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Economic Problems

French Tax for the European Union: The Genesis of Cross-Border Carbon Adjustment

S. A. Roginko[a,b,*,#]

[a] *Center for Environment and Development, Institute of Europe, Russian Academy of Sciences, Moscow, 125009 Russia*
[b] *Institute of World Economics and International Finance, Financial University of the Government of the Russian Federation, Moscow, 125993 Russia*
**e-mail: roginko@bk.ru*

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Abstract—The genesis of the EU initiative of cross-border carbon tax on imported carbon-intensive products is analyzed. An assessment of the positions of the EU countries in relation to this initiative has been given, and the evolution of these positions over the past 25 years has been traced. An analysis has been made of the tactics of France, as the main supporter of the cross-border carbon tax, used to promote this tax on the EU agenda during a number of presidencies, from J. Chirac to E. Macron. The link between the UN climate negotiation process and the EU's position on the cross-border carbon tax has been clarified. Particular attention was paid to the analysis of the early versions of the EU cross-border carbon tax, which preceded the current version of this initiative, and a comparative study of these versions by the basic parameters of carbon taxation has been conducted.

Keywords: Paris Agreement, greenhouse gas emissions, emission reduction, cross-border carbon tax, Carbon Border Adjustment Mechanism (CBAM), climate agenda, competitiveness, Grenelle Forum, UN Climate Conference, Kyoto Protocol

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INTRODUCTION

The EU initiative to introduce the so-called Carbon Border Adjustment Mechanism (cross-border carbon regulation, hereinafter referred to as CBAM), first openly announced by the European Commission in 2019 as part of the so-called "Green Deal," became an unpleasant surprise both for Russian business and for most of the expert community. This initiative is still being analyzed as a kind of ready-made given; the long and difficult history of its origin remains beyond the scope of estimates. Meanwhile, the history of the issue deserves the closest attention, since an analysis of the motives of the EU and the leading EU countries, as well as external factors that influenced and influence the actions of the EU in this area, not only clarifies many details of the CBAM, but also allows us to assess the likelihood of certain actions of the EU to promote this mechanism in the future.

[#] Sergei Anatol'evich Roginko, Cand. Sci. (Econ.) is Head of the Center for Environment and Development, Institute of Europe, Russian Academy of Sciences; Professor, Director of the Institute of World Economics and International Finance, Financial University of the Government of Russian Federation.

PARISIAN VIEWS ON CARBON

The idea of cross-border carbon regulation, from its time of appearance, is not far from the idea of a carbon tax as such, since in essence it comes down to carbon taxation of imported goods. The thought that the carbon tax could become an effective tool in trade competition or simply a means of obtaining additional income for the importing country at the expense of the exporting country, inevitably had to make it to the level of political decision-making sooner or later.

In Europe, the birthplace of the idea of cross-border carbon regulation as a political initiative is considered to be France, whose presidents, Jacques Chirac, Nicolas Sarkozy, François Hollande, and Emmanuel Macron, succeeding each other, constantly promoted this idea with perseverance worthy of a better use, elevating it from the subject of European discussions into the absolute political mainstream for the EU.

According to evidence, this idea began to be worked out by Jacques Chirac in 1995;[1] Chirac was the first in the international political debate to put forward

[1] E. Combe, La taxe carbone revient par la fenêtre de l'Europe, March 18, 2021. https://www.emmanuelcombe.fr/la-taxe-carbone-revient-par-la-fenetre-de-leurope-lopinion. Cited May 5, 2022.

the idea of introducing a tax at the EU borders on goods coming from countries that "do not make an equal contribution to international action to combat climate change." The argument was based on the need to protect the industrial competitiveness of France and Europe from "unfair and dishonest competition" on the part of the so-called "stowaways" from other countries who were accused of "irresponsible behavior" (Godard, 2009). However, initially the cross-border carbon tax was seen as a means of pressure or even a threat to international climate negotiations. This is not surprising: there were negotiations on the creation of the structure of the Kyoto Protocol, and Chirac's proposals could have scared Russia, China, India, and other EU trading partners from participating in the structure. "Blowing the covers" of the real interests of France and the EU in the climate agenda was recognized as at least premature; it did not fit well with the role of "climate leader" and savior of the world, which the European Union was trying on even then.

