



**Analysis of IBEW-AEP Proposal under  
WTO Rules**

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**Summary of WTO Analysis**

1. Is measure consistent with WTO obligations?
2. If the measure is not WTO consistent, then is measure covered by a WTO exception . . .
3. . . . and the Article XX "chapeau"?

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**1. Is measure consistent with WTO obligations?**

WTO Analysis	Allowance Requirement on Imports
<b>(a) Issue</b>	<b>Either</b> it is considered as part of internal regulation . . .
- <b>Applicable provisions</b>	GATT Articles III
- <b>Outcome</b>	WTO consistent if judged in the context of overall domestic regulation, affords national treatment, <i>i.e.</i> , treatment to imported goods no less favorable than that accorded to "like" domestic goods

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**1. Is measure consistent with WTO obligations?**

WTO Analysis	Allowance Requirement on Imports
<b>(b) Issue</b>	. . . <b>or</b> it is judged as a border measure.
- <b>Applicable provisions</b>	GATT Article XI and II
- <b>Outcome</b>	Not WTO-consistent if the measure imposes charges in excess of scheduled duties or border restrictions.

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**2. If measure is not WTO consistent, then is it covered by a WTO exception . . .**

WTO Analysis	Allowance Requirement on Imports
(a) Issue	Either measure relates to the conservation of exhaustible natural resources . . .
- Applicable provisions	GATT Article XX(g)
- Outcome	Yes, it is closely related to the objective of conservation

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**2. If measure is not WTO consistent, then is it covered by a WTO exception . . .**

WTO Analysis	Allowance Requirement on Imports
(b) Issue	. . . or it is necessary to the protection of human, animal or plant life or health.
- Applicable provisions	GATT Article XX(b)
- Outcome	Yes, even though in the short term it may be difficult to isolate the contribution of a single measure to reducing climate change, it is part of a comprehensive regulatory scheme that is apt to induce sustainable change.

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**3. . . . and the “chapeau” to Article XX?**

WTO Analysis	Allowance Requirement on Imports
(b) Issue	Is the measure applied in a manner that does not arbitrarily or unjustifiably discriminate between countries where the same conditions prevail, or is not a disguised restriction on trade?
- Applicable provisions	Article XX chapeau
- Outcome	Yes, focusing on top emitting countries, and only those that had not addressed GHG emissions, would be justified because of clear link to GHG emission reduction goals; the measure is flexible and not “capricious” or “random” and the rationale for discrimination relates to the policy objective.

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