

Towards a Framework Agreement on Energy

Prof. Thomas Cottier

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Fundamentals

- Mineral energy resources are finite
- Largely responsible for climate change
- Uneven distribution
- High levels of interdependence and long-distant trade
- Drives global power politics
- High level of governmental involvement
- Lack of global governance and fragmentation on the international level

Fragmented Governance

- High levels of government involvement and fragmented regulations for different energy sources in domestic law
- Lack of global governance, coordination and coherence
- Multitude of actors and patchwork of international organizations and instruments including ECT, WTO, IAE, UNFCCC, UNEP, OPEC, G-20

Main Global Regulatory Goals

- Energy security for sustainable development (shift to renewables)
- Improve overall energy efficiency
- Secure interconnections for long-distant trade and secure transit
- Secure fair conditions of competition among different forms of energy and suppliers (state aid)
- Integrate goods, services and investment

Topics and Areas involved

Within WTO law disciplines

- Definition of energy
- Export/import/production restrictions
- Transit of energy supplies
- Subsidies /renewable and non-renewable)
- Dual Pricing
- Government procurement
- Monopolies and State trading
- Energy services
- Transfer of technology
- Intellectual Property TRIPs
- Tariffs and taxes (EGS)
- PPMs and border tax adjustment
- Carbon tariffs
- TRIMS

Outside WTO law

- Access to energy supplies and transit (Energy Charter)
- OPEC production control
- Competition policy
- Investment protection
- Atomic energy treaties and non-proliferation
- CO2 abatement (UN Framework Convention,
- CFC abatement (Montreal Protocol)
- CAP & Emission Trading
- Clean Development Mechanism (CDM)
- Biodiversity
- Pollution control and liability

Regulatory Convergence

- Post Doha agenda will be sectorial and focussing on regulatory convergence
- Framework Agreement on Energy an option worth exploring in WTO
- Linkages to other instruments:
 - Incorporation (TRIPs approach)
 - Reference (SPS/TBT approach)
 - Self-standing and VCLT (GATT 1994 approach)

Points for Discussion

- General or sectorial approach for minerals and renewables in energy production?
- How to integrate goods, services and investment in energy regulation?
- Which organization should assume main role of coordination?
- What role for the multilateral trading system
- What role for preferential trade?