But the French leadership did not accept the rebuff and submitted the idea for detailed study to the expert community, the main platform of which was the so-called Grenelle de l'environnement, an environmental panel of the Grenelle Forum (the leading national forum for reconciling the interests of government, employers, and trade unions, which has existed since the famous crisis of 1968). This work was carried out under the patronage of Prime Minister Dominique de Villepin, and in 2006 gave the first results in the form of developed political proposals.[2] These proposals were submitted to the European Commission but were not supported. The views of the leadership of the European Commission were divided: the British Commissioner for Foreign Trade Peter Mandelson strongly opposed the French initiative, while the Commissioner for Industry Günter Verheugen supported it, reasoning it with considerations of maintaining the competitiveness of European industry.

Since Nicolas Sarkozy came to power, the case for a cross-border carbon tax has been strengthened and expanded. The new basis of the argument was the idea of introducing a carbon tax in France, which Sarkozy spent a lot of time and effort trying to introduce. A tax rate has been proposed of 17 euros for every ton of CO_2 emitted;[3] it was supposed to levy a tax from motorists and households heated by hydrocarbon fuel. Counting on the French love of pathos, Sarkozy praised the tax as a monumental national achievement for the French Republic, putting it on a par with "the decolonization, the election of the president by universal suffrage, the abolition of the death penalty, and the legalization of abortion."[4] However, the lofty vocabulary was not successful: the proposed reform was ridiculed with rare unanimity by both conservative and left-wing voters and legislators. The issue was not limited to laughter: the attitude of the population towards the carbon tax was expressed in the resounding failure of the Sarkozy-led Republican Party in the regional elections in March 2008, in which left-wing opponents won a landslide victory.

Less than 24 hours after declaring disastrous regional results, Sarkozy instructed Prime Minister François Fillon to repeal the carbon tax. But Sarkozy did not abandon the idea of "linking" the case for a cross-border carbon tax to an internal tax, deciding to use it for external application. In the same 2008, he made another attempt to throw this idea into the EU debate on the Energy Package, even creating a special post of "ambassador" for the carbon tax and appointing Françoise Grosset to it. The work she did, including a series of meetings with MEPs, with industrialists, with European environment ministers, and with representatives of the European Commission, to "convince them of the need for this carbon tax,"[5] did not bring success: the European consensus on the issue did not work out.

This failure did not discourage Nicolas Sarkozy, who returned to the promotion of a cross-border carbon tax already in 2009. On September 3, 2009, while visiting a plant in Caligny, the President of France once again put forward his idea of a cross-border carbon tax. "I will ask Europe to impose a tax on carbon emissions at the borders," he told employees of the automaker. "Those who produce dirty products must pay," he added.[6]

However, in the fall of 2009, the idea of a trans-border carbon tax, unpopular for many countries of the world, was guaranteed to fail: the UN Copenhagen Climate Change Conference was approaching, at which it was hoped to achieve the creation of a new global climate structure designed to replace the Kyoto Protocol. The scheme was designed for the participation of all countries of the world and had to appear attractive (at least at the adoption stage). Therefore, it is not surprising that a number of EU countries (and, above all, Germany and Denmark) considered that

[2] Sarkozy remet la taxe carbone aux frontières sur la table, Euractiv, September 3, 2009. https://www.euractiv.fr/section/energie/news/sarkozy-remet-la-taxe-carbone-aux-frontieres-sur-la-table. Cited May 5, 2022.

[3] La Commission européenne contredit Sarkozy sur la taxe carbone aux frontiers, La Tribune, April 21, 2010. https://www.latribune.fr/journal/edition-du-2104/-/406078/la-commission-europeenne-contredit-sarkozy-sur-la-taxe-carbone-aux-frontieres-.html. Cited May 5, 2022.

[4] B. Crumley, Why Sarkozy Dropped His Beloved Carbon Tax, Time, March 25, 2010. http://content.time.com/time/world/article/0,8599,1975350,00.html. Cited May 5, 2022.

