

# Climate Action through Trade Agreements

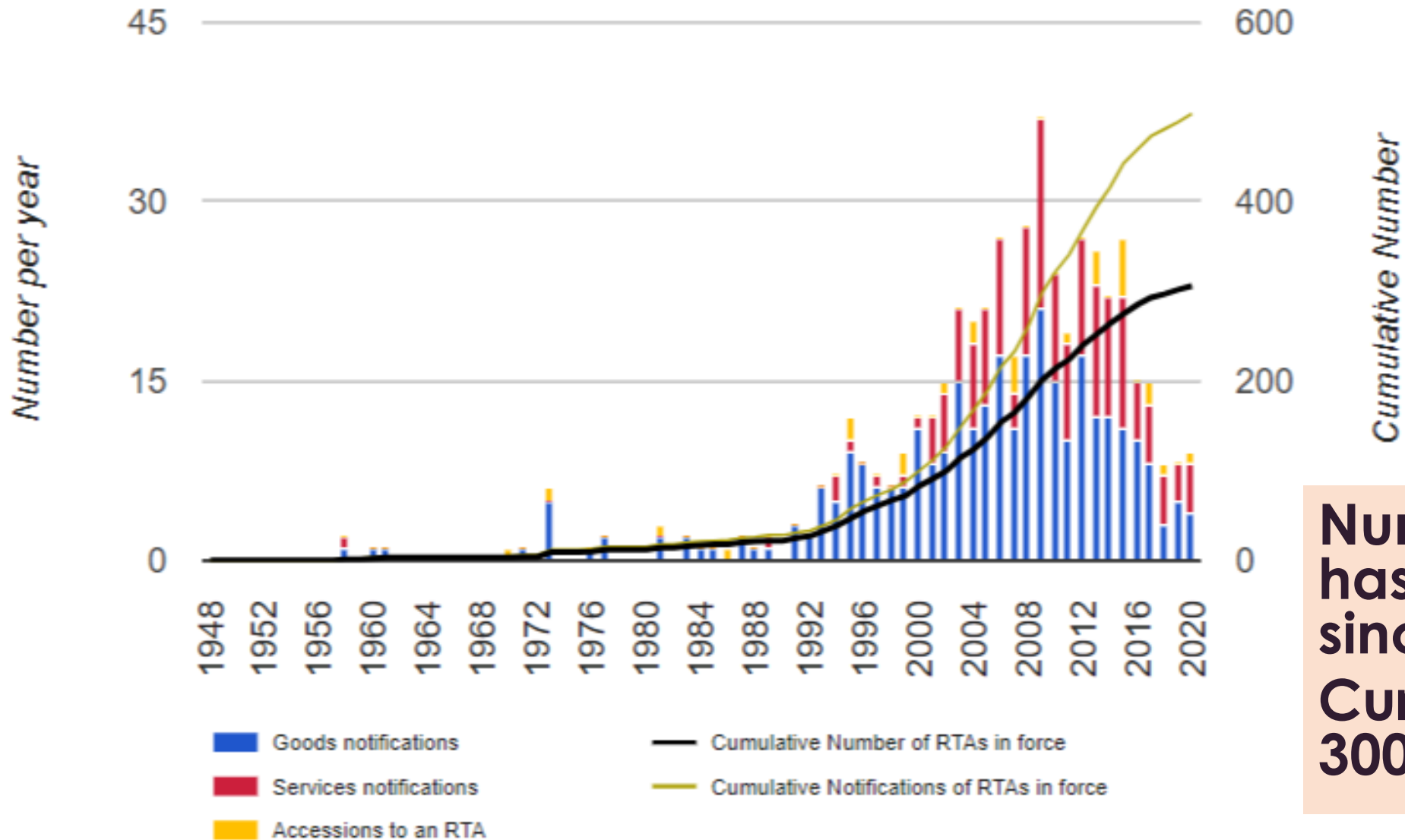
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# Introduction

- ▶ Climate action is taking place on multiple fronts
- ▶ **Business and economics** are core to both the causes of and solutions to climate change
- ▶ **Trade** is increasing relevant to climate change
- ▶ Trade's share of the global economy (GDP) has steadily risen: 30% in 1970s, 60% in 2020s
- ▶ Trade has a complex relationship with the environment and climate change
- ▶ As the **World Trade Organisation (WTO)** has faltered, trade agreements between nations have expanded rapidly in number
- ▶ Especially applies to **free trade agreements (FTAs)**
- ▶ What climate-relevant content do FTAs contain?
- ▶ How might climate action through FTAs happen?



