



International
Trade
Centre

TRADE IMPACT
FOR GOOD

DEMYSTIFYING THE EU'S CARBON POLICIES AND THEIR IMPACT ON TRADE

ITC Webinar Series - Unpacking the EU's Green Initiatives

By: Paolo R. Vergano and Dr. Tobias Dolle,
ITC Experts / FratiniVergano – European Lawyers
Date: 19 May 2022



Methodology to Manage Green Initiatives

1) LEGISLATION UNDER CONSIDERATION (AWARENESS)

- Identification of the most significant aspects of proposed or adopted EU legislation

2) IMPACT ON TRADE (ASSESSMENT)

- Determination of the positive/negative impacts and potential points of friction created by the legislation

3) WHERE THE INITIATIVE STANDS (MONITORING)

- Is it a fledgling idea, a formal proposal, or a Bill that will imminently become law?

4) ENGAGING WITH AUTHORITIES (ADVOCACY)

- For ongoing legislative/regulatory processes, the special development, financial and trade needs of developing countries need to be conveyed

5) PRESERVING MARKET ACCESS (COMPLIANCE)

- Economic operators and policy makers alike need to ensure that products and services meet the requirements of the importing country

6) ACHIEVING TRADE FACILITATION (NEGOTIATION)

- Trade facilitative mechanisms should be agreed in order to minimise negative impacts and to achieve comparative advantages vis-à-vis competitors

TODAY'S DISCUSSION

I. THE EU'S CARBON POLICIES

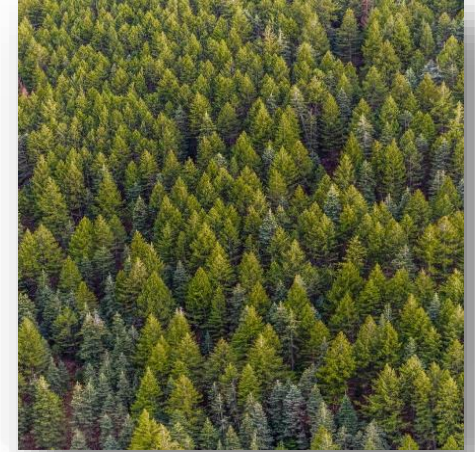
Introductory discussion of the issues the EU aims to address and the broader initiatives:

- (i) European Green Deal
- (ii) EU Climate Law
- (iii) Fit for 55

II. ZOOMING IN...

Three pieces of legislation and their impact on trade will be discussed:

- (i) Renewable Energy
- (ii) Deforestation-free Products
- (iii) CBAM



The European Union's Carbon Policies within the recent Green Initiatives

An Overview

The EU's Green Initiatives

In recent years, the EU has rolled out a number of broader initiatives comprising specific actions and leading to significant legislative, regulatory, and policy activity, providing an overall framework for the EU's specific Carbon Policies:



The European Green Deal



The EU's Climate Law



The Fit for 55 Package

The European Green Deal

- Presented in December 2019
- Includes a set of policy initiatives with the overarching aim of **making the EU's economy sustainable (more circular) and climate neutral by 2050**
- It is a **growth strategy** that aims at setting Europe on the path of transformation to a climate-neutral, fair and prosperous society, **with a modern, resource-efficient and competitive economy, geared towards a sustainable green transition in the EU**
- **Massive implications for businesses, leading to both changes in production and supply chain strategies, as a consequence of new carbon policies aimed at, *inter alia*, reducing GHG emissions and increasing energy efficiency**



The European Green Deal

Objectives:



**fresh air, clean water,
healthy soil and
biodiversity**



**renovated, energy
efficient buildings**



**healthy and
affordable food**



more public transport



**cleaner energy and
cutting-edge clean
technological
innovation**



**longer lasting
products that can be
repaired, recycled
and re-used**



**future-proof jobs and
skills training for the
transition**



**globally competitive
and resilient industry**

Source: European Commission

The European Climate Law

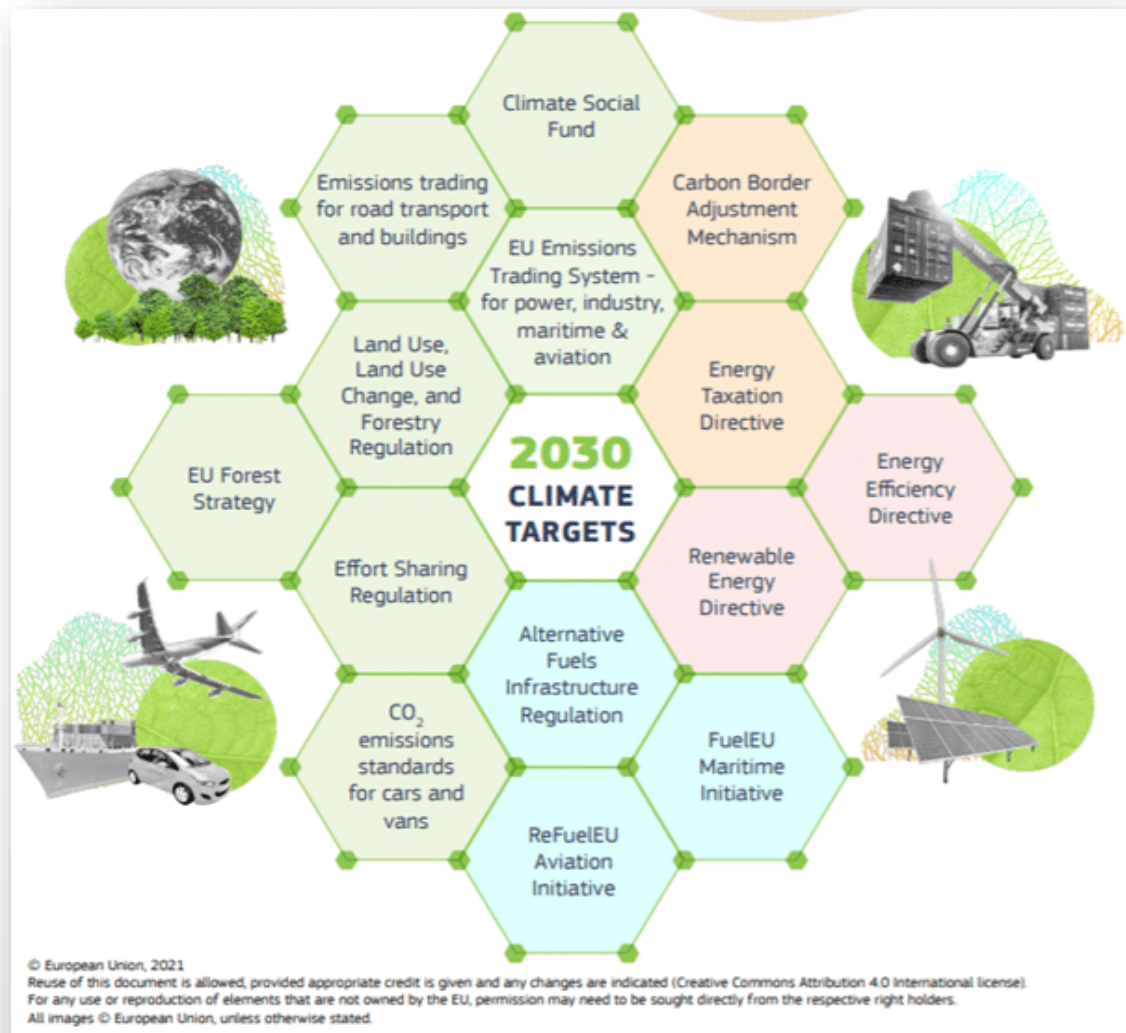
- The European Climate Law writes into law the objective set out in the European Green Deal for the EU's economy and society to become **climate-neutral by 2050**. It also sets the intermediate target of **reducing net GHG emissions by at least 55% by 2030**, compared to 1990 levels
- According to the European Commission, **climate neutrality by 2050 means achieving net zero GHG emissions for EU Member States as a whole, mainly by reducing emissions and investing in green technologies**. The law aims at ensuring that all EU policies contribute to this objective
- The EU Institutions and the EU Member States are bound to take the necessary measures at EU and national level
- The European Climate Law includes measures to keep track of progress and adjust the EU's actions accordingly