[5] La Commission européenne contredit Sarkozy sur la taxe carbone aux frontiers, La Tribune, Apriil 21, 2010. https://www.latribune.fr/journal/edition-du-2104/-/406078/la-commission-europeenne-contredit-sarkozy-sur-la-taxe-carbone-aux-frontieres-.html. Cited May 5, 2022.

[6] Sarkozy remet la taxe carbone aux frontières sur la table, Euractiv, September 3, 2009. https://www.euractiv.fr/section/energie/news/sarkozy-remet-la-taxe-carbone-aux-frontieres-sur-la-table. Cited May 5, 2022.

throwing in the idea of a cross-border carbon tax could make many countries think about the risks of the climate agenda and negatively affect the results of international climate negotiations.

THE SARKOZY–BERLUSCONI INITIATIVE

As is known, the UN Copenhagen Climate Change Conference ended in complete failure: the Parties to the UN Framework Convention on Climate Change did not agree on the main parameters of the global climate structure. Nicolas Sarkozy used the pause in the UN negotiation process after Copenhagen to once again achieve recognition of his initiative to introduce a cross-border carbon tax. Less than a month had passed since the date of the end of the Copenhagen conference when, already in January 2010, Sarkozy sent a new proposal to Brussels. To strengthen his position, Sarkozy brought in a serious ally: Italian Prime Minister Silvio Berlusconi. In a joint letter with Berlusconi, Sarkozy proposed to the head of the European Commission "without prior reservations to clarify the conditions under which such a mechanism can be created,"[7] which will affect imports from regions outside of Europe that "do not fight carbon emissions." The EU's response to the letter was cautious but generally negative. The European Commission said it "recognizes the risk of carbon leakage," but noted that it has solved the problem with a system of free allocation of greenhouse gas emission rights for industries most exposed to international competition. Trade Commissioner Karel de Gucht recalled that he "still does not support" such a tax, which "carries great risks of unleashing a trade war."[8] The Commission, aware of the unpopularity of this idea among the 27 EU countries, especially in Germany, tried to slow down the initiative of France and Italy.

Faced with a rebuff to the proposals, Nicolas Sarkozy went on the verge of a bluffing game: he announced that Brussels agreed in June 2010 to present a well-developed initiative on a cross-border carbon tax. This was a clear exaggeration: the European Commission gave only consent to the study of the issue and the development of evaluation proposals. Therefore, Sarkozy's statement had to be disavowed on behalf of Brussels; according to an EC spokesman, "we will present an assessment in June that will analyze whether serious economic changes will justify the use of other instruments."[9]

After such a failure, France had to take a long pause in its carbon tax initiatives. But this time was not in vain: by 2013, a carbon tax with a punitive emphasis on conventional energy suited not only environmental NGOs, but also almost all economists, both left and right, who agreed that a value assessment of greenhouse gas emissions associated with fossil energy sources was needed. The idea of a cross-border carbon tax was also supported. At the same time, experts frankly stated that the only obstacle was the lack of a proper political "packaging" of the initiative, which would ensure its successful promotion in the EU and in the world community. There were problems with this at the time: as economist Daniel Gros noted, "The economic basis for a tax on carbon imports is clear. Its political translation is confusing."[10]

CARBON TAXES OF FRANÇOIS HOLLANDE

Therefore, the newly elected President François Hollande, using the consensus in the expert community and politicians, returned to the topic, repeating, it would seem, Sarkozy's once failed move: the introduction of an internal tax on carbon emissions. Realizing the unpopularity of the idea among the broad masses of the population, Hollande went for a rather primitive trick: he changed the allergy-inducing name "carbon tax." Instead, in 2014, the so-called Taxe intérieure de consommation sur les produits énergétiques (TICPE) was imposed, an internal tax on the consumption of energy, formerly called the excise on the consumption of petroleum products. This tax was enacted in October 2013 and came into effect on April 1, 2014 (the beginning of fiscal year 2014). By the size of the rate, it immediately took fourth place after VAT, income tax, and the corporate income tax. In order to divert the massive negative about it from the central government, the French government entrusted the collection of this tax to the authorities of the departments.