## RTAs currently in force (by year of entry into force), 1948 - 2020



**Number of FTAs has risen rapidly since the 1990s...  
Currently just over 300 in force**

# Final Text

- Full Text of Agreement (Not Including Annexes and Side Letters)

## Preamble

### 1. Establishment of a Free Trade Area and Definitions

### 2. National Treatment and Market Access to Goods

- Australia Headnote
- Australia Harmonized Tariff Schedule
- U.S. Headnote
- U.S. Harmonized Tariff Schedule

### 3. Agriculture

### 4. Textiles and Apparel

- Annex - Textile or Apparel Specific Rules of Origin

### 5. Rules of Origin

- Annex - Product-Specific Rules with Headnote

### 6. Customs Administration

### 7. Sanitary and Phytosanitary Measures

### 8. Technical Barriers to Trade

### 9. Safeguards

### 10. Cross-Border Trade in Services

# United States – Australia FTA

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### 11. Investment

### 12. Telecommunications

### 13. Financial Services

### 14. Competition-Related Matters

### Chapter 15 | Government Procurement

- Annex 15-A

### 16. Electronic Commerce

### 17. Intellectual Property

### 18. Labor

### 19. Environment

### 20. Transparency

### 21. Institutional Arrangements and Dispute Settlement

### 22. General Provisions and Exceptions

### 23. Final Provisions

## US approach to FTAs

- ▶ Free trade agreements can be very diverse for a number of political economic reasons
- ▶ Here is the chapter section structure of a typical United States FTA (with Australia)
- ▶ Heavy emphasis on market access, commercial regulation and exporting US legislation norms into other nations

# EU – Japan FTA

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## [Preamble](#)

Chapter 1 [General provisions](#)

Chapter 2 [Trade in goods](#)

Chapter 3 [Rules of origin and origin procedures](#)

Chapter 4 [Customs matters and trade facilitation](#)

Chapter 5 [Trade remedies](#)

Chapter 6 [Sanitary and phytosanitary measures](#)

Chapter 7 [Technical barriers to trade](#)

Chapter 8 [Trade in services, investment liberalisation and electronic commerce](#)

Chapter 9 [Capital movements, payments and transfers and temporary safeguard measures](#)

Chapter 10 [Government procurement](#)

Chapter 11 [Competition policy](#)

Chapter 12 [Subsidies](#)

Chapter 13 [State-owned enterprises, enterprises granted special rights or privileges and designated monopolies](#)

Chapter 14 [Intellectual property](#)

Chapter 15 [Corporate governance](#)

Chapter 16 [Trade and sustainable development](#)

Chapter 17 [Transparency](#)

Chapter 18 [Good regulatory practices and regulatory cooperation](#)

Chapter 19 [Cooperation in the field of agriculture](#)

Chapter 20 [Small and medium-sized enterprises](#)

Chapter 21 [Dispute settlement](#)

Chapter 22 [Institutional provisions](#)

Chapter 23 [Final provisions](#)

## EU approach to FTAs

- ▶ Some similarities with the US approach on commercial regulation
- ▶ BUT... the EU adopts a relatively more open, flexible and co-operation stance in its FTA model
- ▶ Its role as global leader on climate action is reflected in its FTA policy...

