'S NEW CLIMATE UNILATERALISM: A BETTER APPROACH TO COPENHAGEN

Steve Charnovitz, Associate Professor of Law

This article was originally published in The International Economy (Fall 2009). Reprinted by permission.



BLACK SEA AT SUNSET, TRABZON, TURKEY

Years of vital time were wasted during the 2000s when the United States refused to join the Kyoto Protocol on climate and the Bush Administration stood aloof from many ongoing international initiatives to better manage greenhouse gas emissions. So when Todd Stern,

the current United States special envoy for climate, made his maiden speech to the Ad Hoc Working Groups on Climate, he received spirited applause. Speaking in late March 2009 in Bonn, Germany, Stern told the assembly, "We are very glad to be back. We want to make up for lost time, and we

are seized with the urgency of the task before us."

No one doubts that the United States is back in the game. But being back is one thing and playing the game cooperatively according to the rules is another. In targeting other countries with new import charges for climate,

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SPRING 2010

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[V I E W P O I N T]

40 YEARS AND GOING STRONGER

GW's environmental law program celebrates its 40th anniversary this year. Our program continues to evolve to meet the needs of our students as they tackle the extraordinarily difficult environmental and energy issues that lie before us.

In 1970, a major grant from the Ford Foundation allowed GW Law to bring Professor Arnold Reitze here from Cleveland-Marshall College of Law at Cleveland State University to create a new environmental law clinical program and a unified environmental law curriculum. The rest, as the saying goes, is history.

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NANJING ROAD, SHANGHAI

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the legislation passed by the United States House of Representatives in June 2009 strikes a confrontational posture that is, in some ways, just as unilateral as the much-criticized United States policies of the Bush era.

The trade measures included in the American Clean Energy and Security Act direct the Environmental Protection Agency, beginning in 2020, to require importers of certain products from certain countries to purchase an “international reserve allowance.” This required purchase, in effect, would be a financial charge upon the imported product. The official summary of the act calls it a “border adjustment for energy-intensive trade-exposed sectors.” The act itself explains that the purpose of the import charge is to minimize the likelihood of carbon leakage as a result of the differences in United States environmental compliance costs and the compliance costs in the other

countries arising from its climate policies. “Carbon leakage” is defined as a substantial increase in greenhouse gas emissions in other countries if that increase is caused by an incremental increase in the United States cost of production caused by the act.

In recent articles in *The International Economy* magazine (“Cap-and-Trade Protectionism?,” Summer 2009), Martin Feldstein argues that a policy of imposing tariffs on imports to offset the advantage for countries with lower prices for carbon “is just the kind of protectionism that governments have been working to eliminate since the start of the [General Agreement on Tariffs and Trade] GATT processes more than 50 years ago.” Insofar as the United States House of Representatives’ climate bill is motivated by offsetting the cost differences between the United States and a country such as China in order to preserve United States production and jobs, then I agree with Professor

Feldstein that the climate tariffs embodied in the House bill are protectionist. On the other hand, if there were a valid environmental purpose in imposing a climate tariff, then Professor Feldstein would be wrong to say that such a policy is the same kind of protectionism that the GATT and now the World Trade Organization (WTO) were given a mandate to regulate. The jurisprudence of the WTO since it was established in 1995 shows that WTO rules do not threaten legitimate environmental policies carried out in a fair way.

While there could be a valid environmental purpose in using tariffs against countries that are free riders on international efforts to address climate, the United States surely has no moral standing to do so now because the United States itself has been a longtime free rider within the climate regime. Countries that have not agreed to a greenhouse gas emissions cap, such as India, are entirely justified in condemn-

ing the trade measures in the House bill. The idea that threatening tariffs on other countries has to be a pre-condition for the House to enact emission limits is objectionable, given how little the Congress has done over the past decade to reduce United States emissions or to help developing countries reduce their emissions. This new United States unilateralism of threatening other countries with carbon import charges constitutes both bad environmental policy and bad trade policy.