However, it was not possible to divert attention from the true culprit of the introduction of the new tax: in less than a few years, the tax caused a social explosion in France of the "yellow vests" movement, the strongest in recent decades. Such a scenario was, of course, already imagined at the stage of introducing the tax, which Le Monde newspaper right away dubbed "fiscal and social brass knuckles" for a reason, and the reform, "difficult and even explosive."[11] However, this happened already during the presidency of Emmanuel Macron; as for Hollande, his actions to "repaint" the oil excise was without significant incidents. As Le Monde noted, Hollande was "right about the form when he said that contributing to climate

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[7] La Commission européenne contredit Sarkozy sur la taxe carbone aux frontiers, La Tribune, April 21, 2010. https://www.latribune.fr/journal/edition-du-2104/-/406078/la-commission-europeenne-contredit-sarkozy-sur-la-taxe-carbone-aux-frontieres-.html. Cited May 5, 2022.

[8] Ibid.

[9] Ibid.

[10] Ibid.

[11] R. Barroux and L. Caramel, Le retour de la taxe carbone, un casse-tête fiscal et social pour le gouvernement, Le Monde, September 18, 2013. https://www.lemonde.fr/politique/article/2013/09/18/le-retour-de-la-taxe-carbone-un-casse-tete-fiscal-et-social-pour-le-gouvernement_3479933_823448.html. Cited May 5, 2022.

energy is not a new tax. Unlike Sarkozy's failed attempt to introduce a carbon dioxide tax, the 2013 version of the "carbon tax" technically consists of a simple change to the Domestic Tax on Energy Consumption (TICPE),"[12] which confirmed the correctness of Daniel Gros, who insisted on the importance of political "packaging"; it works, at least for a while.

As for the cross-border carbon tax, despite all the efforts and statements of French officials regarding the promotion of this initiative, progress on it has not been observed for a long time. There were a number of reasons for this, the most important of which were the following:

(1) The collapse in 2012 of the first attempt by the European Union to implement the idea of a cross-border carbon tax for the pilot sector—civil aviation. Since 2012, the directive adopted by the European Commission has included foreign airlines flying to the EU into the European Emissions Trading System (EU ETS). This meant that they would have to buy EU Allowances (EUA) for every flight they made to a European airport, based on existing EUA prices. This measure met with an unexpectedly tough and organized rebuff from the United States, China, Russia, India, and a number of other countries. Faced with organized opposition, the EU was forced not only to abandon the aviation cross-border carbon tax, but also to reconsider seriously the idea of extending the tax to other sectors of the economy.

(2) Preparations for the UN Paris Climate Conference (COP-21 of the UNFCCC), at which the Paris Agreement was signed, replacing the Kyoto Protocol. France, as the country–Chair of the Conference, made every possible effort for its successful completion, which was not possible without the consensus of all countries–Parties to the UNFCCC. Mindful of the recent aggressive response of the world's leading countries to the EU's initiative on a cross-border carbon tax in civil aviation, Hollande tried not to raise this issue at the global level.

Instead, according to the already well-established scheme, François Hollande returned to the carbon tax as such and began to lobby hard for it at the global level. However, he failed to include a carbon tax in the Paris Agreement: in the text of the Agreement itself, it is entirely absent. The only relevant reference to the "role of providing incentives for emission reduction activities, including ... carbon pricing" (essentially a tax) is contained in paragraph 137 of the Decision of the UN Paris Climate Conference.[13] Moreover, this paragraph is included in section V ("Nonparty stakeholders") and has nothing to do with the obligations of the Parties to the Agreement.

THE EUROPEAN UNION AT THE FOREFRONT

Let us return to the European Union, the main question about which can be formulated as follows: why did the EU, which initially showed a very skeptical attitude towards the French initiative of a cross-border carbon tax, decide to support it after the Paris conference in 2015, the host of which, at the same time, had had the experience of a shameful loss to a group of leading world powers when trying to introduce a similar tax for the aviation companies of these countries?

In our opinion, at least two factors play a role here.