# Trade-Climate Nexus

## Six Empirical Domains

- ▶ *Carbon tariffs, trading, markets and sinks*
- ▶ *Promotion and liberalisation of trade in climate-relevant products*
- ▶ *Clean energy*
- ▶ *Environmental and technical standards*
- ▶ *Trade Transportation*
- ▶ *Trade and climate regimes, and their interaction*



**Table 1 - Climate-Relevant Provision Types in FTAs**

No.	Provision Type	Original TREND Designation (and Codebook number/s)	Extra Direct Type	Empirical Domains	First FTA to include
1	Generalised only climate-relevant interactions between energy policies and the environment	Interaction between energy policies and the environment (4.03)	Yes	Clean energy	US - Chile (2003)
2	Carbon trading and market instruments	Specific economic or market instruments (6.03.01)	Yes	Carbon tariffs, trading, markets and sinks; Clean energy	EU - Korea (2010)
3	Promotion of trade and/or foreign investment in climate-relevant products	Promote environmental goods and services (7.01)	Yes	Promotion and liberalisation of trade in climate-relevant products; Clean energy	US - Central America - Dominican Republic (2004)
4	Promotion of renewable energy development	<i>Same designation</i> (10.15.01.01)		Clean energy	Economic Community of Central African States (1983)
5	Promotion of energy efficiency technologies	<i>Same designation</i> (10.15.01.02)		Clean energy	EU - Hungary (1991)
6	Reduction of GHG emissions	<i>Same designation</i> (10.15.02.01)		Trade transportation; Clean energy	EU - South Africa (1999)
7	Climate change adaptation	<i>Same designation</i> (10.15.02.02)		<i>Multiple domains</i>	China - Costa Rica (2010)
8	Co-operation on climate change	<i>Same designation</i> (10.15.02.03)		<i>Multiple domains</i>	EU - Hungary (1991)
9	Harmonization of legislations related to climate change	<i>Same designation</i> (10.15.02.04)		Trade and Climate Regimes, and their Interaction	EU - Ukraine (2014)
10	Other norms on climate change	<i>Same designation</i> (10.15.02.05)	Yes	<i>Multiple domains</i>	Japan - Brunei (2007)
11	Environmental standards on vehicle emissions	<i>Same designation</i> (10.18)	Yes	Environmental and technical standards; Clean energy	European Economic Area (1992)
12	Ratification, implementation or references generally of UNFCCC accords	<i>Same designation</i> (14.01.10, 14.02.09.01, 14.04.10)		Trade and Climate Regimes, and their Interaction	Common Market for Eastern and Southern Africa (1993)
13	Ratification, implementation, prevalence or references generally of Kyoto Protocol	<i>Same designation</i> (14.01.11, 14.02.10.01, 14.03.11, 14.04.11)		Trade and Climate Regimes, and their Interaction	Japan - Mexico (2004)
14	Implementation or reference generally of the Paris Climate Agreement	<i>Same designation</i> (14.02.20 14.04.26)	Yes	Trade and Climate Regimes, and their Interaction	Chile - Argentina (2017)



## Climate-Relevant Provisions in FTAs

- ▶ Research I conducted earlier this year, basis of two academic journal papers (one already submitted)
- ▶ Derives partly from the TREND Database project
- ▶ I identify 14 different climate-relevant provision types in FTAs
- ▶ Mapping these onto the 6 empirical domains (second column from right)