The Fit for 55 Strategy:

Delivering the EU's 2030 Climate Target on the way to climate neutrality

- *Fit for 55* is a package consisting of “**inter-connected proposals**” on climate and energy that builds on policies and legislation already in place in the EU



Zooming in...

Relevant EU Carbon Policies with an Impact on Trade



Mechanisms adopted by the EU to pursue its carbon objectives

Mechanisms to shift away from fossil fuels

- Shifting to **renewable energy** and improving energy efficiency
- Promoting sustainable aviation and shipping fuels to significantly reduce emissions
- Building alternative fuels infrastructure

Ex. EU Renewable Energy Directive

Mechanisms to reduce or prevent carbon emissions

- **Combating emissions from land use, land use change, and deforestation, enabling forests to act as carbon sinks and net removers of greenhouse gases**

Ex. EU Deforestation Legislation

Mechanisms to tax carbon emissions

- Fostering the EU's emissions trading system
- Imposing emissions reduction targets on EU Member States
- **Strengthening CO₂ emission standards for cars and vans**
- **Designing green fiscal policies through domestic energy taxation and a carbon border adjustment mechanism (CBAM)**

Ex. EU CBAM Legislation

*** Red colour indicates evident trade impact**

TRADE IMPACT FOR GOOD

Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources (RED II)

THE DIRECTIVE

- In force since December 2018, EU Member States were required to transpose the Directive into national law by the end of June 2021. A review is currently being undertaken to increase ambitions in line with the EU's GHG emission reduction targets.
- **To reduce the use of fossil fuels and achieve lower greenhouse gas (GHG) emissions**
- Raises the overall EU target for Renewable Energy Sources consumption by 2030 to 32%
- **Renewable energy used in transport:** The RED II defines a series of sustainability and GHG emission criteria that biofuels used in transport must comply with in order to be:
(i) counted towards the EU renewable energy targets; and
(ii) eligible for financial support by EU Member States. In addition, new rules on indirect land-use change (ILUC) were introduced by the RED II



Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources (RED II)

TRADE IMPACTS

- Creates a **market for renewable energy sources**
- Intends to **encourage the increased use of certain renewable energy sources** in critical areas of trade, including in the transport sector
- Entails **significant certification requirements (sustainability and low ILUC-risk certification)** and may have distortive market impacts
- Certain trade-related aspects of the RED II are currently being challenged at the **WTO**



EU Proposal for a Regulation on deforestation-free products

THE PROPOSAL



- Products placed on the EU market or exported from the EU must be “*deforestation-free*”
- The objective of this initiative is to **curb deforestation** and forest degradation that is provoked by EU consumption and production. This, in turn, is expected to **reduce GHG emissions** and global biodiversity loss
- Commodities and products associated with deforestation and forest degradation **may not be placed on the EU market** or exported from the EU, such as **wood, cattle, soya, palm oil, coffee, cocoa**
- **Countries will be classified as low, medium, or high-risk** and businesses’ **due diligence** obligations will vary depending on the risk classification

EU Proposal for a Regulation on deforestation-free products

TRADE IMPACTS

- Helps to level the playing field within the EU market between imported and domestically produced goods
- **Administrative and cost burden for businesses in view of the due diligence requirements**
- **Potential advantage for countries/sectors that already implement stringent rules** to ensure that no deforestation has occurred in the cultivation and production process
- **Runs the risk of inadvertent discrimination in light of the sectoral scope of application, possible *de facto* limiting market access effects vis-à-vis certain countries**, and the process of country risk classification