The House-passed carbon charge is bad environmental policy because it gives India and other countries the high ground to say that they will not negotiate new emission reduction commitments under a threat of United States trade sanctions. At this point, the House is the only legislative body in the world to include trade measures in climate law. The looming trade threat undermines the opportunity of the United States to exercise leadership in multilateral climate



FISHING FLEET, ESSAOUIRA, MOROCCO

{ WHAT'S NEW }

NEXT GENERATION ENERGY AND THE LAW SYMPOSIUM



GARY GUZY, OF THE WHITE HOUSE COUNCIL ON ENVIRONMENTAL QUALITY, WAS THE SYMPOSIUM'S KEYNOTE SPEAKER.

Gary S. Guzy, deputy director and general counsel, White House Council on Environmental Quality, delivered the keynote address for the Law School's "Next Generation Energy and the Law" symposium, held Feb. 18 and 19. The symposium was the first to be organized by our new *Journal of Energy and Environmental Law* and was co-sponsored by the Environmental Law Institute and the GW Environmental Law Association.

Panels focused on environmental issues associated with siting renewable energy facilities, the role of energy efficiency as a source of next-generation energy, and international developments related to next-generation energy. The international panel featured Professor Adrian Bradbrook from the University of Adelaide, Australia, and Professor Martha Roggenkamp from the University of Groningen, the Netherlands.

To view the agenda, participant information, and video clips from the symposium, please visit www.law.gwu.edu/Shapiro 10.

negotiations. That point was made cogently by Rajendra Pachauri, the chair of the Intergovernmental Panel on Climate Change, who warned during a visit to Washington in July that "the United States can't lead by bullying. You can only lead by setting an example."

The House-passed carbon charge is bad trade policy because it would transgress the law of the WTO. The Congressional proponents of the carbon charge have suggested that the import charge could qualify under a GATT exception available for conservation measures. But that seems unlikely in view of the fact that the trade measures in the House bill are so obviously designed with a competitive, rather than an environmental, purpose. Furthermore, the House-passed bill is so lopsided in favor of United States producers and gives so little due process rights to other countries that a WTO dispute panel would easily rule against the United States. The Obama Administration would then face the awkward choice of either backing down or publicly flouting a WTO judgment against it.

But my legal prediction could be wrong. Suppose the WTO panel finds that the GATT environmental exception is broad enough to immunize the carbon charge in the House bill. Would that save the United States measure from being a bad trade policy?

In my view, no. If United States carbon charges are ruled WTO-legal, then the door will be opened for other countries to fashion their own measures imposing new climate-based trade restrictions. For example, India could base its tariffs on per capita carbon emissions, where its performance of 1.2 million tons is much better than the 19.8 million tons spewed out by

United States producers. Thus, if the United States leads by imposing new trade restrictions, other countries could retaliate with parallel actions against United States exporters.

Enactment of new climate tariffs would add to the already long string of protectionist trade actions by the United States during the Obama Administration. The world took note when new tariffs were imposed on tires from China; when Congress attached domestic-content requirements to the subsidies to state agencies in the American Recovery and Reinvestment Act (popularly known as the "Stimulus"); when the Congress barred trucking services from Mexico; and when the Obama Administration postponed any efforts to seek Congressional approval of long-pending United States free trade agreements with Korea, Colombia, and Panama. These early trade missteps will make it much harder for the United States to exercise pro-trade leadership in the WTO Doha negotiations, assuming that the Obama Administration becomes inclined to do so.

Is there a chance that the Senate will remove the trade measures from the climate bill? At this point, that scenario is unlikely. After the import charges were added to the House bill in a last-minute, un-transparent parliamentary maneuver, President Obama declared in late June that "[a]t a time when the economy worldwide is still deep in recession and we've seen a significant drop in global trade, I think we have to be very careful about sending any protectionist signals out." But the president stopped far short of asking for the trade measures to be stripped out. Several weeks later, 10 Democratic senators wrote a letter to Obama warning that it was "essential that climate change legislation include a border

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{ PROFILES }

ASSOCIATE PROFESSOR STEVE CHARNOVITZ

Steve Charnovitz has long been interested in environmental issues. His interest was sparked by several internships before and during college, including an internship during which he reviewed highway environmental impact statements at the U.S. Department of Transportation. After college, he worked on economic policy issues, particularly employment policy and international trade. In 1990, he returned to focusing on environmental issues while serving as a legislative assistant to U.S. House Speaker Thomas Foley and had responsibility for monitoring committee and floor consideration of the Clean Air Act Amendments of 1990.