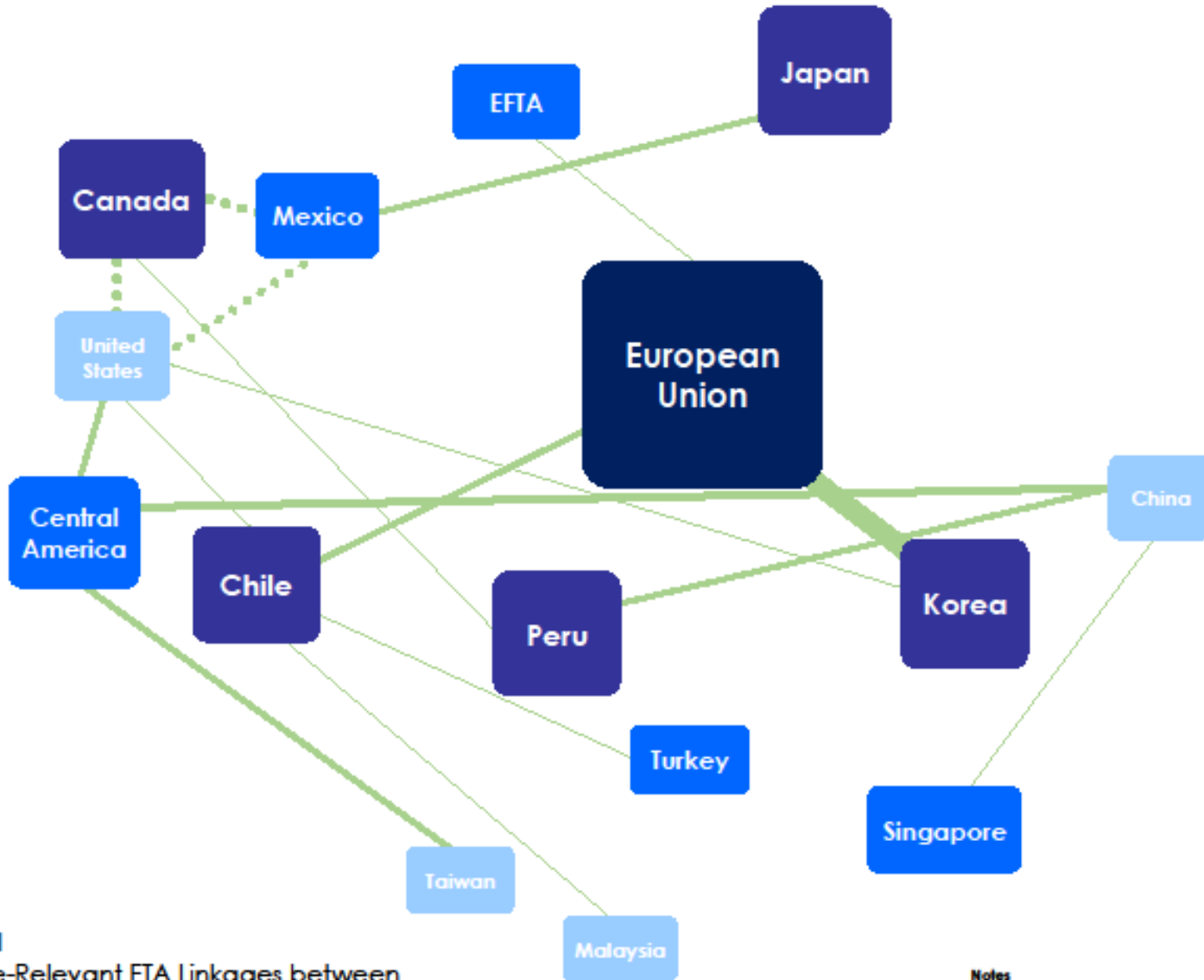
# General Observations

- ▶ Early climate-relevant FTAs signed by African states, focusing on *renewable energy promotion* but more in **energy security** and **industrial development contexts** than an environmental one
- ▶ EU became active in early 1990s, 'pre-accession' FTAs with East European states, emphasising **energy efficiency** for **trans-boundary pollution** motives
- ▶ *Policy innovation up to 2010* but **lack of climate-relevant provision 'bandwidth' in FTAs**...This changes over the decade that followed (see next slides)
- ▶ These provisions generally **lack legal or regulatory weight**... main action area is based on **co-operation**



# Key Trade Partners by 2010

- ▶ Activity and linkages up to 2010 between them
- ▶ Links show FTA climate-relevant provision 'bandwidth'
- ▶ Darker/larger box actors those with more provisions
- ▶ Quite underdeveloped, the EU the clear early leader at this stage
- ▶ Korea, Peru, Japan, Chile and Canada also quite active emergent players
- ▶ EU-Korea FTA (2010) was a landmark climate-relevant trade agreement, laying down new benchmarks



