

**EUROPEAN UNION CARBON BORDER ADJUSTMENT MECHANISM (CBAM):
LEGAL CHALLENGES AND OPPORTUNITIES FOR UGANDA'S EXPORT
TRADE UNDER THE WORLD TRADE ORGANIZATION LEGAL FRAMEWORK**

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**A DISSERTATION SUBMITTED TO THE SCHOOL OF LAW IN PARTIAL FULFILLMENT OF
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DECLARATION

I, MUGISHA THOMAS AQUINAS, declare that this dissertation is my original work, and has not been submitted to any other university or institution for the award of a degree or any other qualification.

All sources used have been properly acknowledged in accordance with the Oxford Standard for the Citation of Legal Authorities (OSCOLA).

Signed: 

Date: 22nd May 2026

Submitted with my consent.

APPROVAL

This Dissertation titled “The **European Union Carbon Border Adjustment Mechanism (CBAM): Legal Challenges and Opportunities for Uganda’s Export trade under the World Trade Organization Legal Framework**” By Mugisha Thomas Aquinas has been approved for the degree of Bachelor of Laws (LL. B) at Uganda Christian University.

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A handwritten signature in black ink, appearing to read 'Norah Amanya', is written over a horizontal line.

Date: 22nd MAY 2026

ABSTRACT

This study looks at how the European Union Carbon Border Adjustment Mechanism affects Uganda which is a poor country. The European Union Carbon Border Adjustment Mechanism is a deal for Uganda because it is, at the centre of two important things: international trade and climate change rules. The European Union Carbon Border Adjustment Mechanism is changing how these two things work together.

The first part of this study explains what the European Union Carbon Border Adjustment Mechanism is and why it is important for Uganda. It talks about the problems that Uganda might face because of the European Union Carbon Border Adjustment Mechanism and how Uganda can deal with these problems.

The second part of this study looks at how Uganda does business with countries and how it can follow the rules of the European Union Carbon Border Adjustment Mechanism. Uganda does not send goods that are covered by the European Union Carbon Border Adjustment Mechanism directly to the European Union but it does send goods to other countries in Africa that then send them to the European Union. This means that Uganda is still affected by the European Union Carbon Border Adjustment Mechanism. Uganda also has some problems with measuring carbon emissions and making sure that it is following the rules of the European Union Carbon Border Adjustment Mechanism.

The third part of this study looks at the laws that govern the European Union Carbon Border Adjustment Mechanism. It talks about how the European Union Carbon Border Adjustment Mechanism might not be fair to countries like Uganda that are still developing. The European Union Carbon Border Adjustment Mechanism has to follow the rules of the World Trade Organization, which says that countries cannot discriminate against each other.

The last part of this study summarizes what I found out and gives some advice to Uganda. Uganda needs to work with countries in Africa and with the European Union to make sure that it can follow the rules of the European Union Carbon Border Adjustment Mechanism. Uganda also needs to measure its carbon emissions and make sure that it is following the rules of the European Union Carbon Border Adjustment Mechanism. The European Union Carbon Border Adjustment Mechanism is a challenge for Uganda. It can also be an opportunity for Uganda to

develop its economy and reduce its carbon emissions. Uganda should be proactive. Work with the European Union and the World Trade Organization to make sure that it can benefit from the European Union Carbon Border Adjustment Mechanism.

DEDICATION

I want to thank my family and friends for being with me in this journey. They helped me finish this research by supporting me and encouraging me all the way. My family and friends believed in me and my studies. They were very patient with me while I was working on this project. This gave me the strength I needed to do this work.

I dedicate this work to my family and friends especially my Parents because I am very grateful, for their help and I have a lot of respect for them.

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CHAPTER ONE

INTRODUCTION AND CONTEXTUAL BACKGROUND

1.1 Introduction

The connection between global trade and protecting the environment has become a big issue in international economic law today. In the past, making trade easier under the General Agreement on Tariffs and Trade focused on opening up markets, reducing tariffs, and treating everyone equally, while taking care of the environment was mostly seen as something a country should handle on its own. But with climate change happening faster and faster, this way of thinking has changed a lot, and now countries and regional groups are working to include climate goals in their trade policies. This is a big shift, and it's happening because the effects of climate change are getting harder to ignore. As a result, trade and environmental protection are no longer separate issues, but are now closely linked. Countries are starting to realize that they need to find a balance between making trade easier and protecting the environment, and this is leading to some big changes in the way they make trade agreements.¹

Recently, we've seen a lot of new rules and standards related to climate change and trade. These include things like environmental standards, product regulations, and carbon pricing mechanisms that affect countries beyond their own borders. One of the most significant developments in this area is the European Union's Carbon Border Adjustment Mechanism. This mechanism was created under a specific EU regulation and is designed to prevent something called "carbon leakage." Carbon leakage happens when companies move their production to other countries with less strict climate rules to avoid paying for the carbon they emit. The CBAM aims to stop this by making sure that goods imported into the EU have a carbon cost added to them, similar to

¹ World Trade Organization, *World Trade Report 2022: Climate Change and International Trade* (WTO 2022).

what EU companies already pay under the EU Emissions Trading System. This way, all companies selling goods in the EU will be on a level playing field when it comes to paying for their carbon emissions²

The Carbon Border Adjustment Mechanism is mostly seen as a way to protect the environment. The effects of CBAM go far beyond just climate policy. When CBAM puts a price on carbon for things that are imported it has an impact on how things are traded between countries, what people decide to produce and how easy it is for things to get to market. This brings up some important questions addressed to World Trade Organization legal framework. The Carbon Border Adjustment Mechanism is going to affect a lot of things so we need to think about how it fits with the WTO legal framework particularly with regard to the principles of non-discrimination, market access, and special and differential treatment for developing and least developed countries.³

Uganda is a country and it is part of the World Trade Organization. The Carbon Border Adjustment Mechanism is a problem for Uganda because it involves a lot of rules and laws. Uganda's contribution to global greenhouse gas emissions is negligible, yet its exporters may be required to comply with sophisticated carbon accounting and reporting obligations when accessing the EU market. This is not fair because Uganda is a player in the global market.

This dissertation is going to look at the problems and good things that can come from CBAM for Uganda's export trade under the WTO legal framework. The Carbon Border Adjustment Mechanism has to be checked to see if it is fair for countries, like Uganda that are poor and still developing and if it can work within the legal framework of the World Trade Organization in a way that helps Uganda.

² Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism [2023] OJ L130/52.

³ General Agreement on Tariffs and Trade (GATT) 1994, arts I and III.

1.2 Contextual Background

1.2.1 The European Green Deal and the Emergence of CBAM

The European Green Deal that the European Commission adopted in 2019 is the European Union's plan for making the European Union climate neutral by 2050⁴. The main idea of this plan is to lower the amount of greenhouse gas emissions by using market-based mechanisms. The European Union Emissions Trading System places a price on carbon emissions from energy intensive sectors within the EU.