STEVE CHARNOVITZ

In 1994, Charnovitz teamed up with colleagues James Cameron, Daniel Esty, and Mark Ritchie to launch the Global Environment and Trade Study (GETS). The GETS was designed to study the linkages between international trade and environmental policy and to propose ways to head off the impending clashes between the two regimes. The GETS project was moved to Yale University in 1995, and Charnovitz became its first director, serving for four years. The GETS project received support from several environmental grantmakers such as the Ford Foundation and the Rockefeller Brothers Fund. As leader of GETS, Charnovitz organized several international conferences on trade and the environment in Tokyo, Singapore, and Geneva.

During the early 1990s, Charnovitz wrote several articles on why international trade law was being misinterpreted by the Secretariat of the General Agreement on Tariffs and Trade

(GATT) and by several GATT dispute panels that had adjudicated environmental cases (including the infamous “tuna-dolphin” dispute between the United States and Mexico). Charnovitz articulated the position that the GATT Article XX exception was broad enough to cover process-related environmental trade measures, including measures to protect the global environment. At that time, this view was controversial in the trade-law community. In 1998 and 2001, however, the World Trade Organization Appellate Body held that the Article XX exception could be used to justify an import ban on shrimp in order to protect highly migratory sea turtles, and that opinion has gradually changed the conventional wisdom in the trade-law community about the legality of process-related trade measures.

Professor Charnovitz lectures and writes frequently on environmental issues, especially

those related to trade and global environmental governance. Over the years, for example, he has given talks for the Aspen Institute Congressional Program, the Leadership for Environment and Development, the World Trade Organization, the United Nations Environment Programme, The World Bank, the North American Commission for Environmental Cooperation, and the Aspen Global Change Institute. He is the author of over 100 law journal articles and recently was the co-author of *Global Warming and the World Trading System* (Peterson Institute for International Economics, 2009).

Professor Charnovitz joined the GW Law faculty in 2004. He received a B.A. and J.D. from Yale University and a master’s degree in public policy from Harvard University.

VIRGINIA (GINNY ANN) GLASGOW

(LL.M. 2010)

Ginny Ann Glasgow, an LL.M. student and Shaw Fellow at GW Law, credits her law school courses in environmental law with propelling her interest in the subject area. A 2005 cum laude graduate of Tulane University Law School, she also notes the impact of living in New Orleans as a significant factor in increasing her interest in environmental law. “Living in a place like New Orleans really gave me an appreciation for the critical importance of the successes and failures of environmental law,” she notes.

She grew up in the small town

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ENVIRONMENTAL
PERSPECTIVES

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VIRGINIA GLASGOW

of Camden, South Carolina and attended Emory University in Atlanta, from which she graduated in 2001 with a B.A. in history. At Emory, she played on the women's water polo team and studied abroad for a semester at the University of Sydney in Australia. During her career at Tulane Law, she was a member of the Moot Court and the *Tulane Journal of International & Comparative Law*.

After law school, Ginny Ann became an associate attorney at Proskauer Rose LLP in New York, where she had been a summer associate law clerk. She practiced corporate law at Proskauer for four years, primarily focusing on private investment funds. She is currently on sabbatical from Proskauer as she pursues her LL.M in Environmental Law.

Of GW Law's LL.M. program, she says, "I really appreciate the fact that many of my professors are practitioners who share experiences from their day-to-day work to illustrate what they are teaching us. My favorite class has been the Animal Law and Wildlife Protection Seminar. It's really fascinating, especially since I'm an animal lover."

Recently, Ginny Ann attended the World Justice Forum in Vienna as part of her work as a Shaw Fellow. She was a volunteer staff member for the World Justice Project and served as a

rappporteur for some of the sessions. She recalls, "While there I was able to hear about some of the current environmental issues facing people all over the globe. For example, water shortage and allocation issues are big concerns in the Middle East."

At home in DC, Ginny Ann lives with her two cats, Nola and Shadow. She enjoys running and is preparing to run the National Half Marathon in D.C. in March. "Training is a great way to see DC," she says.

RENEE MARTIN-NAGLE

(LL.M. 2010; Vice President and General Counsel, Airbus Americas, Inc.)



