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THE FRENCH CARBON TAX

Autopsy of an Ambition

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The French carbon tax, often referred to in the French public debate as the “contribution-énergie-climat” (energy-climate contribution), was to be the centerpiece of the country’s new climate change mitigation strategy. Even more, it would have been the living and lasting symbol of the Sarkozy government’s conversion to ecology, initiated in the fall of 2007 with the launching of the “Grenelle environnement.”¹

After a heated debate in which French citizens constantly voiced their resolute opposition to the measure, the Constitutional Council, France’s higher constitutional law body, censored the executive’s proposal on 29 December 2009, merely forty-eight hours prior to its implementation. Three months after this decision, in the aftermath of a severe electoral defeat, François Fillon, the prime minister, announced the indefinite postponement of the carbon tax, equated by all to its political death. This article tries to make sense of this important sequence in French contemporary public life by reviewing its different facets: environmental economics, political economy, constitutional law, and finally politics.

Environmental Economics

Climate-change mitigation requires the mobilization of all available economic instruments (regulation, cap-and-trade, carbon taxation) in order to first put a price on carbon, and then increase it gradually so as to phase out the use of fossil fuels and foster the transition to low-carbon economic growth and sustainable development. In this respect, carbon taxes are an under-used yet quite efficient economic instrument given their capacity to curb so-called

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“diffuse pollutions.” These decentralized greenhouse gas (GHG) emissions stem from transport and housing depending on hundreds of millions of users and are thus harder to monitor and reduce through cap-and-trade markets (which are better suited to curbing centralized pollution by energy and energy-intensive industrial sectors). This “division of labor” between cap-and-trade (for centralized emissions) and carbon taxes (for diffuse ones) is particularly relevant in the European Union (EU), where the EU ETS (European trading scheme, i.e., European carbon market) covers only about 40 percent of centralized greenhouse gas emissions from around 11,000 participating installations, leaving 60 percent of mostly diffuse forms of pollution to be treated by other instruments.²

For historical and policy reasons, the EU countries display, among OECD countries, relatively high levels of environmental taxation—in particular when compared with the United States, Japan, Canada, and Australia. Yet the overall level of their environmental taxes remains low in terms both of percentage of GDP (of which it never exceeded 3 percent in the last two decades) and of total tax revenues (of which it never exceeded 7 percent). Within overall environmental taxation, the taxation of energy in the EU has followed a pattern of increasing from 1.8 percent of GDP in 1980 to 2.1 percent in 1993, before falling to 1.8 percent in 2007. (Between 1995 and 2007, the ratio for the EU 25 fell by 0.4 points, see table 1.) Environmental taxation is thus still, contrary to a common perception, embryonic in the EU.

Table 1. Energy taxation, in % of GDP

	1995	2000	2005	2006	2007	1995-2007
Eurozone averages						
weighted	2.1	2.0	1.9	1.8	1.7	-0.4
arithmetic	2.0	1.8	1.9	1.8	1.7	-0.2
EU-25 averages						
weighted	2.1	2.1	1.9	1.9	1.8	-0.4
arithmetic	1.9	1.9	2.0	1.9	1.8	-0.1

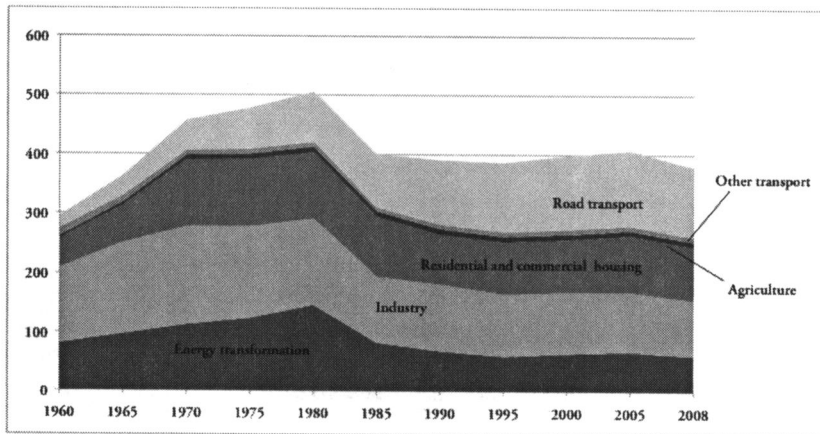
Source: Eurostat, *Taxation Trends in the European Union, 2009*

France is no exception to the rule: its dynamic diffuse emissions are not monitored by adequate carbon taxation. The country has committed since 2007 to a new development strategy based on ecological sustainability. The so-called “Grenelle de l’environnement” has now been translated into two laws, the “Grenelle 1” that sets general goals and specific targets and the “Grenelle 2” that details policies and instruments put in place to reach them.³ These laws demand that France divide its GHG emissions by a “factor 4” (i.e., diminish emissions by a factor of four) from 1990 to 2050 (in line with the scientific consensus framed by the IPCC), when it should emit less than 140 millions tons of CO₂.