EU Proposal for a Regulation on deforestation-free products

STATUS

Public consultations held from September to December 2021



Proposal for the Regulation published on 17 November 2021



The European Parliament, the Council of the EU, and the European Commission must agree on a text



Text to be adopted in 2022, application 1 year after entry into force

EU Proposal for a Carbon Border Adjustment Mechanism

THE PROPOSAL

- Aims at ensuring that “*the price of imports reflects more accurately their carbon content*”
- Would regulate GHG emissions embedded in certain third country products imported into the EU’s Customs Union in, initially, 5 sectors: **cement, electricity, fertilisers, iron and steel, and aluminium**
- Would **initially cover direct GHG emissions**, which are released during the production of the covered goods, as well as their upstream products, and, **after the end of a transition period** and upon further assessment, as well to **indirect emissions**, mirroring the scope of the EU ETS
- **Exemptions** for third countries that have similar emission rules in place



EU Proposal for a Carbon Border Adjustment Mechanism

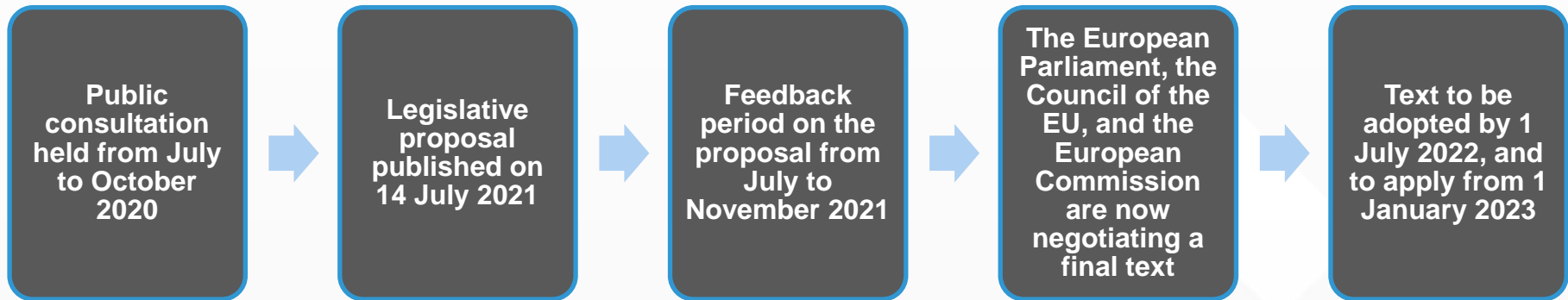
TRADE IMPACTS

- EU importers will be required to **buy carbon certificates** corresponding to the carbon price that would have been paid, had the goods been produced under the EU's carbon pricing rules
- This will add **additional costs** to imports of covered products, unless non-EU producers can show that they have already paid a price for the carbon used in the production of the imported goods in a third country
- This, in turn, may prompt third countries to **define and adopt their own carbon policies and measures** in order to capture the taxation and provide their industries with comparative advantages



EU Proposal for a Carbon Border Adjustment Mechanism

STATUS



Taking action

Awareness → Assessment → Monitoring → Compliance → Advocacy → Negotiation

- EU trading partners around the world must be **aware** of legislative and regulatory developments in the EU
- EU '*green initiatives*' and carbon policies have and will have a **direct impact** on trade and traded goods, leading to specific **market access requirements**. Such requirements must be measured and factored in when developing related **trade strategies**
- **Compliance** would allow for continued access to the EU market and **negotiations** could allow for trade facilitation and preferential market access, both delivering **comparative advantages**
- **Concerted actions** between developing countries' policy makers and private sector operators can contribute to achieve such comparative advantages