RENEE MARTIN-NAGLE

Renee was inspired to return to law school by the birth of her first grandson. The night before he was born, she attended a lecture by Jane Goodall, who travels tirelessly to raise awareness about environmental issues and improve the world for her grandchildren. Although Renee had read voraciously about environmental issues for 20 years, her grandson's birth made the issues much more personal as she considered the planet his generation would inherit. Renee resolved the night of his birth to

{ WHAT'S NEW }

SHAPIRO CONGRESSIONAL FELLOWSHIP



DEREK HANSON



ANDREW CAPLAN

GW Law launched its J.B. and Maurice C. Shapiro Congressional Fellowship in January 2010. Our first two Shapiro Fellows are Derek Hanson and Andrew Caplan. Hanson has been working in the office of Senator Amy Klobuchar (D-MN) during the spring semester. Caplan will work for Senator Frank Lautenberg (D-NJ) over the summer.

Fellows work both during the school year and over the summer on the personal staffs of members of Congress or with Congressional committees. Students chosen for the fellowship receive a scholarship equivalent to half the cost of tuition during the academic year or a \$15,000 payment for work during the summer. Third-year students are eligible for the fellowship and are selected by the environmental law faculty based on academic achievement, background in environmental law, and any work experience related to environmental issues.

dedicate her life to making the world more sustainable and inhabitable; she wanted to be able to look her grandchildren in the eye and say that she had tried her best.

She says, “The LL.M. in Environmental Law at GW was intended to give me the necessary knowledge to engage effectively in the fight as well as to provide an unassailable imprimatur from a highly regarded program.”

Renee began her legal career in April 1986 as general counsel of the U.S. subsidiary of a French helicopter company, and she has been a general counsel in aviation ever since. Currently, she is vice president and general counsel of Airbus Americas, a position she has held since April 1990. In addition to her legal responsibilities, she is also chief compliance officer and head of environmental affairs. Her desire to provide service to her industry has led to her involvement in aviation-oriented organizations; she is currently chair of the ABA Forum on Air and Space Law.

As head of Environmental Affairs at Airbus, Renee is responsible for all compliance matters for Airbus in the U.S., and she lead the ISO 14001 program. She says, “The most interesting part of my environmental activities, however, stems from my participation on a committee of aviation manufacturers that is developing a method of measuring the fuel efficiency of aircraft as a means of ensuring lower carbon emissions from future models. It’s not easy being the only non-engineer in the group.”

When she entered GW Law as a non-traditional student, Renee wasn’t sure what to expect from the experience. She notes that she is, on average, 30 years older than most of the students and “older even than some of the professors.” In addition, she

received her J.D. in the days before the internet. But Renee observes, “To my delight, the professors are not only extremely qualified and competent, but they are also quite approachable, friendly, and helpful. And much to my surprise, the students have accepted me and have been open and warm.”

Renee finds that the process of doing research has changed significantly in the last 25 years. When she attended law school, students were only responsible for researching material in their school’s library, which limited the sources used in any paper. Unfortunately, it also meant spending hours in the book stacks, occasionally finding that the book you needed had already been taken. With the internet, however, Renee finds she can download documents from all over the world from the comfort of her home. Renee says, “This new method is certainly a lot more fun and allows for much more directed research and informed analysis. The knowledge I have gained through GW Law has far exceeded my expectations, and I’ve come away with some friendships as well.”

Renee received an associate of arts degree from Mount Aloysius College, a bachelor of arts degree from Saint Francis University, and a juris doctor from the University of Pittsburgh School of Law.

STEPHANIE ALLGAIER AND SHEHERNAZ D. JOSHI

The People Behind GW Law’s LL.M. Program

Stephanie Allgaier has been helping to admit students to GW Law since 1993, and during that time she has witnessed the expansion of the environmental law LL.M. program. Stephanie



STEPHANIE ALLGAIER

became the director of LL.M. admissions for U.S.-trained students after a year in which she helped to run the J.D. Admissions Office while the director was on a professional sabbatical. Her prior work experience includes paralegal and recruiting work for a national law firm, as well as stints at Catholic and American Universities.

When Stephanie joined the LL.M. admissions team in 1994, GW Law offered master of laws degrees in Environmental Law, Government Procurement Law, Intellectual Property Law, and International and Comparative Law. At that time, there were more than 70 students in the Environmental LL.M. program alone, a “high-water” mark, driven by the rapidly increasing demand for environmental lawyers that was created by the federal Superfund law. There were two other full-time professors assisting then-director of the program Professor Arnold Reitze with thesis papers and overall program administration.