But why would France need a carbon tax to achieve this objective? Why would France need a carbon tax while it enjoys the lowest carbon-intensive

economic growth in the developed world, thanks to the massive investment it made some thirty years ago in nuclear power? The answer here is empirical, and comes from the observation of GHG emissions dynamics in the French economy during the last four decades (Figure 1).

Figure 1. French emissions of CO₂, 1960-2008, in millions of tons.



Source: CITEPA, *Inventaire des émissions de gaz à effet de serre en France au titre de la Convention cadre des Nations Unies sur les changements climatiques*, 2009.

What is clear from the GHG emissions profile of France is that the French economy suffers, ecologically speaking, from “nuclear fatigue” or “complacency”: sins in diffuse pollution from housing and transportation have over time offset energy virtue. (Road transportation alone now accounts for a third of total emissions, as its share increased by an astonishing 490 percent since 1960.) Hence, if French CO₂ emissions went down 30 percent from 1980 to 2007, they only decreased by 10 percent from 1990 to 2007 (more recent data are available, but they are partly biased by the global recession of 2008 and 2009).

Hence, if France is to respect its commitment and reach the “factor 4” target by 2050, it must control its diffuse emissions. If it is to control these emissions, it has to find an economic instrument able to do just that. Carbon tax is a plausible solution.

But one could wonder if France does not already heavily tax carbon through existing energy taxation. The answer is negative, at least when European standards are considered: the latest data compiled by Eurostat show that energy taxation has, if anything, gone down in the last decade in France, the country now ranking at the very bottom of the EU both for energy taxes as a percentage of GDP, with 1.4 percent in 2007 (twenty-third out of twenty-seven) and for energy taxes as a percentage of total taxation, with 3.3 percent in 2007 (twenty-sixth out of twenty-seven).

To confirm scientifically the necessity of a carbon tax and design its practical modalities (tax base, rate, exemptions, etc.), President Sarkozy convened a commission of experts chaired by former Prime Minister Michel Rocard in the spring of 2009. The “Rocard Commission” gathered economists, civil servants, and NGO representatives to debate the details of the reform, including compensation options. But with a mere four weeks between its formation and the release of its conclusions, it was given considerably less time than a typical European “green tax” commission, like in Norway or the Netherlands.

The experts nevertheless concluded that the tax was to be set at 32 euros per ton of CO₂, most members actually favoring a launching level of 45 euros but resorting to a lower launching level in the face of political acceptability considerations. Still, President Sarkozy set the price tag even lower, at 17 euros per ton of CO₂ for 2010. The argument put forward by the government to justify this level was that French households should not pay more than firms engaged in the EU ETS (the European cap-and-trade market). The EU ETS has actually been dysfunctional since its launching in 2005, with a price signal too low and unstable, resulting in a sharp fall of the ton of CO₂ price on two occasions, the latest of which was the global economic panic of the fall of 2008.

At this level, 17 euros per ton of CO₂, the environmental economics of the tax was clear: the overall impact was to be very weak at least initially, with revenues amounting to a mere 4.6 billion euros, close to 0.23 percent of France’s GDP and 0.47 percent of its total tax revenues. Yet, the hardest part was ahead: once the economic form of the tax was determined, it had to be “sold” to the French public, a difficult sell indeed.

Political Economy

The political economy of environmental policies in general makes environmental taxes somewhat difficult to implement.⁴ Such policies are perceived to be socially regressive insofar as the poorest households are considered to bear a disproportionate financial burden (since their income is smaller) while rich households receive the most benefits from them (since their “demand for environment” is generally higher). In the case of climate-change-related tax policies, this may not be true in terms of benefits (since poor households benefit from climate change mitigation more than rich households that are more easily able to adapt to it), but it is certainly true in terms of *prima facie* burden on income.

