

**THE EU FRAMEWORK AND THE GREEN DEAL
ACTION PLAN.
CROSS BORDER ISSUES OF ENERGY TAXATION
THE FAILURE OF THE UNILATERAL APPROACH**

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INTRODUCTION

Definitions of “taxation” and “energy”

*“The **objective** of the European Parliament is to fight against climate change without unfair international competition due to the lack of climate efforts by certain countries endangering our companies. We must protect the EU against climate dumping while ensuring that our companies also make the necessary efforts to do their part in the fight against climate change. »* Yannick Jadot - European Parliament Rapporteur

Energy taxation : instrument that EU Member States can use

- to collect income (not only)
- to support the achievement of EU climate objectives
- to promote energy savings

It can help ensure that the price signals of different energy products take into account their **environmental impact** and **encourage companies to make greener choices.**

I. THE EU FRAMEWORK AND THE GREEN DEAL ACTION PLAN

A. THE EU FRAMEWORK

French legislation:

- the **taxation of electricity, gas and oil products derives** from **European law**
- covered by :
 - **Directive 2020/262** → the general excise duty
 - **Directive 2003/96/EC** → energy products

The **EU level** :

- the two previous directives : **The Directive 2020/262** : general excise regime and the **Directive 2003/96** (specific regime applicable to energy products and electricity).
- **The Directive 2003/87** (scheme for greenhouse gas emission allowance trading - ETS)
- Several **sectoral directives** (energy etc.)
- **State aid law** (art. 187 of the Treaty on the Functioning of the European Union)
- And **principles equivalent to domestic law** (principles of equality and legitimate expectations in particular)

I. THE EU FRAMEWORK AND THE GREEN DEAL ACTION PLAN

B. GREEN DEAL PLAN ACTION

What is the European Green Deal?

- package of **policy initiatives** which aims to set the EU on the path to a **green transition**
- the **ultimate goal** of reaching **climate neutrality by 2050**
- supports the **transformation of the EU** into a fair and prosperous society with a **modern and competitive economy**.
- It underlines the need for a **holistic and cross-sectoral approach** in which all relevant policy areas contribute to the ultimate climate-related goal.
- **includes initiatives covering the climate, the environment, energy, transport, industry, agriculture and sustainable finance – all of which are strongly interlinked.**

The European Green Deal was launched by the Commission in December 2019 and the European Council noted it during its December meeting.

I. THE EU FRAMEWORK AND THE GREEN DEAL ACTION PLAN

B. GREEN DEAL PLAN ACTION

What initiatives are included in the Green Deal?

1. **Fit for 55** : set of proposals to revise climate, energy and transport related legislation and put in place new legislation initiatives to align EU law with the EU's climate goals
2. **European climate law regulation** : turns the political ambition of reaching climate neutrality by 2050 into a legal obligation for the EU
3. **EU strategy on adaptation to climate change** : the strategy outlines a long-term vision for the EU to become a climate-resilient society that is fully adapted to the unavoidable impacts of climate change by 2050
4. **EU biodiversity strategy for 2030** : aims to help recover Europe's biodiversity by 2030. This would bring benefits for people, the climate and the planet
5. **'Frame to fork' strategy** : aims to help EU achieve climate neutrality by 2050, by shifting the current EU food system towards a sustainable model

I. THE EU FRAMEWORK AND THE GREEN DEAL ACTION PLAN

B. GREEN DEAL PLAN ACTION

What initiatives are included in the Green Deal?

6. **European industrial strategy** : support the industry in its role as an accelerator and enabler of change, innovation and growth
7. **Circular economy action plan** : decoupling economic growth from resource use and shifting to circular systems in production and consumption is the key
8. **Batteries and waste batteries** : aims to address the whole life cycle of batteries from the production process to design requirements as well as 'second life'
9. **A just transition** : help regions which are highly dependent on fossil fuels and carbon intensive industries to embrace the transition to clean energy
10. **Clean, affordable and secure energy** : the decarbonisation of the energy sector is a crucial step towards a climate-neutral EU
11. **EU chemicals strategy for sustainability** : essential part of the European Green Deal and its zero-pollution ambition

I. THE EU FRAMEWORK AND THE GREEN DEAL ACTION PLAN

B. GREEN DEAL PLAN ACTION

What is the role of the European Council and the Council in the Green Deal?

It provides **political guidance on the EU's policies**. The EU's commitment to **becoming climate-neutral by 2050**, which the leaders enshrined in the strategic agenda and reaffirmed in December 2019, sets a clear objective for the coming years.

The Commission submits its proposals and initiatives published under the Green Deal to the Council of the EU, and to the European Parliament. EU ministers meeting in various Council configurations discuss the proposed legislative and non-legislative actions.

In the case of legislative proposals, **the final objective is to adopt legislation** – in most cases in accordance with the ordinary legislative procedure, under which the Council and the European Parliament decide as co-legislators.