Stephanie has seen many changes in the programs over the years. The thesis requirement has been phased out for some of the LL.M. specialties, although a minimum writing requirement remains. GW Law’s various specialty areas have gained and lost in popularity along with the changing economic climate. Today, the law school offers a

total of nine specialty areas, including the above-mentioned programs along with Litigation and Dispute Resolution; National Security and U.S. Foreign Relations Law; and three environmental sub-specialties: Government Procurement and Environmental Law, International Environmental Law, and Energy and Environmental Law.

“I appreciate all that GW environmental lawyers have done over the years to protect the environment,” said Stephanie.” She puts that appreciation into action by spending her leisure time outdoors as much as possible. Over the last few years she has been fortunate enough to spend hiking vacations in many of our national parks, including Yosemite, Glacier, Yellowstone, Grand Canyon, Bryce, Zion, Canyonlands, Arches, and Olympic. Hiking into and out of the Grand Canyon and staying at Phantom Ranch was the highlight of a recent year during which she celebrated one of those “big birthdays ending in a zero,” she quips.

Stephanie has been involved with a local hiking group, the Capital Hiking Club (CHC), for many years, co-leading hikes and serving as an officer of the Club; most recently, she served as their webmaster (www.capitalhiking-club.org). She is proud to say the D.C. metropolitan area offers many options for those who enjoy hiking and the outdoors, and three hiking organizations, including the CHC, have been in existence since the 1930s.

The best part of her job is contact with the wide variety of interesting students at all phases of their careers, helping them solve administrative problems big and small, and encouraging them to reach their goals. One of her favorite compliments was from a student who termed her the “slayer of the bureaucratic dragon.” Stephanie always enjoys

hearing what former students are up to and encourages them to call and say hello—even if their thesis papers are several years overdue.



SHEHERNAZ D. JOSHI

Shehernaz Joshi, the director of the international students division in the graduate programs office at GW Law, administers admissions and financial aid for all international students enrolled in the LL.M. or S.J.D. degree program. She is also responsible for the review and disposition of several hundred applications each year. She handles all marketing and recruiting related to international students, as well as handling those students' visa, academic counseling, and related issues. Shehernaz also works closely with Susan Karamanian, associate dean for international and comparative legal studies, on international law conferences, student recruitment efforts, and other graduate program matters. Finally, she serves as the exchange program coordinator for the Augsburg Exchange Programs run by GW Law and for GW Law's involvement in the North American Consortium for Legal Education (NACLE). Shehernaz has been at the law school for 20 years and started the program for international LL.M. students with Judge

Thomas Buergethal in 1990. She has a master's degree in international affairs and Middle East Studies from The George Washington University. Before joining GW Law, Shehernaz worked with The World Bank, the United Nations Environment Programme, and the United Nations Development Programme.

She was born in India and moved to the Washington, D.C., metropolitan area at a young age. She is a member of several professional organizations involved in international education and is also actively involved in local community organizations and outreach activities.

When asked what she loves most about her job, Shehernaz's answer is simple: "Getting to meet people from all around the world and learning from them about their legal and educational systems, their cultures, and their way of life has been one of the greatest side benefits of this job." As someone who sees herself as a citizen not just of the U.S. but of the global community, Shehernaz feels strongly about the role that international students play when they come to GW Law. She is an ardent supporter of international education and of promoting the cause of international students throughout the law school, the university, and the international community of Washington, D.C.

An active member of the Zoroastrian community in Washington, D.C., Shehernaz has served on the board of the Zoroastrian Association of Metropolitan Washington, Inc. (ZAMWI), including two terms as president. She has been an invited speaker at several of the past North American Zoroastrian Congresses and presently serves as chair of the FEZANA Awards Committee. She is a Sunday school teacher for the Zoroastrian community in

Washington and has been active in fostering and promoting Zoroastrian women's issues worldwide. ★



The North American Consortium for Legal Education (NACLE), founded in 1998, comprises 13 participating law schools in Canada, Mexico, and the United States. The consortium offers law students the opportunity to participate in semester long exchanges at member universities. GW Law is one of the five U.S. law school members. The Canadian member schools include the University of British Columbia, Dalhousie University, McGill University, and the University of Ottawa. The members in Mexico are Centro de Investigación y Docencia Económicas; Instituto de Investigaciones Jurídicas, UNUM; Instituto Tecnológico de Estudios Superiores de Monterrey; and Universidad Panamericana. For more information on NACLE, go to www.nacle.org.