However, as the EU progressively tightens its climate regulations, concerns have emerged regarding carbon leakage which is the relocation of production to jurisdictions with less stringent climate policies, thereby undermining environmental objectives while distorting competition.⁵

To address this risk, the EU proposed the Carbon Border Adjustment Mechanism as a complementary measure to the Emissions Trading System

The European Union passed a legislation, Regulation EU 2023/956. This legislation established the Carbon Border Adjustment Mechanism. The CBAM is being introduced in stages. The first stage started on 1 October 2023 and went on until 31 December 2025. During this time companies that import goods from countries had to report how much carbon was in these goods but they did not have to pay any money for this. The second stage of the CBAM or what one would term as the definitive phase and started on 1 January 2026. Importers will have to buy certificates for the CBAM. They have to buy these certificates for all the goods they import that have carbon in them. The importers will then have to give these CBAM certificates to the authorities. This is to show that they have paid for the carbon that's, in the goods they imported.

⁴ European Commission, The European Green Deal COM (2019) 640 final

⁵ Mehling M and others, 'Designing Border Carbon Adjustments for Enhanced Climate Action' (2019) 113(3) American Journal of International Law 433.

The CBAM is important because it helps to reduce the amount of carbon in the goods that are imported into the European Union⁶

Initially, CBAM applies to a limited set of carbon intensive sectors, including cement, iron and steel, aluminum, fertilizers, electricity, and hydrogen.⁷ These Carbon Border Adjustment Mechanism sectors were chosen because they are very likely to have carbon leakage and are already part of the European Union Emissions Trading System. It is worth noting that the rules for the Carbon Border Adjustment Mechanism say it might be used for industries in the future which is a concern, for countries that export things that are not currently covered by the Carbon Border Adjustment Mechanism.

1.2.2 Global Reactions and Concerns of Developing Countries

The Carbon Border Adjustment Mechanism has caused a lot of discussion, around the world. Countries that are already developed think the Carbon Border Adjustment Mechanism is a way to deal with climate change. On the hand many countries that are still developing and the least developed countries are worried that the Carbon Border Adjustment Mechanism is actually a way for rich countries to protect their own businesses but make it look like they are helping the environment⁸

The United Nations Conference on Trade and Development has warned that the Carbon Border Adjustment Mechanism may be very hard on developing countries. These countries do not have the ability to measure the Carbon Border Adjustment Mechanism emissions that're part of the products they sell to other countries. They also cannot report the Carbon Border Adjustment

⁶ Regulation (EU) 2023/956, arts 32–35.

⁷ *ibid* annex I.

⁸ South African Institute of International Affairs, *The Impact of the CBAM on African Economies* (SAIIA 2024).

Mechanism emissions that are part of these products.⁹ The United Nations Economic Commission for Africa has also pointed out that the Carbon Border Adjustment Mechanism is very complicated to manage. The CBAM system is a problem because African companies that export things may end up using high emissions benchmarks just to be safe. This means that the United Nations Economic Commission for Africa thinks that these African exporters will have to pay more to follow the rules of the CBAM system. The United Nations Economic Commission for Africa or UNECA is worried about the CBAM and its effects on companies.¹⁰

These concerns are really problems for countries like Uganda. Uganda is a country that wants to grow and get better so they are focusing on making things adding value to the things they make and helping people who do not have a lot of money. If they have to do more things to follow trade rules it might stop them from doing what they want to do unless they get some real help to make it work. Uganda needs help so they can keep working on their goals, like industrialization, value addition and poverty reduction, in Uganda.

1.3 Uganda's Trade Profile and Vulnerability

Uganda is classified by the United Nations as a Least Developed Country and has been a member of the WTO since 1995. The economy of Uganda is really dependent on farming and selling goods to countries. Uganda sells things to other countries, including coffee, gold, fish, cement, steel products and other food items from farms.¹¹

The European Union remains an important trading partner for Uganda, particularly under preferential schemes such as the Everything but Arms (EBA) arrangement, which grants duty free and quota free access for LDC exports.¹² However, preferential tariff access does not protect exporters from regulatory measures such as CBAM, which operate independently of tariff schedules.

⁹ UNCTAD, A European Union Carbon Border Adjustment Mechanism: Implications for Developing Countries (UNCTAD 2021).

¹⁰ UNECA, *Africa Climate Policy Centre Technical Paper on CBAM* (UNECA 2023).

¹¹ Uganda Bureau of Statistics, *Annual Trade Report* (UBOS 2024).

¹² Council Regulation (EU) No 978/2012 applying a scheme of generalized tariff preferences [2012] OJ L303/1.

¹³ UNECA (n 10).

Although Uganda is not a major exporter of CBAM covered goods in absolute terms, indirect exposure arises through regional value chains within the East African Community (EAC) and the African Continental Free Trade Area (AfCFTA). Cement and steel products traded regionally may ultimately enter EU supply chains, thereby subjecting Ugandan production to CBAM related scrutiny. Moreover, any future expansion of CBAM's scope could directly implicate Uganda's agro-processing and mineral based exports.

Institutionally, Uganda faces significant capacity constraints. Carbon accounting systems remain underdeveloped, and there is limited coordination between trade and environmental authorities regarding emissions monitoring and verification.¹³ These structural limitations heighten the risk that Ugandan exporters may face compliance challenges under CBAM, even during the transitional phase.

1.4 Problem Statement

Despite CBAM's stated environmental objectives, its practical operation raises unresolved legal and policy questions under the WTO legal framework. There is limited Uganda specific legal scholarship examining whether CBAM complies with WTO principles of non-discrimination and whether it adequately accounts for the special circumstances of LDCs.

In particular, there is insufficient analysis of:

- How CBAM's design and administrative requirements affect Uganda's exporters in practice;
- Whether CBAM can be justified under the environmental exceptions in Article XX of GATT 1994 without resulting in indirect discrimination; and
- What legal and policy strategies Uganda can realistically pursue to protect its trade interests while remaining compliant with international obligations.

This research addresses these gaps by providing a doctrinal and contextual analysis focused specifically on Uganda.

1.5 Objectives and Research Questions

The main objective of this study is to examine the legal challenges and opportunities arising from the EU CBAM for Uganda's export trade under the WTO legal framework.

The specific objectives are to:

1. Analyze the structure and operation of the EU CBAM and its relevance to Uganda;
2. Assess Uganda's exposure to CBAM from a non-legal, economic, and institutional perspective;
3. Examine the compatibility of CBAM with WTO law, particularly GATT Articles I, III, and XX; and
4. Propose legally sound and development sensitive policy responses for Uganda.

The study is guided by the following research questions:

1. How does CBAM operate and what implications does it have for Uganda's export sectors?
2. To what extent is CBAM consistent with WTO principles of non-discrimination and environmental protection?
3. What strategies are available to Uganda to mitigate risks and harness opportunities arising from CBAM?

1.6 Methodology and Scope

This study adopts a qualitative doctrinal research methodology, focusing on the analysis of legal texts, case law, and authoritative commentary. Primary sources include WTO agreements, WTO dispute settlement jurisprudence, EU regulations, and international environmental treaties. Secondary sources include academic journals, institutional reports, and policy analyses.

The geographical focus is Uganda, while the legal scope is limited to the WTO legal framework and the EU CBAM regime. Comparative references are made where relevant to situate Uganda's experience within broader African and developing country perspectives.