(1) The conclusion of the Paris Agreement, which has one fundamental difference from the Kyoto Protocol, namely, if the Protocol was designed for two so-called Commitment periods (2008–2012 and 2013–2020), then the Agreement is an indefinite document. The introduction of a cross-border carbon tax could scare some countries away from the Kyoto Protocol, which the EU was extremely afraid of, trying to keep the Protocol as a global structure; such a possibility actually existed both at the end of each period (which Russia did when it pulled out the Protocol obligations in 2012, after the end of the First Period), and at any other time (for example, the United States in 2001). Withdrawal from the Paris Agreement is automatically excluded due to the end of it, and for any other reason it is extremely difficult procedurally, which was experienced by US President Donald Trump, who withdrew the States from the Agreement: the process took three whole years and ended only on the eve of Trump's departure from the White House (for comparison, the return of the United States to the Paris Agreement, carried out by the newly elected Joseph Biden, took only a month). There are no people in the world community who want to repeat Trump's experience; therefore, the risk of provoking the collapse of the Agreement by introducing a cross-border carbon tax can be ignored by the European Union.

(2) The very initiative to introduce a cross-border carbon tax was announced by the European Union at the end of 2019, with the prospect of D. Trump leaving and J. Biden assuming the office of US President. Not only the hopes of the EU for the return of cooperation on the climate agenda were projected onto him, but also the hopes for the support of the initiative of the cross-border carbon tax from the United States.

In addition, it is worth noting that the interpretation of relations between France and the EU regarding the initiative to introduce a cross-border carbon tax as a confrontation (and even conflict), which is common in some media, is, in our opinion, a strong simplification. Talk about the "Brussels fortress" that "fends off all the attacks of Paris"[14] is suitable for high-profile

[12] Ibid.

[13] UN Framework Convention on Climate Change. COP 21 Decision 1/CP.21. Adoption of the Paris Agreement. https://unfccc.int/resource/docs/2015/cop21/eng/10a01.pdf#page=2. Cited May 5, 2022.

[14] La Commission européenne contredit Sarkozy sur la taxe carbone aux frontiers, La Tribune, April 21, 2010. https://www.latribune.fr/journal/edition-du-2104/-/406078/la-commission-europeenne-contredit-sarkozy-sur-la-taxe-carbone-aux-frontieres-.html. Cited May 5, 2022.

Table 1. Characteristics of the cross-border carbon tax mechanism laid down in the 2009 revision of the ETS rules (Directive 2009/29/EC)*

1	Legal framework	Art. 10b(1)(b) of Directive 2009/29/EC
2	Declared motivation	Solution of the "carbon leak" problem
3	Exceptions	Countries participating in the global climate agreement
4	Scope of the mechanism	Option 1: Goods from countries that do not participate in the global climate agreement in terms of mitigation Option 2: Goods from countries with no carbon price in the sectors included in the EU ETS
5	Sector coverage	Option 1: Commodities at risk of "carbon leakage" (methodology not defined) Option 2: Goods defined by Art. 10a of the Directive as at risk of "carbon leakage" according to EU ETS
6	Taxable base for calculating the tax on imported products	Benchmark, the EU equivalent of the average emissions of relevant products in the EU, taking into account the deductible share of free emission permits
7	Taxable base for calculating the tax on exported products	Not defined, but should comply with WTO rules

*Source: compiled by the author.

newspaper headlines, but do not give an adequate understanding of the issue. In fact, there is no point in talking about some kind of rejection by the European Commission of the idea of a cross-border carbon tax; it is more appropriate to talk about a detailed long-term study of the issue and preparation for its promotion exactly when, in the opinion of the EU, political conditions are ripe for this.

The analysis shows that issues related to cross-border carbon taxation arose already during the development of the European Emissions Trading System (EU ETS), introduced in 2005 by Directive 2003/87/EC (EU, 2003).[15] This is not surprising: the prospect of introducing carbon charges immediately raised questions about the competitiveness of European goods relative to the goods of those countries that do not have such payments for emissions. Therefore, an example of the European Union's "borderline carbon adjustment" approach is Annex III Criterion 11, developed in Directive 2003/87/EC, which states that national allocation plans for EU Allowances (EUA) (NAPs) "may contain information on the manner in which the existence of competition from countries or entities outside the Union will be taken into account."[16] However, in the first phase of ETS implementation, no EU Member State used this criterion.