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ARNOLD REITZE

Reitze built one of the most extensive environmental law programs in the country while remaining a prolific author and one of the most sought after Clean Air Act experts. He also created a remarkable LL.M. program that at the height of the Superfund era had an enrollment of nearly 50. He brought to GW Law as adjunct faculty some of the region's most eminent environmental lawyers, many of whom have taught in the program for more than a decade. Our 40th anniversary year will celebrate this truly remarkable legacy.

In his time at GW Law, Reitze spent his weekends hiking the Shenandoahs. Now having moved to Salt Lake City, he is taking on the Wasatch. Reitze also teaches at the S.J. Quinney College of Law at the University

of Utah, and, of course, he continues to publish, with his *Air Pollution Control Law: Second Edition* scheduled for publication in early 2010.

Building on Reitze's work, we have continued to expand the environmental law program. Professor Jamie Grodsky teaches our basic environmental law course, while also publishing award-winning articles. The arrival of Professor Rob Glicksman last fall brings one of the most prominent environmental scholars and teachers to GW Law. Our new *Journal of Energy and Environmental Law* held its first symposium on "Next Generation Energy and the Law" in late February and will publish its first issue in collaboration with the Environmental Law Institute late this spring. We

have significantly expanded our environmental outplacement program and created a new Environmental Lawyering course. We have added a new course on International Climate Change Law to help prepare our students for what likely will be one of the most challenging issues of the next decade and beyond. This semester we inaugurated our new Congressional Fellowship program by placing one of our third-year students with Senator Amy Klobuchar's office. Our LL.M. program is growing as more law school graduates seek both job opportunities and an opportunity to help address critical societal needs through a specialist degree in environmental law, including our new sub-specialty in Energy and



VIEW ALONG THE OREGON COAST

Environmental Law

We like to say that GW Law has one of the youngest, old environmental programs in the country. By that we mean that we recognize our heritage and the incredible efforts of Arnold Reitze and many others to build the program. At the same time, we continue to innovate to address today's environmental issues.

During the course of the next year, we will celebrate both our legacy and our future in a variety of ways. In particular, we hope to see our alumni at a special 40th anniversary reunion event we will hold in early November. I look forward to meeting many of the more than 1,500 environmental lawyers who hold a GW Law degree at that time.



LEE PADDOCK

Associate Dean for Environmental
Legal Studies

CELEBRATE OUR 40TH ANNIVERSARY

Help us celebrate the 40th anniversary of the Environmental Law Program with commemorative gear. You can purchase a GW Law environmental T-shirt or shopping bag by contacting the Environmental Law Association at GWELA@gmail.com. The shirts are in a natural color (tan) and the images on the front and back are in forest green. Tee shirts cost \$15 and tote bags cost \$12 (plus \$3 for shipping, with a discount if shipping multiple items). ★



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ENVIRONMENTAL PERSPECTIVES

mechanism.” And then on October 11, Senators John Kerry (D-MA) and Lindsey Graham (R-SC) coauthored an op-ed for *The New York Times* putting forth ideas for how to fashion a climate bill that could draw 60 votes in the Senate. In the op-ed they stated: “There is no reason we should surrender our marketplace to countries that do not accept environmental standards. For this reason, we should consider a border tax on items produced in countries that avoid these standards. This is consistent with our obligations under the World Trade Organization and creates strong incentives for other countries to adopt tough environmental protections.”

As with House supporters of climate-related border measures, the Senate supporters also claim that such measures are “consistent” with WTO law. But if the policy goal is to prevent the “surrender” of the United States marketplace, the imposition of import charges will not qualify for the environmental exceptions in the WTO.