Main sources used in this study

A. PRIMARY SOURCES

Treaties and WTO instruments

1. Marrakesh Agreement Establishing the World Trade Organization (adopted 15 April 1994, entered into force 1 January 1995).
2. General Agreement on Tariffs and Trade 1994 (GATT 1994), Annex 1A to the Marrakesh Agreement.
3. United Nations Framework Convention on Climate Change (adopted 9 May 1992, entered into force 21 March 1994) 1771 UNTS 107.
4. Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016).
5. European Union legal instruments
6. Regulation (EU) 2023/956 of the European Parliament and of the Council establishing a carbon border adjustment mechanism [2023] OJ L130/52.
7. Council Regulation (EU) No 978/2012 applying a scheme of generalized tariff preferences [2012] OJ L303/1.
8. European Commission, Impact Assessment Report Accompanying the Proposal for a Carbon Border Adjustment Mechanism SWD (2021) 643 final.

9. European Commission, Questions and Answers on the Carbon Border Adjustment Mechanism (2023).

WTO and GATT reports

1. GATT Working Party, Report on Border Tax Adjustments (1970) L/3464.
2. World Trade Organization, World Trade Report 2022: Climate Change and Trade (WTO 2022).
3. WTO Panel and Appellate Body reports
4. United States – Standards for Reformulated and Conventional Gasoline WT/DS2/AB/R (Appellate Body Report, 29 April 1996).
5. Japan – Taxes on Alcoholic Beverages WT/DS8/AB/R, WT/DS10/AB/R, WT/DS11/AB/R (Appellate Body Report, 4 October 1996).
6. United States – Import Prohibition of Certain Shrimp and Shrimp Products WT/DS58/AB/R (Appellate Body Report, 12 October 1998).
7. Canada – Certain Measures Affecting the Automotive Industry WT/DS139/AB/R, WT/DS142/AB/R (Appellate Body Report, 19 June 2000).
8. Brazil – Measures Affecting Imports of Retreaded Tyres WT/DS332/AB/R (Appellate Body Report, 3 December 2007).

B. SECONDARY SOURCES

Books

1. Peter Van den Bossche and Werner Zdouc, *The Law and Policy of the World Trade Organization* (4th edn, CUP 2017).
2. Robert Howse, *Climate Change and Trade Law* (CUP 2023).
3. Mitsuo Matsushita, Thomas Schoenbaum and Petros Mavroidis, *The World Trade Organization: Law, Practice and Policy* (3rd edn, OUP 2015).

Journal articles and research studies

1. James Bacchus, 'Trade and Climate Change: Carbon Border Adjustments and the WTO' (2021) 54 *Journal of World Trade* 1.
2. Robert Howse and Antonia Eliason, 'Domestic and International Strategies to Address Climate Change: An Overview of the WTO Legal Issues' (2008) 26 *World Economy* 447.
3. Michael Mehling and others, 'Designing Border Carbon Adjustments for Enhanced Climate Action' (2019) 113 *American Journal of International Law* 433.
4. Aaron Cosbey and others, *Developing Country Impacts of Carbon Border Adjustment Mechanisms* (IISD Report, 2019).

International and regional policy reports

1. United Nations Conference on Trade and Development, *A European Union Carbon Border Adjustment Mechanism: Implications for Developing Countries* (UNCTAD 2022).
2. United Nations Economic Commission for Africa, *Assessing the Impact of the EU CBAM on African Economies* (UNECA 2023).

3. South African Institute of International Affairs, The Impact of the EU CBAM on Africa and the Role of the AfCFTA (SAIIA 2024).

Ugandan sources

1. Uganda Bureau of Statistics, Annual Trade Report (2024).
2. National Environment Management Authority, State of the Environment Report for Uganda (2022).
3. Ministry of Trade, Industry and Cooperatives (Government of Uganda), National Trade Policy.

How the analysis was conducted

The analysis in this study was conducted through a structured doctrinal and contextual approach.

First, the relevant treaty provisions of the WTO legal framework, in particular Articles I, III and XX of GATT 1994 and the development-related provisions of the Marrakesh Agreement, were identified and interpreted using textual, contextual and purposive methods of treaty interpretation.

Secondly, WTO Panel and Appellate Body reports cited in the dissertation were analysed in order to establish how the principles of most-favoured-nation treatment, national treatment and the environmental exceptions under Article XX have been interpreted in disputes involving environmental and regulatory measures.

Thirdly, the legal design and operation of the EU Carbon Border Adjustment Mechanism were examined through a detailed analysis of Regulation (EU) 2023/956 and related European Commission documents, focusing on product scope, reporting obligations, verification requirements and the mechanism for the adjustment of carbon costs.

The European Union Carbon Border Adjustment Mechanism or EU CBAM was compared to the rules of the World Trade Organization. This was done to see if there are any problems with the EU CBAM rules. I looked at things like taxes on imports how products are made and Article XX of the GATT rules.

Next, I looked at reports from organizations like the United Nations Conference on Trade and Development the United Nations Economic Commission for Africa and the South African Institute of International Affairs. I also used information from Uganda Bureau of Statistics to see how the EU CBAM rules might affect Uganda's exports.

I looked at how the rules interact with the kinds of products Uganda exports and the country's ability to regulate these products and Uganda's status as a country. I also tried to understand how Uganda's experience fits into the picture of what is happening in Africa and other developing countries, with the EU CBAM.

1.7 Chapter Outline

This dissertation is structured into four chapters. Chapter One introduces the study and provides the contextual background. Chapter Two examines the non-legal regime, focusing on Uganda's export profile and institutional readiness. Chapter Three analyses the legal regime governing CBAM and its compatibility with WTO law. Chapter Four concludes the study and offers recommendations for Uganda.

CHAPTER TWO

THE NON-LEGAL REGIME: UGANDA'S EXPORT PROFILE AND EXPOSURE TO THE EU CBAM

2.1 Introduction

While the Carbon Border Adjustment Mechanism is mainly a tool its immediate impact on Uganda happens outside the formal law setup. These impacts show up in Uganda's exports specifically how things are produced, the country's institutions and its role in global trade. Understanding this legal part is crucial because following the Carbon Border Adjustment Mechanism rules depends on economic conditions and administrative readiness not just following laws.

This Chapter looks at Uganda's export profile and how exposed it is to sectors covered by the Carbon Border Adjustment Mechanism as well as if the country is ready to meet the requirements. It also compares Uganda with African countries and Least Developed Countries and points out weaknesses that affect how Uganda deals with trade measures related to climate change. It furthermore examines Uganda's export profile. It also looks at Uganda's exposure to Carbon Border Adjustment Mechanism covered sectors. The country's institutional and technical readiness to comply with Carbon Border Adjustment Mechanism requirements is assessed. It situates Uganda within African and Least Developed Country experiences and highlights structural vulnerabilities that shape Uganda's interaction, with climate related trade measures.

