ICC FRANCE
CHAMBRE DE COMMERCE INTERNATIONALE
L'organisation mondiale des entreprises

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Consultation on Carbon Border Adjustment Mechanism

Answer to the public consultation

ICC France is one of the 90 National Committees belonging to the International Chamber of Commerce.

ICC France is one of the oldest and most active ICC NCs thanks to the commitment, experience and expertise of its 150 members (large companies, banks, law firms and trade associations).

Aligning trade and climate policy is one of our core objectives so as to combat the climate crisis and to reinvigorate the multilateral trading system which is currently weakened.

In 2019, the International Chamber of Commerce (ICC) organised in New-York, Paris and Madrid a series of consultations bringing together high-level business leaders, policy-makers, scholars and economists on 4 different potential alignment tools:

- Climate waiver,
- Carbon clubs,
- Carbon Border Adjustment measures,
- Carbon pricing.

The consultation on Carbon Border Adjustment Measures took place in Paris in November 2019 and was moderated by Mr Rodolfo Lacy, Director of the Environment Directorate for OECD.

We would like to share the lessons that can be learned as part of this consultation.

1/ Advantages of a CBA

- Such a mechanism which could take several shapes: taxes, mirror-ETS, standards, will shield EU energy-intensives companies (steel, cement for example) from cheaper imports coming from third countries with none or with weaker climate policy (no carbon market, no carbon pricing). This adjustment will re-establish a "level playing field" between EU companies and third country companies that could, for instance, take the form of a levy on imported goods, based on average prices in the EU's Emission Trading Scheme (ETS). Such mechanisms will stop carbon leakages and avoid the race to the bottom for energy-intensive industries while protecting the competitiveness of EU industries and reducing the competitiveness of cheap carbon-intensive imports.

- Because the EU represents 10% of global GHGs, such a mechanism could also send a positive signal to like-minded countries trading with the EU (Canada, UK, Switzerland) that will benefit from a kind of mutual recognition of their own ETS and exonerate their domestic companies to pay any levy on their exports to the EU27.

- In doing so, the EU will ensure coherence between its internal and external commitments and improve its climate policy with the revision of the Energy directive in order to meet the challenges to reduce GHGs by 50-55% from 1990 levels by 2030 and reach carbon neutrality by 2050.

2/ Disadvantages of CBA

- The use of carbon border measures could invite retaliation from other countries like China or the USA. In WTO, during the process of assessment of the EU Trade Policy, some US officials already showed their concern about any EU carbon border measures. This threat must be taken seriously in a context of global economic downturn linked to the Covid 19 crisis.

- The cost of some imported raw material from third countries having a poor climate policy will be more expensive for their EU buyers. That means that the price competitiveness of some EU large manufacturing industries that process these raw materials could be less (automotive industry, construction industry). That means also that the EU exports of these industrial goods may be affected.

- We understand that these potential carbon border measures would be an alternative to the current measures that address the risk of carbon leakage in the EU's Emission Trading System (free allowance of CO2 quotas granted after an in-depth analysis of the emission profile, best available technologies and so on). But the sectoral coverage is not the same: the possible coverage of carbon border measures will be limited to sectors like cement and steel where the risk of carbon leakage is the highest while the sectoral coverage of the carbon leakage measures has a wider scope (chemicals, textile fibres, textile dyeing and finishing activities for instance). That means that there is a risk of creating losing sectors that will lose their free allowance of CO2 and will not benefit from any carbon shield at the border.

3/ Technical, legal and economic uncertainties

- According to the European Commission, the future carbon border measures will be commensurate with the internal EU carbon price. What if due to the partial collapse of industrial production in the EU as a consequence of drastic containment measures, there is a carbon price collapse (3-5 € per ton)? That will mean that the "level playing field" effect will be diminished by as much.

- According to the European Commission, the methodological approach to evaluating the carbon content and carbon pricing will be based on the EU-wide benchmarks developed for industrial processes. Are they available for all sectors? Are they internationally recognised? Do they reflect the best available technologies in the potentially targeted third countries? What happens if a third country believes it is above the European benchmark?

- The future carbon measures should be compliant with WTO rules and other international obligations of the EU. This essentially means that they must be non–discriminatory and proportionate according to the case-law.

4/ Comparison with other tools pursuing the same goals

In the series of consultation conducted in 2019, the ICC explored 3 other trade-related tools conducive to achieving ambitious climate goals:

a/ Carbon Clubs

This term embraces a group of nations that decide to coordinate their climate policies and share exclusive membership perks like the EU ETS. Like-minded countries could create smarter trade rules between themselves than in bigger negotiating blocks. They could drive deeper and faster mitigation action by linking members' emission trading schemes (like EU and Switzerland), reducing the risk of carbon leakage, and scaling-up climate ambition. The more powerful and the more numerous carbon clubs they are, the more we are moving the world towards a harmonised global carbon price. This tool, based on the goodwill of the parties, is less coercive and litigious than others but does not offer a quick solution to cases of environmental dumping.

b/ Carbon pricing

Carbon pricing is the key instrument to push companies to reduce their emissions and to stimulate long run investments to foster the ecological transition. Currently 57 national governments in the world (Europe, Argentina, South Africa, China, ten US states and so on) have put a price on carbon through emissions trading systems (from very high levels like in Sweden to low ones like in Latin America). Business and financial institutions are starting, regardless of the existence of a national carbon pricing scheme, to introduce the same carbon standards wherever they operate.

A carbon price corrects market distortions, drives industrial modernization, and helps ensure competitiveness. According to the IMF, the average global price for carbon is USD2 per tonne while an average of USD 75 per tonne will be necessary to reach the Paris Agreement goal. This tool is a global game changer to fight climate change but the system is fragmented without sufficient cooperation between regional and local carbon markets. That's the reason why Carbon clubs could help in the transition period before a global price for carbon is reached.

c/ WTO waiver

A WTO climate waiver would enable WTO members to take climate measures internally and externally (at the borders) that will take the form of carbon markets, carbon clubs, or Carbon Border Adjustment Mechanisms. This waiver based for instance on the article XX of GATT should define what a climate response measure is as defined by the UNFCCC, and avoid being discriminatory or a disguised trade restriction. Such a multilateral mechanism will produce structural and global effects of a large magnitude but, given the WTO current decision-making process based on the consensus, one can't expect a quick and swift adoption.

In **conclusion,** ICC France would like to insist on the necessity to combine the various available tools in order to combat the climate crisis and to modernise and reform the multilateral trading system according the following steps:

1. As relevant international organisations and business consider that the carbon pricing signal is key to obtaining effective progress in combating climate change and in creating an attractive environment for investments in the long-run in order to accelerate ecological transition for public and private actors (industry, transports, housing, agriculture and so on), ICC France pleads in favour of the adoption of an international carbon price that should be acceptable for all (like 2 USD per ton), with an upward trajectory.

2. In the transition period before the adoption of global carbon pricing, as well as a common agreed methodology to measure carbon footprints, regional carbon pricing between like-minded countries (EU-27/UK/Switzerland, Latin America, Middle-West and so on, South East-Asia and so on) should be gradually harmonised. The creation of such regional carbon markets will imply common carbon market infrastructures (a kind of Carbon Single Market) while some carbon specific mechanisms could be put in place vis-à-vis third countries (a kind of carbon TARIC – integrated carbon tariff).

3. In order to avoid the emergence of a carbon trade war between countries and regional customs unions, a WTO waiver that will establish the rules according to which these carbon Border Adjustment Mechanisms (carbon tax, ETS-mirror, standards) must be set up and function in compliance with 2 WTO key principles: proportionality and non-discrimination.

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