

Prof. dr. Miguel De Jonckheere, Dean of the faculty Law and Criminology, kindly invites you to the public defence to obtain the academic degree of

DOCTOR OF LAWS

of Mr. Kailun Zheng

which will take place on

Friday 6 June 2025 at 2:30 pm

In Aula I.0.03 and [online](#)

At the VUB main campus, Pleinlaan 2 - 1050 Etterbeek.

THE INTERSECTION OF EUROPEAN CLIMATE POLICY AND GLOBAL TRADE LAW: LEGAL ACCOMMODATION OF CBAM TO THE WTO RULES

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Abstract

This dissertation provides a comprehensive legal analysis of the European Union's Carbon Border Adjustment Mechanism (CBAM) within the context of evolving international climate and trade regimes. It begins by tracing the development of global environmental governance from the Kyoto Protocol's top-down targets to the Paris Agreement's bottom-up, nationally determined contributions, thus setting the stage for the EU's ambitious climate policies. The study then examines the evolution of the trade-environment nexus under World Trade Organization (WTO) law and the emergence of carbon-related trade measures.

Building on this backdrop, the dissertation critically examines the structural dynamics of the EU Emissions Trading System (EU ETS) and the regulatory challenge posed by carbon leakage. The EU's earlier strategy of mitigating carbon leakage through the free allocation of emission allowances, but it diverges from the market-based rationale underpinning the ETS. In response, the EU has advanced the CBAM as a corrective instrument designed to preserve the effectiveness of the EU ETS while maintaining a level playing field in international trade.

The core of the study is a doctrinal examination of CBAM's compatibility with WTO legal disciplines, with particular attention to its intersection with the non-discrimination principles enshrined in GATT Articles I and III. The analysis explores whether CBAM's differentiated treatment of imports—based on embedded carbon content and third-country climate regulation—may constitute a de facto violation of most-favoured-nation (MFN) and national treatment obligations. Even if its policy rationale appears reconcilable with WTO objectives, the legal architecture of CBAM may nonetheless give rise to inconsistencies when measured against the textual and jurisprudential thresholds of WTO law.

The analysis also assesses whether CBAM can be defended under GATT Article XX exceptions for environmental protection. It examines relevant WTO jurisprudence to explore how CBAM, intended as a climate policy to level the playing field, might be framed as a measure "necessary" or "relating" to the conservation of natural resources, and whether it could satisfy the Article XX chapeau's prohibition of arbitrary discrimination.

To complement this doctrinal analysis with applied insights, the study examines illustrative trade disputes involving environmental goods, such as solar panels, to highlight the systemic tensions between climate-oriented industrial policy and multilateral trade rules. These case studies, alongside an examination of the stalled WTO negotiations on the liberalisation of environmental goods, serve to situate CBAM within the broader normative debate on integrating climate objectives into the global trading regime. Through this multilayered analysis, the dissertation not only evaluates CBAM's legal defensibility but also contributes to the ongoing scholarly dialogue on the reconceptualization of trade law in the age of climate crisis.