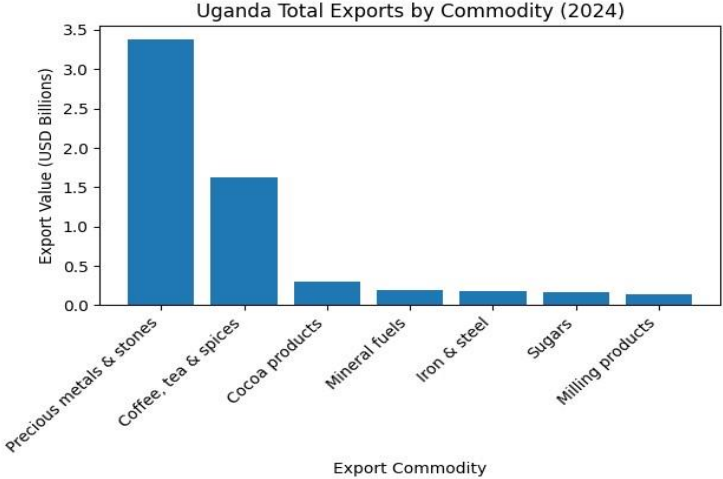
2.2 Uganda's Export Structure and Trade Orientation

Uganda's economy is majorly about agriculture and farming, with exports largely concentrated in primary commodities and semi processed goods. According to the Uganda Bureau of Statistics

(UBOS), Uganda’s principal export products include coffee, gold, fish and fish products, cement, iron and steel products, sugar, tea, and selected agricultural commodities.¹³ Manufacturing contributes modestly to export earnings, although recent policy efforts have aimed at promoting industrialization and value addition.

The European Union remains one of Uganda’s key export destinations, particularly for agricultural products and fish exports. Uganda benefits from duty free and quota free access to the EU market under the Everything but Arms (EBA) arrangement, which applies to Least Developed Countries.¹⁴ However, regulatory measures such as CBAM operate independently of tariff preferences, meaning that preferential market access does not shield Ugandan exporters from compliance obligations related to carbon emissions.

Uganda’s export relationship with the EU is also shaped by its participation in regional integration frameworks, notably the East African Community (EAC) and the African Continental Free Trade Area (AfCFTA). These frameworks increasingly integrate Uganda into regional value chains, some of which ultimately supply European markets. As a result, Uganda’s exposure to CBAM may be indirect as well as direct.



¹³ Uganda Bureau of Statistics, *Annual Trade Report* (UBOS 2024).

¹⁴ Council Regulation (EU) No 978/2012 applying a scheme of generalized tariff preferences [2012] OJ L303/1.

Figure 1: Uganda Total Exports by Commodity (2024)

Source: Compiled from United Nations COMTRADE data as reported by Trading Economics (2024).¹⁵



Figure 2: Uganda's Exports to the European Union by Product Category (2024)

Source: Compiled from United Nations COMTRADE data as reported by Trading Economics (2024).¹⁶

¹⁵ <https://tradingeconomics.com/uganda/exports-by-category>

¹⁶ <https://tradingeconomics.com/european-union/exports/uganda>

2.3 CBAM Covered Sectors and Uganda’s Direct Exposure

The Carbon Border Adjustment Mechanism is something that affects industries that use a lot of carbon. These industries include things like cement, iron and steel, aluminum, fertilizers, electricity and hydrogen.¹⁷ Uganda is not a major global exporter in most of these sectors; however, this does not eliminate exposure.

2.3.1 Cement and Construction Materials

Uganda has a cement industry that is getting bigger because the country is building a lot of things and people in the area need cement. The East African Community is also buying cement from Uganda. Making cement is bad for the environment because it uses a lot of energy to make a part of cement called clinker. Even though Uganda does not send a lot of cement directly to Europe it does sell cement to countries in the area that might send cement to Europe. This means that Uganda has to follow some rules about the environment even if it does not send cement to Europe directly.

Uganda might have more problems in the future because Europe might make new rules that affect more things like the materials used to build houses and buildings. This could hurt Uganda more. The United Nations Economic Commission for Africa has said that cement companies in Africa might have a time following these new rules because they do not have access to new technologies that are better for the environment. This could be a problem, for Uganda and other African countries that make cement.¹⁸

¹⁷ Regulation (EU) 2023/956, annex I.

¹⁸ United Nations Economic Commission for Africa, *Africa Climate Policy Centre Technical Paper on CBAM* (UNECA 2023).

2.3.2 Iron and Steel Products

Uganda sells amounts of iron and steel products mostly to neighboring countries. Steel is a key area covered by CBAM and is closely linked to global production networks. This means that Ugandan producers who supply materials to manufacturers that export to the EU might be impacted. They could be affected because EU importers will start asking for emissions information from suppliers, up the chain. Uganda's iron and steel products are important here. Ugandan producers need to be prepared. The EU's new rules will change how they do business.

2.3.3 Fertilizers and Energy Inputs

The fertilizer sector in Uganda is not very strong. The country may use more fertilizer and make more of it in the future because of plans to improve farming. Fertilizer is clearly included in the Carbon Border Adjustment Mechanism. Making fertilizer uses a lot of energy. Uganda mostly gets its fertilizer from countries, which can make it hard to figure out who is responsible for the emissions and to report them especially when there is no information about how the fertilizer was made. The fertilizer sector, in Uganda will probably have to deal with these issues and fertilizer production will be a part of that.

2.4 Indirect Exposure Through Regional and Global Value Chains

The thing about CBAM that really matters for Uganda is what it does to the people and businesses that are not directly involved with the law. CBAM has an impact on Uganda because of how it affects the way goods are made and sold. These days things are made in different places before they are sold to the people who will use them. This means that goods can cross borders before they get to the people who will buy them. Because CBAM looks at the emissions that're part of the goods the people in the European Union who buy these goods may want to know about the emissions from the companies that make the goods and also from the companies that supply the parts and materials to those companies. CBAM is really important here because it

makes the European Union importers think about the emissions, from all the companies that help make the goods, not the companies that sell the goods to them.¹⁹

Uganda is taking part in value chains under the East African Community and the African Continental Free Trade Area. This means that people who make things in Uganda may have to give information about the emissions they produce to their partners in the region who sell goods to the European Union. The East African Community and the African Continental Free Trade Area are important, for Uganda. So, Uganda's producers may need to provide emissions data to their partners who export goods to the European Union.²⁰

The South African Institute of International Affairs has noted that African companies may have to deal with compliance spillovers. This means that even companies, in Africa that do not sell things to the European Union will have to follow the rules related to the Carbon Border Adjustment Mechanism. They have to do this so they can still be part of the supply chain and compete with companies. African firms have to meet these standards so they can stay in business and sell their products to companies. The Carbon Border Adjustment Mechanism is making it necessary for African companies to follow these rules even if they are not selling things directly to the European Union.²¹

For Ugandan medium sized enterprises this is a big problem. Many Ugandan medium sized enterprises do not have the technical expertise and they do not have the financial resources to measure emissions and then report and verify these emissions. Because of these Ugandan medium sized enterprises are, in danger of being left out of the better parts of regional and global markets.²²

¹⁹ World Trade Organization, World Trade Report 2022: Climate Change and Trade (WTO 2022)

²⁰ United Nations Economic Commission for Africa, Assessing the Impact of the EU CBAM on African Economies (UNECA 2023)

²¹ South African Institute of International Affairs, *The Impact of the CBAM on African Economies and the Role of the AfCFTA* (SAIIA 2024).

²² United Nations Conference on Trade and Development, A European Union Carbon Border Adjustment Mechanism: Implications for Developing Countries (UNCTAD 2022); United Nations Economic Commission for Africa, Assessing the Impact of the EU CBAM on African Economies (UNECA 2023) v

2.5 Institutional and Technical Capacity Constraints

2.5.1 Carbon Accounting and Data Availability

The CBAM rules say that companies have to give reports about the greenhouse gas emissions that are part of the products they make. When companies are first getting used to these rules, they have to tell the government about the actual emissions from their products if they have that information. If they do not have the information, they can use emission values for similar products. This is what importers have to do with the CBAM rules. CBAM is very specific, about what companies have to report especially when it comes to greenhouse gas emissions from their products.²³ For Uganda, the absence of comprehensive national emissions databases at the product level poses a serious constraint.