Revision of ETS rules in 2009 (Directive 2009/29/EC)[17] added new provisions to address "carbon leakage." In addition to allowing the granting of free emission permits to sectors that were particularly vulnerable to leakage, the Directive also states that "By June 30, 2010, the Commission shall submit to the European Parliament and the Council any appropriate proposals, which may include "inclusion in the Community scheme of importers of products which are produced by sectors or subsectors [at risk of carbon leakage]." The main parameters of the mechanism of the cross-border carbon tax, laid down in the framework of the revision of the ETS rules in 2009, are presented in Table 1.

While this provision directly opens the door to a cross-border carbon import tax mechanism, it further stipulates that "Any action taken would need to be in conformity with the principles of the UNFCCC, in particular, the principle of common but differentiated responsibilities and respective capabilities, taking into account the particular situation of the least developed countries (LDCs). It would also need to be in conformity with the international obligations of the Community, including the obligations under the WTO agreement"[18] (preambular paragraph 25 of the Directive).

Despite these provisions, there have been no proposals for "carbon equalization systems" from EU

[15]Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32003L0087. Cited May 5, 2022.

[16]Ibid.

[17]Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009L0029. Cited May 5, 2022.

[18]Ibid.

countries. Instead, EU member states have addressed the potential loss of competitiveness of EU industries by granting free preferential emission permits to energy-intensive industries.

During the preparation of the third phase of the ETS (2013–2020), an informal proposal was developed by the European Commission, which included a new article 29, establishing "Future import requirements."[19] They were to apply to products at risk of carbon leakage or unfair international competition until trading partners commit themselves to "verifiable actions to reduce greenhouse gas emissions comparable to those taken by the Community."[20] Article 29 suggested using benchmarking to calculate the tax on imported products; as such, it was supposed to use the equivalent of average emissions for the corresponding products in the EU. At the same time, it was taken into account that not the entire volume of commodity items included in the ETS is subject to sale at auctions; a significant share of emissions is allowed free of charge; in this regard, the tax rates for imported goods were proposed to be adjusted on the basis of the ratio of paid and free permits in each industrial sector of the EU. Ultimately, however, this option was not included in the published proposal for the third phase of the ETS and was not used to amend Directive 2009/29/EC. Instead, Article 10b of the Directive, as amended, required the Commission to assess the risks of carbon leakage "in light of the outcome of the international negotiations and the extent to which these lead to global greenhouse gas emission reductions," which must be accompanied by "appropriate proposals."[21]

The policy options listed in Article 10b include the following:

(1) free distribution of permits;

(2) inclusion of importers in the EU ETS;

(3) specific measures to prevent leakages from the electricity sector.

As a result, it can be concluded that, as early as 2013, the revised EU ETS Directive contained a preliminary version of the legal framework for the cross-border carbon tax mechanism. In particular, preambular paragraph 25 further clarifies that energy-intensive industries, which are identified as being at significant risk of carbon leakage, may receive more free emissions permits, or an effective carbon load balancing system could be put in place in order to ensure a comparable load on Community installations that are at significant risk of carbon leakage and similar installations from third countries. Such a system could impose requirements on importers that would be no more favorable than those that apply to installations within the Community, for example by requiring subsidies to be waived.

CBAM: THE PENULTIMATE VERSION

The next attempt to introduce a cross-border carbon tax within the EU was made immediately after the adoption of the Paris Agreement in February 2016, and, as expected, France again turned out to be the initiator. An informal document was sent to the European Commission,[22] in which it was proposed to develop a new mechanism for a cross-border carbon tax based on the inclusion of imported goods in the EU ETS. Goods that were proposed to be taxed in this way had to meet three criteria:

(1) high carbon intensity and a significant share in total greenhouse gas emissions in Europe;

(2) ease of determining the carbon footprint;

(3) limited impact on the processing sector (downstream).