The question of compensation of carbon taxes (not to be confused with the issue of exemption⁵) is thus of primary importance, especially from the standpoint of their political acceptability. If designed properly, carbon taxes are able to generate a “double dividend”—that is, a reduction in GHG emissions *and* a positive effect on growth and jobs, if tax revenues collected are used, for instance, to reduce social contributions on labor. The increased tax

on household and business energy consumption may, for instance, be compensated by lighter labor costs, a particularly attractive option in a context of high unemployment.

Environmental taxation may be only modest in the EU, but the countries that have recently engaged in environmental or ecological taxation reforms (sometimes referred to as ETR or “green shift”), especially Nordic countries (Table 2), opted for the double-dividend strategy, giving life to the idea that modern taxation systems can shift the burden from labor to pollution (or from “goods to bads”). In other words, most—if not all—environmental tax reforms in the EU have explicitly acknowledged the need to reconcile environmental and social concerns.

Table 2. Forms of compensation for Nordic countries that have implemented carbon taxes

FINLAND	1990	Reduced income tax (since 1996). Since 2009, abolition of social contributions by employers
NORWAY	1991	Allowances for households
SWEDEN	1991	Reduction of income tax, reduction of employers social contributions (since 2001)
DENMARK	1992	Reduction of employers social contributions, family allowances, reduced income taxes on low incomes

This compatibility issue is all the more important in that the OECD review of environmental taxes⁶ shows that the ecological efficiency of environmental taxes is generally strong and that the countries that chose to acknowledge the potential contradiction between social justice and environmental concerns have at least partially succeeded in overcoming the problem of the socially regressive nature of carbon taxation.

Success stories of environmental taxation in the EU thus demonstrate that it is possible to preserve ecological efficiency of carbon taxes by allowing few exemptions and yet compensate households financially to ease and even overcome the socially regressive effects of energy taxation. In other words, it is perfectly possible to reconcile social justice with sustainability through intelligent policy design.

France did not shy away from this crucial issue. The socially regressive effect of the tax was obvious, as the poorest French households pay out a higher share of their income on energy (2.5 times more for the bottom 20 percent compared with the top 20 percent). The government chose to compensate households financially directly depending on their income and residential situation. Computations by ADEME,⁷ the French agency for environment and energy efficiency, showed that, with annual transfers of 94 euros for people living in the country and 76 euros for people living in urban areas, the tax actually benefited French citizens up to the third decile of income distribution (Table 3).

Table 3. Impact of a 17 euros/ton carbon tax on the French income distribution, in euros/year

	HEATING		FUEL		TOTAL		TOTAL AFTER TRANSFERS	
	country	town	country	town	country	town	country (94€)	town (76€)
1st decile	-50	-11	-26	-19	-76	-30	18	46
2 nd decile	-52	-50	-29	-22	-81	-72	13	4
3rd decile	-57	-38	-35	-29	-92	-67	2	9
4th decile	-57	-53	-44	-29	-101	-82	-7	-6
5th decile	-59	-42	-44	-36	-103	-78	-9	-2
6th decile	-51	-76	-55	-38	-106	-114	-12	-38
7th decile	-62	-95	-49	-45	-111	-140	-17	-64
8th decile	-47	-63	-55	-42	-102	-105	-8	-29
9th decile	-78	-60	-54	-48	-132	-108	-38	-32
10th decile	-99	-98	-74	-48	-173	-146	-79	-70

Source: ADEME and author's calculations.

Hence, it would be unfair to say that the political economy of the tax was not taken into account by the government. It was, but the pedagogy of the measure was clearly missing, so much so that poll after poll conducted in 2008 and 2009 confirmed that a large majority was strongly opposed to the carbon tax.

TNS-Sofres reported in September 2009 that as much as 66 percent of people were opposed to the carbon tax, be they from the Left (67 percent opposed) or the Right (63 percent opposed). The poll also showed a sharp division between lower income social categories (opposed at 75 percent) and higher income (only 57 percent of opposition). The progressive nature of the tax, thanks to efficient compensation, was lost on most lower income social groups, convinced that it would represent an illegitimate additional financial burden, even more unacceptable in a time of social crisis and the return of mass unemployment.

When the government eventually decided to abandon its project in March 2010 after it was censored by the Constitutional Council in December 2009 and in the midst of the gruelling defeat at the regional elections, an Ipsos poll showed that 69 percent of French citizens thought it was the right thing to do.