Institutions like the Uganda Bureau of Statistics and NEMA collect data, on the environment. They, however, do not have systems that can support reporting like CBAM. They collect data on a scale but it is not connected in a way that can help with this kind of reporting.²⁴ This makes it more likely that Ugandan exporters will have to use default emissions values. These values are often set high. Might overestimate the actual emissions.

Accordingly, Uganda does not have product level emissions data and carbon accounting systems. This means most exporters cannot provide the emissions information needed for EU CBAM reporting. Although some institutions like the Uganda Bureau of Statistics and the National Environment Management Authority collect data it is not meant for CBAM and cannot be broken down to individual products or facilities.

As a result, EU importers from Uganda will likely use default emissions values when declaring emissions under the EU CBAM. These values are usually high. Might overestimate Ugandan

²³ Regulation (EU) 2023/956, arts 32–35.

²⁴ Uganda Bureau of Statistics; National Environment Management Authority, *State of the Environment Report* (NEMA 2022).

production emissions. The immediate effect is that Ugandan goods might be seen as having a carbon content than they do. This leads to CBAM costs for EU importers.

This makes Ugandan goods less competitive and less attractive to EU buyers. They might prefer suppliers from countries, with emissions data. For Ugandan exporters, small and medium-sized firms the lack of reliable carbon data is a big problem. It makes it harder for them to access the EU market and regional supply chains even if their production is carbon.

2.5.2 Verification and Certification Challenges

CBAM requires emissions data to be verified by accredited verifiers. The problem is that Uganda does not have many of these approved people to check the emissions data. This means that companies in Uganda that want to export things may have to hire people from countries to check their emissions data. This will make it more expensive and complicated for these companies to follow the rules. The United Nations Economic Commission for Africa has said that not having enough people to check emissions data is one of the problems that companies, in Africa face when they want to export things under the Carbon Border Adjustment Mechanism.²⁵

2.5.3 Policy Coordination Gaps

To really follow the rules of CBAM, the people in charge of trade, industry and the environment need to work together. In Uganda the government departments do not work together. The Ministry of Trade Industry and Cooperatives is in charge of trade policy. The Ministry of Water and Environment and NEMA are, in charge of climate policy which's a part of the CBAM rules. CBAM compliance is very important. The Ministry of Trade, Industry and Cooperatives and the Ministry of Water and Environment and NEMA need to coordinate their efforts to achieve good

²⁵ UNECA (n 4).

CBAM compliance.²⁶Limited inter-agency coordination risks incoherent responses to CBAM and weak support for exporters.²⁷

2.6 Developmental and Distributional Implications

CBAM's non-legal impacts raise broader questions about equity and development. Uganda contributes negligibly to historical and current global emissions, yet faces adjustment costs driven by climate policies formulated in developed economies. This raises concerns under the principle of common but differentiated responsibilities, recognized in international environmental law.²⁸

The United Nations Conference on Trade and Development has done some modelling. This modelling suggests that the Carbon Border Adjustment Mechanism may make it harder for developing countries to sell things to European countries. CBAM may reduce export competitiveness for developing countries. This is a problem, for developing countries unless they get some help. They need assistance and technical assistance to deal with the CBAM. CBAM may hurt developing countries if they do not get this help.²⁹ For Uganda the risk is that CBAM makes it even harder for them to enter high-value markets, which already puts them at a disadvantage. At the time CBAM might encourage Uganda to produce cleaner products and attract climate finance if they plan their approach carefully with CBAM, in mind and make the most of CBAM opportunities. Uganda needs to use CBAM to its advantage and make CBAM work for Uganda's economy.

²⁶ Ministry Of Trade, Industry and Cooperatives (Government of Uganda), National Trade Policy; National Trade Policy; National Environment Management Authority, State of The Environment Report for Uganda (NEMA 2022)

²⁷ United Nations Economic Commission for Africa, Assessing the Impact of the EU Carbon Border Adjustment Mechanism on African Economies (UNECA 2023); United Nations Conference on Trade and Development, A European Union Carbon Border Adjustment Mechanism: Implications for Developing Countries (UNCTAD 2022).

²⁸ United Nations Framework Convention on Climate Change (adopted 9 May 1992, entered into force 21 March 1994) 1771 UNTS 107, art 3.

²⁹ UNCTAD, CBAM and the Global South: Policy Options (UNCTAD 2022).

2.7 Opportunities for Uganda Within the Non-Legal Regime

Despite its challenges, CBAM also presents opportunities. Uganda has a low carbon energy mix with lots of hydropower. This could be a plus if we can show the emissions data is real. Also investing early, in monitoring emissions and cleaner technologies could help Uganda stay ahead in the run as the world moves to a low carbon economy. Uganda's CBAM opportunities are worth exploring to increase its competitiveness.³⁰

From a policy and legal perspective, there are rules and laws that affect what Uganda can do. These rules and laws are connected to what Uganda has promised to do as part of domestic agreements. For example, Uganda is trying to keep track of emissions and make production cleaner, which's something Uganda said it would do when it agreed to the Paris Agreement. This agreement says that Uganda has to measure and report the things it releases into the air and try to find ways to do things that do not hurt the environment as much. Uganda is working on this because it wants to follow the rules and do what it said it would do.³¹

Domestically, Uganda is also working on making its emissions data systems stronger and promoting production. This is in line with Uganda's National Trade Policy. The policy says Uganda wants to be competitive in exports add value to its products and follow standards. This will help Uganda trade with countries in a sustainable way.

Uganda can also work with countries in the East African Community and the African Continental Free Trade Area. This cooperation can help Uganda and other countries share resources to measure and verify emissions. This will reduce costs for each country. When Africa works together it can have a say, in trade negotiations related to climate change. Uganda and other African countries can work together to make their voices heard.³²

³⁰ United Nations Economic Commission for Africa, *Assessing the Impact of the EU Carbon Border Adjustment Mechanism on African Economies* (UNECA 2023); South African Institute of International Affairs, *The Impact of the EU CBAM on Africa and the Role of the AfCFTA* (SAIIA 2024).

³¹ Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016) articles 4 and 13.

³² Ibid n25

2.8 Conclusion

This chapter has demonstrated that Uganda's exposure to CBAM is shaped less by formal legal obligations than by economic structure, institutional capacity, and value chain integration. While direct exposure to CBAM covered sectors is limited, indirect effects through regional and global supply chains are significant. Uganda's limited capacity for carbon accounting and verification amplifies vulnerability, but strategic investment and regional cooperation could mitigate risks and unlock opportunities.

The next chapter turns to the **legal regime**, examining whether CBAM, in light of these non-legal realities, is compatible with the WTO legal framework and what legal arguments are available to Uganda.