II. THE TRANSPOSITION BY FRANCE OF EUROPEAN FISCAL AND ENVIRONMENTAL OBJECTIVES

A. *THE FRENCH TAX STANDARD FOR ENERGY TAXATION*

- France must apply the **European framework** and comply **with the environmental and energy objectives decided at the European level**
- **legal texts:**
 - **Article 184 of Law of December 28, 2019 of Finance for 2020**
 - **Ordinance No. 2021-1843 of December 22, 2021**, Article L. 312-1 to Article L. 312-107
- there are **different forms** of taxation
 - **excise tax** : electricity, natural gas, energy products other than natural gas and coal, Fraction levied on energy products other than natural gas and coal in the French overseas territories, Fraction levied on coal
 - **others** : VAT, TIRUERT etc.

II. THE TRANSITION BY FRANCE OF EUROPEAN FISCAL AND ENVIRONMENTAL OBJECTIVES

B. THE DIFFICULTIES OF ACCEPTING ENVIRONMENTAL TAXATION

Environmental taxation meets with resistance and provokes strong reactions. France has experienced two large-scale social movements aimed at blocking these environmental taxes:

- the **Bonnets rouges in 2013** concerning the ecotax for heavy goods vehicles
- the **Gilets jaunes in 2018** concerning the taxes included in the price of fuel at the petrol pump

II. THE TRANSITION BY FRANCE OF EUROPEAN FISCAL AND ENVIRONMENTAL OBJECTIVES

B. *THE DIFFICULTIES OF ACCEPTING ENVIRONMENTAL TAXATION*

1/ the reasons for this difficulty of acceptance in France

Since the “Gilets Jaunes” crisis, the carbon component of domestic consumption taxes has been **frozen at its 2018 level (44.6€/tCO₂)**. If the trajectory initially provided by the LOLF of 2018 had been respected, the carbon component should have been **86.2€/tCO₂ in 2022**.

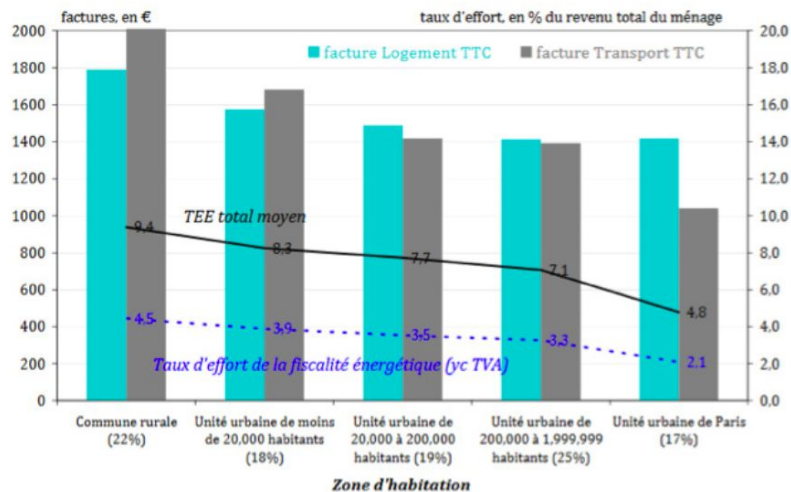
The difficulties of acceptance are linked to three blockages:

- a) The historical **unpopularity of taxes** and indirect duties
- b) The lack of clarity regarding the objectives of environmental taxation: **budgetary return** or **incentive to change household behavior**
- c) **Socio-spatial differentiation of impacts**

II. THE TRANSITION BY FRANCE OF EUROPEAN FISCAL AND ENVIRONMENTAL OBJECTIVES

B. THE DIFFICULTIES OF ACCEPTING ENVIRONMENTAL TAXATION

Graphique n° 9 : Factures, taux d'effort énergétique et taux d'effort de la fiscalité énergétique selon la zone d'habitation du ménage



Source : CPO (2019) à partir du modèle Promotheus (MTES-CGDD, actualisé 2017, prix et législation janvier 2019, revenus 2018).

II. THE TRANSITION BY FRANCE OF EUROPEAN FISCAL AND ENVIRONMENTAL OBJECTIVES

B. *THE DIFFICULTIES OF ACCEPTING ENVIRONMENTAL TAXATION*

2/ Solutions proposed to make energy taxation acceptable in France

- a) Increasing the price of all energies or only certain energies:
 - To propose less polluting **alternatives**
 - Involves **funding** from public authorities
 - The Swedish's strategy : alternatives to carbon-based energy and non-derogatory carbon pricing of **120€/tCO₂**.

- b) Use of a double dividend:
 - the first "dividend" is the **reduction of pollution damage**.
 - the second "dividend" : the possibility of **using the revenue from the environmental tax to reduce other compulsory levies** in order to improve the overall tax system.

