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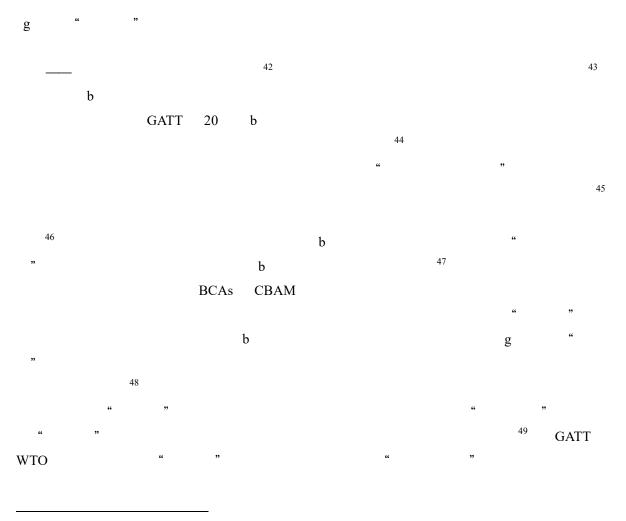
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The Relative Legality of Carbon Trade Barriers Under the WTO Regime

WANG Yunpeng

Abstract: Unilateral climate measures with trade-deterrent effects, such as the EU's carbon border adjusted measures, are becoming the new trade barriers in the climate era. WTO judicial practice shows that, the flexibility of the standard of for like products and discriminatory treatment allows for greater flexibility in the application of the non-discriminatory principles. There is also considerable uncertainty about the application of the necessity standard in Article 20(b)of the GATT and the interpretation of its chapeau. These flexibility and uncertainty allow trade measures in the name of addressing climate change to invoke the general exception rule to justify their necessity. The key bones of the international climate regime under the *Paris Agreement*, such as the nationally determined reduction target, the clubbing of international mitigation cooperation and the burgeoning of domestic climate legislation, have strengthened the rationale to defend the legality of carbon trade barriers based on the WTO's general exception rule and increased the possibility of invoking the GATT Article 20(d)exception. China should actively improve its domestic carbon market mechanism and promote bilateral cooperation with the EU and others to effectively reduce the negative impact of carbon border regulation measures on relevant Chinese industries and promote multilateral international regulation of such measures.

Keywords: Mitigation of Climate Change; WTO; Trade Barriers; Paris Agreement

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