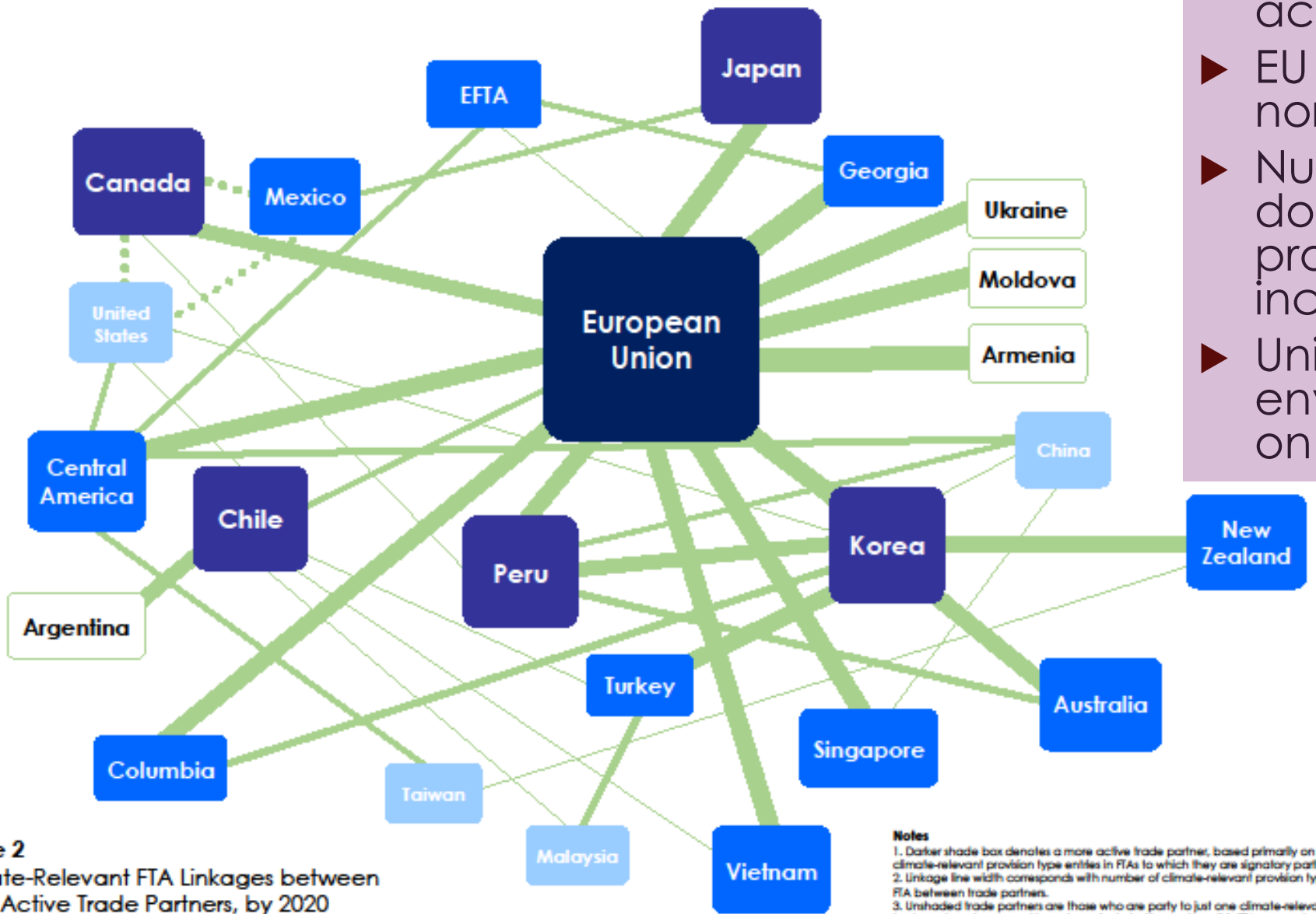
**Figure 1**  
Climate-Relevant FTA Linkages between  
Main Active Trade Partners, by 2010

**Notes**

1. Darker shade box denotes a more active trade partner, based primarily on the number of climate-relevant provision type entries in FTAs to which they are signatory parties.
2. Linkage line width corresponds with number of climate-relevant provision types covered in the FTA between trade partners.
3. Dotted line between US, Canada and Mexico denotes NAFTA. CPTPP links note included here.