CHAPTER THREE

THE LEGAL REGIME: THE EU CBAM AND THE WTO LEGAL FRAMEWORK

3.1 Introduction

Having examined Uganda's export structure and non-legal exposure to the Carbon Border Adjustment Mechanism (CBAM), this chapter turns to the legal regime governing CBAM under international trade law. The central question addressed in this chapter is whether the EU CBAM, as established by Regulation (EU) 2023/956, is compatible with the World Trade Organization (WTO) legal framework, particularly the General Agreement on Tariffs and Trade (GATT) 1994.

The analysis focuses on three interrelated aspects of WTO law: first, the principles of nondiscrimination under Articles I and III of GATT 1994; second, the scope and limits of the environmental exceptions under Article XX; and third, the relevance of special and differential treatment (SDT) for Least Developed Countries (LDCs) such as Uganda. The chapter argues that while CBAM is not inherently inconsistent with WTO law, its legality depends heavily on its design, application, and treatment of developing country constraints.

3.2 The Principle of Non-Discrimination in WTO Law

Non-discrimination is a foundational principle of the multilateral trading system. It seeks to ensure predictability, fairness, and equality of competitive opportunities among WTO members. In the context of CBAM, non-discrimination concerns arise primarily under the Most Favoured Nation (MFN) obligation in Article I and the National Treatment obligation in Article III of GATT 1994.

3.2.1 Most Favoured Nation Treatment (Article I GATT 1994)

Article I of GATT 1994 says that if a country gives a benefit to products from another country it must give the benefit to similar products from all other WTO member countries. This means that if a WTO member gives an advantage, favor, privilege or immunity to products from one country it must do the same for products from all other WTO members. The advantage must be given away and without any conditions. This rule applies to products that come from or are going to any country that's a member of the WTO. So, all WTO members must treat each other's products equally when it comes to benefits and privileges. The goal is to make sure that all countries have a chance to trade with each other. The rule helps prevent countries from favoring one country over another. It promotes fairness, in trade.³³ The core objective of MFN is to prevent discriminatory trade practices based on country of origin.

CBAM does not explicitly differentiate between WTO members based on nationality. It seems to treat all imports of goods that come into the EU market the same no matter where they come from. In reality some countries might have a harder time following the rules. This is because some countries do not have the ability to follow all the regulations. Uganda is one of these countries. It is a country and it does not have a good system to track emissions. So, Uganda might have to pay more to follow the rules than countries that are already developed and have a good system in place for tracking carbon emissions. The CBAM system is the same for everyone. It might be harder for Uganda to follow because it is a poor country, with limited resources.

WTO jurisprudence recognizes that formally neutral measures can still violate Article I if they result in discriminatory effects. For example, in the Canada. Autos case, the appellate court said that a rule can be discriminatory even if it does not say so directly. This can happen when a rule changes the way countries compete with each other and some countries are hurt by it. The World

³³ GATT 1994, art I.

Trade Organization laws are designed make sure that all countries are treated equally.³⁴ Applying this reasoning, CBAM's reliance on detailed emissions data may indirectly disadvantage countries like Uganda, even if the measure is origin neutral in design.

3.2.2 National Treatment (Article III GATT 1994)

Article III of GATT 1994 says that products from countries should be treated the same as products from our own country. This means that imported products should have the same rules and taxes as domestic products. Imported products should not be treated unfairly when it comes to taxes and regulations. The treatment of imported products and domestic products, like them should be the same.³⁵ The provision aims to prevent members from using internal measures to protect domestic production.

The main argument about the Carbon Border Adjustment Mechanism is whether it is a tax that is applied in the same way to products made in the European Union and products that are imported. The European Union says that the CBAM is basically the same as the carbon price that European Union producers have to pay under the European Union Emissions Trading System. This means that European Union producers and imported products are treated the same way when it comes to the Carbon Border Adjustment Mechanism. The European Union wants to make sure that the Carbon Border Adjustment Mechanism is fair to everyone so it is saying that the Carbon Border Adjustment Mechanism is not a tax but rather a way to make sure that imported products pay the same carbon price, as European Union products.³⁶

However, CBAM is different from the ETS in some ways. Under the ETS producers in the EU get allowances but this is being phased out. On the hand imported products might have to pay for carbon costs right away. This difference makes us wonder if CBAM treats imports unfairly. The Appellate Body said in *Japan. Alcoholic Beverages II* that we should look at whether a measure changes the situation to hurt imports. The focus is on if it makes it harder for imports to compete.

³⁴ *Canada – Certain Measures Affecting the Automotive Industry* WT/DS139/AB/R, WT/DS142/AB/R (Appellate Body Report, 2000).

³⁵ GATT 1994, art III.

³⁶ European Commission, *CBAM Frequently Asked Questions* (2023).

So, does CBAM give imports a deal? It treats imports differently than EU producers. The CBAM and ETS have rules, for imports and EU producers. This makes people question if its fair.³⁷

For Uganda, the risk lies not only in the imposition of a carbon cost but also in the administrative burden associated with compliance. Even during the transitional phase, reporting obligations may impose costs on exporters that are not borne by domestic EU producers in the same way. This may amount to a de facto violation of Article III if it can be shown that CBAM modifies conditions of competition to the disadvantage of imported products.

3.3 Is CBAM a Permissible Border Tax Adjustment?

Another big issue is whether CBAM can be seen as a border tax adjustment that is allowed under WTO law. Border tax adjustments let countries that're part of the WTO charge imports the same as they charge their own products but only if certain conditions are met. They allow WTO members to impose charges on imports that're equivalent, to internal taxes imposed on domestic products.

The 1970 GATT Working Party Report on Border Tax Adjustments says that taxes on products that are not directly paid can be changed when these products cross the border of a country.³⁸ However the legal status of adjustments based on production methods remains unclear. This is especially true, for -product related processes and production methods. They are still being debated.

Carbon emissions are usually seen as things that do not change the product. They are called non-product related PPMs. For a time, the World Trade Organization has been careful about allowing trade rules based on these kinds of PPMs. Some newer decisions, from the courts suggest that things are changing slowly with carbon emissions. The World Trade Organization is starting to look at carbon emissions in a way. In *US – Shrimp*, the Appellate Body accepted that measures

³⁷ *Japan – Taxes on Alcoholic Beverages* WT/DS8/AB/R (Appellate Body Report, 1996).

³⁸ GATT Working Party, *Report on Border Tax Adjustments* (1970) L/3464.

addressing environmental externalities beyond a member's jurisdiction may be permissible under certain conditions.³⁹

The Carbon Border Adjustment Mechanism represents an attempt to internalize carbon costs associated with production no matter where something is made. This is an idea and it changes the way we think about the rules of the World Trade Organization. For Uganda the Carbon Border Adjustment Mechanism is a problem because it is not clear if it is a Border Tax Adjustment. This creates problems and shows that we need to be clear, about the rules and make sure that Less Developed Countries are protected.

3.4 Justification Under Article XX of GATT 1994

Even if CBAM does not match with Articles I or III it can still be okay under conditions, in Article XX of GATT 1994. Article XX allows actions that normally go against GATT rules if they fit goals and meet specific conditions. These goals and conditions are clearly stated. The main thing is that CBAM and GATT 1994 rules are considered together. CBAM is checked against Article XX to see if it qualifies. This makes sure CBAM follows trade laws.