Although unilateral trade measures by the United States are not reasonable, there is a need for ongoing multilateral climate negotiations to develop policies to address so-called carbon leakage and to allocate responsibilities for carbon emissions between exporting and importing nations. Climate negotiators should also consider what collective action would be warranted if large-emitting countries refuse to consider any legally binding emission-reduction commitments. The House bill does go in the right direction in calling for a new policy of the United States “to work proactively” in the climate regime “to establish binding agreements, including sectoral agreements, committing all major greenhouse gas-emitting nations to contrib-



MORNING IN SHANGHAI

ute equitably to the reduction of global greenhouse gas emissions.” Where the House bill goes in the wrong direction is in assuming that the United States is still powerful enough to get its way in the world economy by threatening trade measures against countries that have the temerity to craft their own clean energy and climate policy without giving much weight to how it affects jobs in the United States

The era of isolationist climate unilateralism is now in danger of being replaced by an equally ugly impulse of eco-imperialist unilateralism. Rather than igniting trade wars and undermining respect for WTO law, the Obama Administration should be launching positive initiatives such as accelerating WTO Doha Round negotiations on the reduction of barriers to environmental goods and services. And at Copenhagen, the United States should support a multi-year moratorium on any unilateral imposition of climate tariffs.

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THE GEORGE WASHINGTON UNIVERSITY LAW SCHOOL

GW LAW ANNOUNCES ITS NEW ONLINE ALUMNI COMMUNITY

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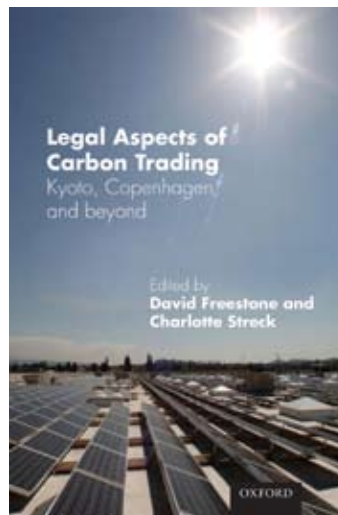


BOOK LAUNCH AT GW LAW



CHARLOTTE STRECK, STEVE CHAMOVITZ, AND DAVID FREESTONE

Oxford University Press held a book launch event at GW Law on January 26 for Professor David Freestone's new book, *Legal Aspects of Carbon Trading: Kyoto, Copenhagen and beyond* (coauthored with Charlotte Streck). The Oxford University Press notes that the book "examines all the main legal issues which are raised by this explosion of what is now called carbon finance. It covers not only the Kyoto Flexibility Mechanisms but also the EU Emissions Trading Scheme (ETS) that is in the process of reform and other national and voluntary schemes."



IN PRINT

Steve Charnovitz

"America's New Climate Unilateralism,"
The International Economy, Fall 2009.

"An Introduction to the Trade and Environment Debate,"
in *Handbook on Trade and the Environment*
(Edward Elgar, 2009).

Rob Glicksman

Administrative Law: Agency Action in Legal Context
(with Richard E. Levy, Foundation Press, forthcoming 2010).

Sean Murphy

International Law: Cases and Materials, (5th ed., with Lori Damrosch, Louis Henkin & Hans Smit, West, 2009).

Lee Paddock

"An Integrated Approach to Nanotechnology Governance,"
UCLA Journal of Environmental Law and Policy
(forthcoming Spring 2010)

"Keeping Pace with Nanotechnology: The Need for a Diverse Set of Governance Mechanisms," in Lynn L. Bergeson, ed., *Nanotechnology: Environmental Law, Policy, and Business Considerations*
(ABA Section of Environment, Energy, and Resources 2009)

"The Farm to Fork Initiative: A Shareholder and Management Partnership" in *National Research Council, Enhancing the Effectiveness of Sustainability Partnerships*
(The National Academies Press, 2009)

Dinah Shelton

"International Cooperation on Shared Natural Resources,"
in Shelle Hart, ed., *Shared Resources: Issues of Governance*
(IUCN, 2009)

"A Rights-Based Approach to Conservation," in T. Greiber et. al, *Conservation with Justice* (IUCN, 2009).

"Des ressources naturelles partagées, un intérêt commun pour l'humanité," in Michel Kalika, ed., *Les Hommes et le Management: des Réponses à la Crise* (Economica, 2009).

"Equitable Utilization of the Atmosphere: A Rights-based Approach to Climate Change?," in Stephen Humphreys, ed., *Human Rights and Climate Change* (Cambridge University Press, 2010). ★

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