# By 2020...

- ▶ Significant intensification in activity over the decade
- ▶ EU still the clear 'climate norm' leader
- ▶ Number of players have doubled, climate-relevant provision bandwidth has increased
- ▶ United States – strong on environment (laws), weak on climate action



**Figure 2**  
Climate-Relevant FTA Linkages between Main Active Trade Partners, by 2020

**Notes**  
 1. Darker shade box denotes a more active trade partner, based primarily on the number of climate-relevant provision type entities in FTAs to which they are signatory parties.  
 2. Linkage line width corresponds with number of climate-relevant provision types covered in the FTA between trade partners.  
 3. Unshaded trade partners are those who are party to just one climate-relevant FTA with the trade partner shown, and have been included here where this FTA covered a significant number of climate-relevant provision types.  
 4. Dotted line between US, Canada and Mexico denotes USMCA. CPTPP link note included here

Table 3a - Trade Partner Rankings

Rank	Trade Partner	No. of Climate-Relevant FTAs	No. of FTAs signed total (% with climate-relevant provisions)	1. Generalised only climate-relevant interactions between energy policies and the environment	2. Carbon trading and market instruments	3. Promotion of trade and/or FDI in climate-relevant goods and services	4. Promotion of renewable energy development	5. Promotion of energy efficiency technologies	6. Reduction of GHG emissions	7. Climate change adaptation	8. Co-operation on climate change	9. Harmonization of legislations related to climate change	10. Other norms on climate change	11. Environmental standards on vehicle emissions	12. Ratification, implementation or references generally of UNFCCC accords	13. Ratification, implementation, prevalence or references generally of Kyoto Protocol	14. Implementation or reference generally of the Paris Climate Agreement	Provisions TOTAL
1	European Union	21	44 (48%)	0	7	12	18	20	12	10	16	4	4	2	9	9	4	127
2	Korea	9	15 (60%)	0	2	5	7	7	5	3	6	0	2	6	2	2	0	47
3	Japan	6	17 (35%)	2	0	3	5	4	4	1	1	0	3	1	1	1	1	27
4	Peru	6	15 (40%)	0	0	3	3	3	5	2	4	0	0	2	2	1	0	25
5	Chile	9	31 (29%)	1	0	0	3	3	2	1	6	0	0	1	1	0	1	19
6	Canada	6	15 (40%)	0	1	3	3	3	4	2	1	0	0	2	0	0	0	19
7	Australia	3	14 (21%)	0	0	1	2	2	3	1	2	0	1	2	1	0	0	15
8	Vietnam	3	7 (43%)	0	1	1	2	2	2	1	1	0	0	1	1	1	1	14
9	New Zealand	3	11 (27%)	0	1	2	2	2	2	1	1	0	1	1	0	0	0	13
10	Singapore	3	19 (16%)	0	0	1	2	3	2	0	1	0	0	1	1	1	1	13
11	Georgia	2	11 (18%)	0	1	2	1	1	2	1	1	1	1	0	1	1	0	13
12	Colombia	3	10 (30%)	0	0	1	3	1	1	1	2	0	0	1	1	1	0	12
13	Mexico	4	18 (22%)	0	0	2	2	2	2	0	0	0	0	2	0	1	0	11
14	Central America	3	16 (19%)	0	1	3	1	1	2	1	1	0	0	0	0	1	0	11
15	Turkey	3	20 (15%)	0	0	1	2	2	1	0	3	0	0	0	1	1	0	11
16	EFTA	7	28 (25%)	0	0	6	0	0	3	0	0	0	0	1	0	0	0	10
17	United States	6	15 (40%)	1	0	3	1	1	1	0	0	0	0	2	0	0	0	9
18	Malaysia	3	8 (38%)	0	0	0	2	2	1	0	2	0	0	1	0	0	0	8
19	China	4	14 (29%)	0	0	0	1	2	1	1	2	0	0	0	0	0	0	7
20	Taiwan	4	6 (67%)	0	0	2	2	2	0	0	0	0	0	0	0	0	0	6

Notes: First ranking criterion - total number of climate-relevant provisions; second - number of climate-relevant FTAs signed; third - range of climate-relevant provision types covered; fourth - percentage of total FTAs signed that include climate-relevant provisions

## Trade Partner Rankings... and FTA norms

- ▶ Even the EU has only included climate-relevant provisions in less than half its FTAs currently in force (48%) although for 2010-2020 signed FTAs this figure rises to 67%
- ▶ Korea has a higher hit rate (60% and 70%), Singapore only 16%
- ▶ Climate action (slowly) becoming a trade agreement norm...