3.4.1 Article XX(b) and (g): Environmental Protection

Article XX(b) permits taking steps that're necessary to protect the life or health of humans, animals or plants. Article XX(g) is a bit different it says we can take steps to help save resources that will run out but only if we are also taking steps at home to do the same thing. This means that Article XX(g) is really about making sure we are being fair and taking care of our natural resources like Article XX(b) is, about protecting life and health of humans, animals or plants.⁴⁰

Climate change poses a well-documented threat to human health and natural resources, and WTO panels have increasingly recognized environmental protection as a legitimate policy objective. In *Brazil – Retreaded Tyres*, the Appellate Body accepted that measures aimed at reducing

³⁹ *United States – Import Prohibition of Certain Shrimp and Shrimp Products* WT/DS58/AB/R (Appellate Body Report, 1998).

⁴⁰ GATT 1994, art XX(b), (g).

environmental harm could fall within Article XX(b).⁴¹ Similarly, in *US – Gasoline*, clean air was recognized as an exhaustible natural resource under Article XX(g).⁴²

The main goal of CBAM is to reduce emissions and prevent carbon leakage. So, the European Union can make a case that the CBAM is allowed under Article XX(b) or (g) because it is similar to these past examples. CBAM is really, about reducing emissions and preventing carbon leakage, which is important.

3.4.2 The Chapeau of Article XX

The main part of Article XX says that rules should not be used in a way that's unfair or biased. This means they should not be used to treat people or countries without a good reason. Article XX also says that rules should not be used to limit trade between countries. The idea of Article XX is to make sure that rules are fair and do not unfairly restrict trade. Article XX is very clear about this it does not want to see any hidden restrictions on trade, between countries.⁴³ This requirement is crucial for assessing CBAM's legality.

In *US – Shrimp*, the Appellate Body held that unilateral environmental measures may violate the chapeau if they fail to take into account the different conditions prevailing in exporting countries.⁴⁴ For Uganda this is really important. CBAM does not have exceptions or special treatment for the Least Developed Countries even though these countries do not have a lot of ability to follow the rules.

The lack of differences or technical help may put CBAM at risk under the chapeau. This is especially true if applying CBAM creates difficulties, for countries that are still developing. It shows that CBAMs implementation must include protections that consider development needs. CBAM should be implemented carefully to support these countries.

⁴¹ *Brazil – Measures Affecting Imports of Retreaded Tyres* WT/DS332/AB/R (Appellate Body Report, 2007).

⁴² *United States – Standards for Reformulated and Conventional Gasoline* WT/DS2/AB/R (Appellate Body Report, 1996).

⁴³ GATT 1994, art XX chapeau.

⁴⁴ *US – Shrimp* (n 7).

3.5 Special and Differential Treatment for Least Developed Countries

Special and differential treatment (SDT) is a core principle of the WTO system, recognizing that developing and least developed countries require flexibility and support to integrate into the global trading system. SDT provisions are embedded throughout WTO agreements and reaffirmed in the Marrakesh Agreement's preamble.⁴⁵

Although GATT 1994 does not contain explicit SDT clauses comparable to those in other WTO agreements, Articles XXXVI–XXXVIII emphasize the need for developed members to take into account the trade and development needs of developing countries.⁴⁶

The way CBAM is set up now does not really help countries like Uganda that are not very developed. The system is supposed to give these countries some time to get ready but it does not help them with the big problems they have. For Uganda this is an issue with CBAM because it does not make sense to expect them to do things they cannot do. This means that Uganda has a reason to ask for more help and for more time to get ready. They also need rules that take into account the fact that they are not as developed as other countries. CBAM needs to be changed to really work for countries, like Uganda.

3.6 Implications for Uganda Under WTO Law

Uganda has to deal with some problems and some good chances when it comes to the law. One thing to think about is that it might be very hard to challenge the CBAM rules directly through the WTO because it can get very political and complicated. Uganda can also use the WTO committees and talk to other countries that are also developing to try to make some changes and get some protection.

⁴⁵ Marrakesh Agreement Establishing the World Trade Organization (1994) preamble.

⁴⁶ GATT 1994, arts XXXVI–XXXVIII.

Uganda can also work with the EU to try to find ways to work together on things like watching emissions and building capacity. Uganda and the EU can try to find some ground and cooperate on these things. Such engagement aligns with the cooperative spirit emphasized in *US – Shrimp* and subsequent jurisprudence.

3.7 Conclusion

This chapter has shown that the Carbon Border Adjustment Mechanism is in a spot when it comes to the law in relation to the World Trade Organization. The Carbon Border Adjustment Mechanism may be allowed under Article XX. Whether it is really okay with the WTO law depends on how it is used and how it treats countries that are still developing. For Uganda the big worry is not that the Carbon Border Adjustment Mechanism exists, but how it is designed and put into action. If the Carbon Border Adjustment Mechanism does not take into account the needs of developing countries it could hurt the principles of the WTO and the goals of development.

The next chapter will sum up the study. Give Uganda some specific ideas, on how to deal with the changing situation of trade and climate.

CHAPTER FOUR

CONCLUSION AND RECOMMENDATIONS

4.1 Introduction

This dissertation set out to examine the implications of the European Union Carbon Border Adjustment Mechanism (CBAM) for Uganda, with particular emphasis on its compatibility with international trade law and its practical impact on a Least Developed Country (LDC). The study adopted a structured approach, beginning with an analysis of the background and context in Chapter One, followed by an examination of Uganda's non legal exposure in Chapter Two and a doctrinal assessment of the WTO legal framework in Chapter Three.

This final chapter synthesizes the findings of the study and proposes concrete, realistic recommendations aimed at enabling Uganda to navigate the emerging intersection between climate policy and international trade. The recommendations are grounded in Uganda's institutional realities and the constraints facing developing countries within the global trading system.

4.2 Summary of Key Findings

The study makes four central findings.

Firstly, while Uganda's direct exports of CBAM covered goods to the European Union remain limited, the country is increasingly exposed through indirect channels. Uganda is still affected because it is part of the East African Community and the African Continental Free Trade Area. This means that people who make things in Uganda have to follow the rules as people who export goods directly to the European Union. This is especially a problem for medium sized businesses in Uganda. They often supply goods to companies and do not have the money or the expertise to report and verify their emissions.

Secondly, the study finds that Uganda's institutional and technical readiness to comply with CBAM obligations is limited. It also does not have people who are experts in carbon accounting.

There are no accredited verification bodies in Uganda. This puts Ugandan exporters at a disadvantage. They are more likely to have their emissions estimated using default values. These default values are often too high. This means that Ugandan exporters have to pay more to comply with the rules. It also makes it harder for them to sell their goods in the European Union.

Thirdly, from a legal perspective, the study finds that CBAM raises serious concerns relating to discrimination under WTO law. It may discriminate against Uganda and other countries that are not as developed. The CBAM applies to all imports. Countries like Uganda do not have the same ability to measure and report their emissions. This means that they may be treated unfairly. The rules of the World Trade Organization say that countries should not discriminate against each other. The CBAM may do just that. Uganda does not produce a lot of greenhouse gas emissions. It may still be affected by the CBAM.

Fourthly, CBAM is also a problem for Uganda because it was designed in a developed country context. Uganda and other developing countries do not get special treatment under the CBAM. This means that they have to follow the rules as everyone else. They do not have the same resources or expertise. This could hurt Uganda's economy. Make it harder for the country to industrialize and grow. The CBAM is part of a shift in international trade. Climate change is becoming more important in trade agreements. This could be a problem or an opportunity, for Uganda. It depends on how the country responds to the challenge.

