

French Carbon Tax Put on Hold by the Constitutional Council

Peter Vogelsanger, January 6, 2010

The French Constitutional Council has prevented the Carbon Tax from becoming effective. The decision was published on December 29, 2009, a mere 4 days before the anticipated coming into vigor of the new law on the first day of 2010. The council's main objection against the 'Taxe Carbone' (recently relabeled 'Contribution Climat-Energie') is the importance of its total of exemptions. Specifically, the rejected tax-law would have avoided the taxation of those industrial operations which are included in the European Emissions Trading Scheme (ETS, 1). According to the council, this presents a major inequality in tax burden which is inconsistent with the French constitution. The intended and now rejected tax is characterized by:

- Full compensation of revenues to the people and businesses (2).
- Initial compensation for people/households is Euros 46 per adult, in locations accessible with public ("urban") transportation, 61 in regions without access to public transportation; 10 Euros per child.
- Compensation to people through a lump tax credit (reduction of amount taxed) or as a cheque for households/people if the tax amount is below compensation.
- Compensation to businesses through a reduction of payroll taxes (2).
- Initial rate: 17 Euros per ton CO₂ from fossil fuels for heating or transportation.
- Industry operations which are enrolled in the European Emissions Trading Scheme (ETS) are exempt from the tax (and its compensation).
- A „progressive“ increase of the tax rate is announced, although not quantified.

The constitutional council's decision had caught both the governing and the opposition parties by surprise. While the many hostile to the carbon fee (3) have welcomed the decision for their cause (4), the president of the French senate's working group on environmental taxation, Fabienne Keller, expressed hope that the impending revision of the law may broaden its tax base (5). The French administration has announced presentation of a revised law, which shall account for the constitutional council's objections, before January 20. The revised tax-law shall be effective July 1, 2010. (6)

1: The ETS issues emission credits overwhelmingly for free and allows compensation under the Clean Development Mechanism (CDM) or Joint Implementation (JI) Scheme of the Kyoto treaty.

2: The compensation to businesses is through reduction of payroll taxes. Compensation is declared to be full in a description of the tax (http://www.developpement-durable.gouv.fr/article.php3?id_article=5866)

however, the portion provided by businesses might not be compensated completely, because several commentators point out that failure to implement the law would require downward correction of budgeted national income by about Euro 1.5 billion.

3: According to one survey, the carbon tax proposal lacks public acceptance. Workers reject it more clearly (75%) than "cadres" (57%).
(<http://www.lefigaro.fr/vert/2009/09/03/01023-20090903ARTFIG00573-les-deux-tiers-des-francais-rejettent-la-taxe-carbone-.php>)

4: As commented here:
<http://www.lefigaro.fr/environnement/2009/12/31/01029-20091231ARTFIG00016-l-opposition-salue-la-fin-d-une-taxe-carbone-injuste-.php>

5: http://www.lemonde.fr/opinions/article/2010/01/01/taxe-carbone-l-avis-du-conseil-constitutionnel-est-un-progres-ecologique-par-fabienne-keller_1286560_3232.html

6: <http://www.grist.org/article/2010-01-05-sarkozy-wants-french-carbon-tax-to-take-effect-in-july>