# Climate Norms in FTAs

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- ▶ **Norms** - actions, ideas or practices that become commonly adopted by actors, forming the basis of standardised or 'normalised' behaviour
- ▶ **Norm leadership** - relates primarily to norm innovation or developing new benchmark norms and practices
- ▶ **Norm influence** - how an actor (e.g. a trade partner) can shape or inspire the behaviour of others
- ▶ Norm leaders are invariably the most important norm influencers but it also depends on their **normative power**... EU, US, Japan, China being noteworthy here
- ▶ Trade partners with **most significant provision bandwidth** and **larger number of agreements** naturally better positioned to exercise norm leadership and influence
- ▶ **European Union** is uniquely positioned in this respect...



# EU-Korea FTA

## CHAPTER 13 - TRADE AND SUSTAINABLE DEVELOPMENT

### ARTICLE 13.5: MULTILATERAL ENVIRONMENTAL AGREEMENTS

3. The Parties reaffirm their commitment to reaching the ultimate objective of the United Nations Framework Convention on Climate Change and its Kyoto Protocol. They commit to cooperating on the development of the future international climate change framework in accordance with the Bali Action Plan (UNFCCC Decision-1/CP.13 adopted by the thirteenth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change.)

### ARTICLE 13.6: TRADE FAVOURING SUSTAINABLE DEVELOPMENT

2. The Parties shall strive to facilitate and promote trade and foreign direct investment in environmental goods and services, including environmental technologies, sustainable renewable energy, energy efficient products and services and eco-labelled goods, including through addressing related non-tariff barriers. The Parties shall strive to facilitate and promote trade in goods that contribute to sustainable development, including goods that are the subject of schemes such as fair and ethical trade and those involving corporate social responsibility and accountability.

## ANNEX 13 - COOPERATION ON TRADE AND SUSTAINABLE DEVELOPMENT

1. In order to promote the achievement of the objectives of Chapter Thirteen and to assist in the fulfilment of their obligations pursuant to it, the Parties have established the following indicative list of areas of cooperation:

- (a) exchange of views on the positive and negative impacts of this Agreement on sustainable development and ways to enhance, prevent or mitigate them, taking into account sustainability impact assessments carried out by the Parties;
- (b) cooperation in international fora responsible for social or environmental aspects of trade and sustainable development, including in particular the WTO, the ILO, the United Nations Environment Programme and multilateral environmental agreements;
- (c) cooperation with a view to promoting the ratification of fundamental and other ILO Conventions and multilateral environmental agreements with an impact on trade;
- (d) exchange of information and cooperation on corporate social responsibility and accountability, including on the effective implementation and follow-up of internationally agreed guidelines, fair and ethical trade, private and public certification and labelling schemes including eco-labelling and green public procurement;
- (e) exchange of views on the trade impact of environmental regulations, norms and standards;
- (f) cooperation on trade-related aspects of the current and future international climate change regime, including issues relating to global carbon markets, ways to address adverse effects of trade on climate, as well as means to promote low-carbon technologies and energy efficiency;
- (g) cooperation on trade-related aspects of biodiversity including in relation to biofuels;
- (h) cooperation on trade-related measures to promote sustainable fishing practices;
- (i) cooperation on trade-related measures to tackle the deforestation including by addressing problems regarding illegal logging;
- (j) cooperation on trade-related aspects of multilateral environmental agreements, including customs cooperation;
- (l) exchange of views on the relationship between multilateral environmental agreements and international trade rules; or

**ARTICLES 13.10 to 13.15 on how this Co-operation is operationalised...**

# Climate Norms in FTAs

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- ▶ **Climate Norms Operational Framework: Co-operation not Liberalisation**... *four progressive levels of co-op*:
  - **Optional** – parties do not expressly commit to co-operation on climate action but rather leave it optional, often using conditional language, e.g. may, possible, potential.
  - **Intentional** – explicit statements of intent to co-operate, often with climate-relevant issues identified, but lacking detail on actions, methods and objectives.
  - **Action-Structured** – co-operative actions are detailed and specified in some form of structure but with no set targets or schedules.
  - **Programmatic** – the agreement contains a programmatic plan of actions, targets and schedules for co-operation