The proposal also emphasized the need for a gradual introduction, for example, in sectors with a low impact on trade. The cement sector was proposed as a pilot, as it had a rather high competitiveness in the EU, and since 2009 the exportation of clinker cement from the EU has been constantly growing; income from it in 2014 and 2015 exceeded 400 million euros.[23] As with the previous proposals, the legal basis was Article 10b(1)(b) of Directive 2009/29/EC. The main parameters of the cross-border carbon tax mechanism included in the proposal for a pilot in the cement industry (2016) are presented in Table 2. In general, one can note the difference between the 2016 informal document and the 2009 proposal; it is more detailed and contains more cautious recommendations for the implementation of a cross-border carbon tax.

Concluding our analysis, it should be emphasized that the history of the emergence of the cross-border

[19] M. Condon and A. Ignaciuk, Border Carbon Adjustment and International Trade: A Literature Review, OECD Trade and Environment Working Papers, 2013/06. https://www.oecd-ilibrary.org/docserver/5k3xn25b386c-en.pdf?expires=1648973123AE384E4. Cited May 5, 2022.

[20] Ibid.

[21] M.A. Mehling, van H. Asselt, K. Das, S. Droege, and C. Verkuijl, Designing border carbon adjustments for enhanced climate action, American Society of International Law, 2019. https://www.cambridge.org/core/journals/american-journal-of-international-law/article/designing-border-carbon-adjustments-for-enhanced-climate-action/BF4266550F09E5E4A7479E09C047B984. Cited May 5, 2022.

[22] Government of France, Non-Paper: Carbon Inclusion Mechanism for the Cement Sector, 2016 (document not published, cit. ex: M. A. Mehling, van H. Asselt, K. Das, S. Droege, and C. Verkuijl, Designing border carbon adjustments for enhanced climate action, American Society of International Law, 2019. https://www.cambridge.org/core/journals/american-journal-of-international-law/article/designing-border-carbon-adjustments-for-enhanced-climate-action/BF4266550F09E5E4A7479E09C047B984. Cited May 5, 2022.

[23] Competitiveness of the European Cement and Lime Sectors. Summary of the final report, European Union, 2018. http://publications.europa.eu/resource/cellar/06d2851d-07cd-11e8-b8f5-01aa75ed71a1.0001.01/DOC_1. Cited May 5, 2022.

Table 2. Main parameters of the EU cross-border carbon tax mechanism laid down in the proposal for a pilot in the cement industry (2016)*

1	Legal framework	Art. 10b(1)(b) of Directive 2009/29/EC
2	Motivation	Elimination of "carbon leakage"
3	Exceptions	Imports of cement from countries with adequate emission reduction measures and/or carbon prices equivalent to EU prices
4	Country coverage	Not defined, the mechanism focuses on importing a specific product
5	Sector coverage	Cement industry, clinker import
6	Taxable base for calculating the tax on imported products	Average emissions from EU production (or less if lower emissions can be proven) minus the price of European free emission permits
7	Taxable base for calculating the tax on exported products	Not defined, but should comply with WTO rules

*Source: compiled by the author.

carbon tax mechanism in the EU should hardly be interpreted in terms of the ideological controversy between the apparatus of the European Commission and the initiating countries (France, Italy, the Netherlands), which ended in victory for the latter. Rather, it is appropriate to talk about the commonality of views on cross-border carbon taxation; disagreements concerned mainly the timing of the introduction of the initiative and its verbal "packaging" for the countries potentially included in it. The reasons for the seeming caution of the European Commission in relation to this initiative were not its obvious incompatibility with the norms of international law, but fears that the prospect of carbon payments in favor of the EU will cause a number of countries to refuse to participate in global climate structures. As soon as almost all countries of the world entered into the Paris Agreement, which was tough on the terms of participation, the European Union decided that these risks (as well as the protests of a number of countries) could be neglected. Time will tell what this tactic will lead to, but it is worth noting that the EU's vulnerability to the participation of the world's leading powers in the Paris Agreement remains very high. The prospect of their withdrawal from the Agreement can be a very effective way to get the European Union to refuse to promote the CBAM initiative or (at least) to revise this mechanism seriously, taking into account the interests of exporting countries.

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CONFLICT OF INTEREST

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