4.3 Implications for Uganda's Trade and Development Policy

The results of this research are very important for Uganda's trade and development plans. Uganda's plan, for the future is to focus on making things selling different products and adding value to them. The Carbon Border Adjustment Mechanism introduces new costs that could hurt these goals if something is not done about it.

We can not make trade decisions without thinking about the environment. Uganda needs to understand that the people we trade with will keep having rules to protect the environment. If we do not change the way we do things we might not be able to sell our products to the people who are willing to pay the most money. If we change early, we might be able to sell our products to more people and make more money.

At the time Uganda needs to be careful not to make the people who sell our products pay all the costs without helping them. If we do this it will hurt the businesses and make it harder for everyone to grow and be successful. Uganda's trade policy and the Carbon Border Adjustment Mechanism need to work to help Uganda's trade and development plans. Uganda and the Carbon Border Adjustment Mechanism must find a way to make things work for everyone.

4.4 Recommendations

4.4.1 Strengthening Domestic Institutional Capacity

Uganda should strengthen coordination between the Ministry of Trade, Industry and Cooperatives, the Ministry of Water and Environment, the National Environment Management Authority, and the Uganda Bureau of Statistics through a formal inter-agency mechanism addressing climate-related trade measures. This is a short-term coordination measure with long-term institutional significance, and it flows directly from the finding that CBAM, though formally origin-neutral, may result in de facto discrimination under Articles I and III of GATT 1994 where exporters lack institutional capacity to comply. Enhanced coordination would reduce reliance on default emissions values and support Uganda's ability to demonstrate good-faith compliance, consistent with the chapeau of Article XX, which requires that environmental measures not be applied in an arbitrary or unjustifiable manner.⁴⁷ Such institutional strengthening

⁴⁷ United States – Import Prohibition of Certain Shrimp and Shrimp Products WT/DS58/AB/R (Appellate Body Report, 12 October 1998)

aligns with WTO jurisprudence emphasising cooperation and procedural fairness in environmental trade measures.⁴⁸

4.4.2 Developing Emissions Monitoring and Reporting Systems

Uganda should progressively develop sector-specific emissions monitoring, reporting, and verification (MRV) systems, beginning with CBAM-exposed sectors such as cement and steel, through collaboration between government authorities, exporters, and development partners. This is a long-term structural reform, justified by the legal finding that CBAM's reliance on embedded emissions data may result in less favourable treatment of imports under Article III of GATT 1994 where exporters cannot demonstrate actual emissions. The fact that Uganda does not have MRV systems means that the people who buy things from Uganda might use default values to figure out how much things are worth. This is not a thing because it can make it harder for Uganda to compete with other countries. If Uganda can set up MRV systems it will be better protected from being treated unfairly under the Article XX chapeau. This will also make Uganda stronger when it comes to talking to countries and working out legal issues. Uganda will have a position when it is negotiating with other countries because it will have good MRV systems in place. This will help Uganda with its MRV systems and, with the Article XX chapeau.⁴⁹

4.4.3 Regional Action Through the East African Community.

Uganda should work together with the East African Community countries to develop a unified plan for CBAM. This plan should include standards for tracking emissions and a regional system to verify them. The EAC Secretariat and Partner States should be in charge of implementing these standards. A regional plan like this makes sense because CBAM can affect not just

⁴⁸ World Trade Organization, World Trade Report 2022: Climate Change and Trade (WTO 2022)

⁴⁹ GATT Working Party, Report on Border Tax Adjustments (1970) L/3464; Japan – Taxes on Alcoholic Beverages WT/DS8/AB/R (Appellate Body Report, 4 October 1996).

exporters but also suppliers in the region. If countries work together, it will be less expensive to follow the rules. It will also help countries with resources and make the region stronger when talking to the EU. The plan should follow WTO principles, which say that countries should not impose rules on others without considering their situation. Uganda and other EAC countries should work together on CBAM to make sure they are treated fairly. A coordinated approach will help the region adapt to CBAM and ensure that the effects on trade are minimized. The EAC should take the lead in coordinating the regions response, to CBAM.⁵⁰

4.4.4 Engagement with the European Union

Uganda needs to work with the European Union so they can get a better deal for countries that are not very rich like Uganda under the Carbon Border Adjustment Mechanism. The European Union should give these countries time to make changes make it easier for them to report what they are doing and provide them with the help they need to make these changes. This will help countries like Uganda, under the Carbon Border Adjustment Mechanism. This is a short-term diplomatic strategy with long term legal implications, grounded in the dissertation's finding that CBAM's failure to operationalize special and differential treatment raises concerns under the chapeau of Article XX, particularly where a measure imposes disproportionate burdens on countries with negligible emissions. WTO jurisprudence confirms that environmental measures must allow flexibility based on differing national circumstances, and constructive engagement enhances CBAM's legitimacy while protecting Uganda's development interests.⁵¹

4.4.4 Strategic Use of the WTO Framework

Uganda should strategically utilise WTO monitoring and deliberative mechanisms, including committee engagement and coalition-building with other developing countries, to address concerns arising from CBAM's implementation. This is a medium- to long-term measure, to be implemented by the Government of Uganda through its WTO mission, and reflects the finding

⁵⁰ United Nations Economic Commission for Africa, Assessing the Impact of the EU CBAM on African Economies (UNECA 2023)

⁵¹ Brazil – Measures Affecting Imports of Retreaded Tyres WT/DS332/AB/R (Appellate Body Report, 3 December 2007); European Commission, Impact Assessment Report Accompanying the CBAM Proposal SWD (2021) 643 final

that CBAM's compatibility with WTO law remains legally unsettled. Sustained engagement enables Uganda to influence evolving interpretations of climate-related trade measures and to advocate for development-sensitive application consistent with the objectives of the WTO system and the principle of non-discrimination.⁵²

4.5 Areas for Further Research

This study looks at how CBAM affects Uganda, both not as it starts to be used. We could do research later on to see how CBAM affects certain industries over time. It would also be good to check if regional responses to CBAM are working well. Also, we should find out how CBAM and local carbon pricing plans work together in countries that are still developing. CBAM is a deal, for Uganda and other countries. They need to understand how it works and what it means for them.

4.6 Concluding Remarks

The Carbon Border Adjustment Mechanism is a change in how international trade and environmental rules work together. For Uganda the Carbon Border Adjustment Mechanism is a challenge and a chance to do something. The Carbon Border Adjustment Mechanism creates problems and costs but it also shows how important it is to make trade, industry and climate rules work together.

This dissertation says that Uganda will only be able to handle the Carbon Border Adjustment Mechanism if it does more than just make arguments using the World Trade Organization rules. Uganda also needs to make changes at home work with countries in the region and talk to other countries in a positive way. If Uganda is smart and thinks about how to develop its country it can

⁵² Marrakesh Agreement Establishing the World Trade Organization (1994) preamble; Robert Howse, Climate Change and Trade Law (CUP 2023).

reduce the effects of the Carbon Border Adjustment Mechanism and be in a better position, in the world trade system, which is becoming more aware of climate issues and the Carbon Border Adjustment Mechanism.

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