# Climate Norms in FTAs

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- ▶ **Climate Co-operation Norms in FTAs...** *additional conceptual features:*
  - **Institutionalised** - co-operation is overseen or managed by the FTA's new established institutional arrangements or other bodies charged with its on implementation.
  - **Assistive** – commitment of parties to co-operate on climate action capacity-building issues (e.g. technology transfer, training) that at least implicitly assist the less developed trade partner.
  - **Multilateral-Supportive** – pledges to co-operate in supporting wider international and multilateral efforts on climate action.





**Table 4 - Climate-Relevant Liberalisation in FTAs**

No.	Free Trade Agreement	Year Sign.	A. Address or remove NTBs in EGS trade/FDI generally	B. Address or remove NTBs in climate-relevant trade/FDI specifically	C. Remove any obstacles or barriers generally to climate-relevant or EGS products trade/FDI	D. Eliminate tariffs on all EGS products	E. Work in international fora to liberalise EGS trade globally	F. Free movement of business persons facilitating EGS trade and FDI
35	EU - Korea FTA	2010	1					
37	EFTA - Hong Kong FTA	2011	1					
38	EFTA - Montenegro FTA	2011	1					
40	EU - Central America FTA	2012	1	1	1			
41	EU - Colombia - Peru FTA	2012		1	1			
42	Korea - Turkey FTA	2012	1					
47	New Zealand - Taiwan FTA	2013	1			1		1
48	EFTA - Bosnia and Herzegovina FTA	2013	1					
49	EFTA - Central America FTA	2013	1					
50	EU - Ukraine FTA	2014	1					
52	EU - Georgia FTA	2014			1			
54	Australia - Korea FTA	2014	1					
57	EFTA - Philippines FTA	2016	1					
59	EFTA - Georgia FTA	2016	1					
61	EU - Canada FTA (CETA)	2017	1		1			
62	EU - Armenia FTA	2018	1		1			
63	US - Mexico - Canada Agreement (USMCA)	2018	1				1	
64	Comprehensive and Progressive Trans-Pacific Partnership (CPTPP)	2018	1					
66	EU - Singapore FTA	2018		1	1			
68	EU - Vietnam FTA	2019		1				
	<b>TOTAL</b>		<b>16</b>	<b>4</b>	<b>6</b>	<b>1</b>	<b>1</b>	<b>1</b>

Note: EGS - environmental goods and services

## Climate-Relevant Trade Liberalisation... quite limited

- A. Address or remove non-tariff barriers (NTBs) in EGS trade/FDI generally
- B. Address or remove NTBs in climate-relevant trade/FDI specifically where climate-relevant products are explicitly referred to
- C. Remove any obstacles or barriers generally to climate-relevant or EGS products trade/FDI
- D. Eliminate tariffs on EGS trade between the FTAs parties generally
- E. Work in international fora to liberalise EGS trade globally
- F. Free movement of business persons facilitating EGS trade and FDI

# Concluding Points

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- ▶ Climate-relevant provisions in FTAs were first introduced in the 1980s but they have **only become substantively developed in the last decade**
- ▶ A somewhat *uneven and skewed development*
- ▶ Global economy shapes climate change, trade increasingly shapes the global economy, FTAs increasingly shape trade
- ▶ Climate-relevant provisions in FTAs remains **relatively limited** and focused mostly on trade-related co-operation
- ▶ **For their significance and impact to expand in the future:**
  - *More trade partners need to step up, esp the US*
  - *Provisions need to have more legal / regulatory weight*
  - *WTO must raise its game on climate, UNFCCC on trade*
  - *More institutionalised and programmatic climate co-operation in FTAs*
- ▶ **An evolving trade agenda? The Agreement on Climate Change, Trade and Sustainability (ACCTS) talks** between New Zealand, Norway, Costa Rica, Fiji, Iceland and Switzerland