II. THE TRANSITION BY FRANCE OF EUROPEAN FISCAL AND ENVIRONMENTAL OBJECTIVES

B. *THE DIFFICULTIES OF ACCEPTING ENVIRONMENTAL TAXATION*

- c) The allocation of tax revenues from environmental taxation to **green investments** or **to compensate for the loss of purchasing power of the most modest**
- d) uniform or differentiated taxation:
- The **uniformity** of carbon prices is implicitly set up as a standard of justice.
 - In certain limited cases the possibility of exemptions can be a help rather than an obstacle to the acceptability of the tax.
 - Reduce the gap between households that actually pay the carbon tax and companies who benefit from exemptions. Businesses are responsible for **61% of national greenhouse gas emissions** but account for **only 35% of environmental tax revenues.**

III. THE FAILURE OF THE UNILATERAL APPROACH

A. *THE FAILURE OF UNILATERAL ENERGY TAX POLICIES – CARBON LEAKAGE*

Through the Paris Agreement, the international community committed to **continuously strengthen the ambition of climate action** to contain the rise in global average temperature in order to significantly reduce the risks and impacts of climate change.

As long as a large number of the Union's international partners **apply strategies that do not reflect the same level of climate ambition as that of the Union**, and as long as differences in the price of greenhouse gas emissions persist, the risk of carbon leakage will be present.

What was the impact of the EU Emissions Trading System (ETS) ?

The ETS works on the principle of **'cap-and-trade'**.

Under the EU ETS, regulated entities buy or receive **emissions allowances**, which they can **trade** with one another as needed.

A Market Stability Reserve, in place since 2019, stabilises the market by removing surplus allowances from it.

III. THE FAILURE OF THE UNILATERAL APPROACH

A. *THE FAILURE OF UNILATERAL ENERGY TAX POLICIES – CARBON LEAKAGE*

The carbon leakage situation

Carbon leakage refers to the situation that may occur if, for reasons of costs related to climate policies, businesses were to transfer production to other countries with lower emission constraints.

It takes two forms:

- Direct leaks called “**pollution havens**”: this is the increase in emissions by relocation of high-emitting industries from regulated countries to those that are not.
- **Indirect leakage**: this is the increase in emissions due to the drop in energy prices on world markets following the drop in demand in regulated countries.

Contrary to what one might intuitively think, it seems that the loss of competitiveness due to the increase in production costs of companies in regulated countries is low due to the so-called Porter effect linked to the innovation of the countries confronted with the taxation of their emissions.

III. THE FAILURE OF THE UNILATERAL APPROACH

B. THE LIMITATION OF CARBON LEAKAGE

- **In France**, the carbon component has only a **very modest impact on the level of GDP**
- **this impact could be positive** : via the **reduction of other compulsory levies and/or the financing of targeted offsets**.
- On the other hand, it has **the effect of slightly degrading the trade balance**, and above all of **significantly increasing imported carbon** (“carbon leakage”).
- the reduction in national emissions allowed by the carbon tax is **partially offset by the increase in imports**
- **the effect of limiting the decline in France's carbon footprint.**

The relationship with the European allowance trading market could **still be improved**.

Corrective mechanisms, such as the **introduction of a carbon price floor**, would make it possible to reinforce the coherence between the two instruments.

III. THE FAILURE OF THE UNILATERAL APPROACH

C. FOR THE FUTURE

The carbon border adjustment mechanism - often called “European carbon tax”, implemented from January 1, 2023 throughout 2026

- The legislative body want a **more ambitious carbon tax on imported goods**
- The EU's efforts could be **undermined by the actions of less ambitious countries in this area.**
- in July 2021: **European Carbon Border Adjustment Mechanism (CBAM)**
- **The objective** : to ensure that imports are not cheaper than the same good produced in the European Union.
- **The risk** : relocating their production to countries where the rules on greenhouse gas emissions are less strict

III. THE FAILURE OF THE UNILATERAL APPROACH

C. FOR THE FUTURE

How will it work?

- Implemented **from January 1, 2023 throughout 2026**
- The additional costs provided for by the CBAM are **modeled on the prices of the carbon emissions quota trading system** (ETS or SEQE)
- concerns **only companies established in Europe.**
- **quotas system**
- Once the CBAM is in place, importers of goods from third countries will be required **to buy certificates from national authorities.** Sectors : iron and steel, aluminium, cement, fertilizer, electricity and hydrogen.
- Impose a **revision of the European carbon market:** Leaks must now be avoided thanks to the CBAM. **The double protection for EU industries would contravene the rules of the World Trade Organization (WTO)**
- This is why a reduction in these free quotas on the European market is planned from 2026, until their disappearance in 2034.

THANK YOU FOR YOUR ATTENTION !