Constitutional Law

The Constitutional Council's decision n° 2009-599 DC of 29 December 2009 censoring the articles of the draft budget law that instituted a carbon tax in France on 1 January 2010 surprised the Fillon government, according to its speaker. Yet, it was hardly a first. The partial rejection of a proposed tax on polluting activities (TGAP) by the Council Decision n° 2000-441 DC of 28 December 2000 had earlier in the decade convinced the Jospin government to simply abandon its ambition to tax emissions of greenhouse gases. Ten long years had then been lost in the fight against climate change. As politically and ecologically unwelcomed as it was, the decision of the Constitutional Council was still clearly motivated by fairness.

Its central idea was to strike down what it perceived as “exemptions” to the tax (reduced rates, deferred taxation, partial exemptions, total exemptions) agreed to by the government for different reasons, but all contrary to the principle of equality of taxation set out in Article 13 of the Declaration of Human Rights and the Citizen of 26 August 1789: “For the maintenance of the public force, and for administrative expenses, a general tax is indispensable; it must be equally distributed among all citizens, in proportion to their ability to pay.”

The surprise expressed by the government when the decision was made public was itself surprising: The decision of December 2000 on the TGAP already stated the Council’s attachment to Article 13’s principle of tax equality. Even more precisely, the Council stated that, to be constitutionally acceptable, “differential treatments” should be “commensurate with the goal that the legislature has set.”

In other words, the Council founded its control of constitutionality on a compliance review of the law: compliance meant that the means proposed by the government to achieve the target of reducing greenhouse gas emissions had to be efficient and that exemptions had to be justified in this respect. And, according to the Council, this was not the case. In paragraph 82 of its decision the Council argues that, because firms already engaged in the EU ETS are exempted from the tax and because the permits allocated in this market are distributed for free in France, “by their importance, the total exemption schemes established by Article 7 of the referred law are contrary to the objective of fighting global warming and create a characterized rupture of equality before public charges.”

Yet, the government was right when it claimed in the prologue of the law creating the carbon tax that it respected “the EU framework,” since “all actors of the economy ... will be subject to a carbon price signal: within the European market in emission permits for major industrial facilities; through the carbon tax for all others: households, government, businesses.” But the Council correctly pointed out that since businesses engaged in the EU ETS are not really taxed (which would require that permits are auctioned and not given away), an asymmetry exist between them and households and other firms submitted to the carbon tax.

From the perspective of ecological efficiency and social justice, the Council was thus right. What was also remarkable was that it grounded its decision in the Environmental Charter of 2004, which is in fact part of the French “block of constitutionality” (the general principles which, next to the Declaration of the Rights of Man and Citizen of 26 August 1789 and the Preamble to the Constitution of 27 October 1946 should inspire government action and the French Parliament when making laws). For the first time, the principle of “polluter-payer” contained in the Charter was given a constitutional value.

Nevertheless, the practical consequence of this decision was to effectively kill the French carbon tax: after the regional elections defeat, President Sarkozy decided to abandon his strategy to conquer the ecological vote and conse-

quently his 2007 promise to institute a carbon tax in France before the end of his mandate.

Politics

Why did the Fillon government choose to interpret the results of the regional elections of March 2010 as a signal that the carbon tax should be dropped? The first reason is that it lost those elections by an important margin, a defeat clearly driven by social frustration and even anger. With only 27 percent of the vote after the first round, the parliamentary Right recorded its worst performance of the Fifth Republic. In the second round, the Left gathered an historic 54 percent vote, almost 20 points ahead of the Right.

But another result convinced President Sarkozy that the energy and political capital he had decided to spend since the launching of the "Grenelle environnement" in 2007 has not paid off. The ecological party, "Europe Écologie," became with the March 2010 elections the solid third political force in the country with more than 12 percent, behind the PS and the UMP (the presidential party), but ahead of the Front National, firmly anchored on the left side of the political spectrum. The "Grenelle environnement," resented by many among the President's supporters and first political circle because of its unpopularity with low and middle income French voters, had not brought new support for the majority. It was thus considered a net loss for the Right.

On 23 March 2010, under strong pressure from MPs, the government announced that it wanted to pursue the carbon tax "at the European level," to the "despair" of the junior minister for ecology, Chantal Jouanno, who nevertheless did not resign. With this announcement, the government effectively decided the abandonment of a measure presented by Nicolas Sarkozy in a speech "as significant as the abolition of slavery or the death sentence."⁸ A pioneer in ecological laws in the 1960s, France had missed yet again the opportunity to reform its tax system in favor of sustainability.

Notes

1. For a presentation and analysis of the "Grenelle de l'environnement," see Éloi Laurent, "Bleu, Blanc... Green? France and Climate Change," *French Politics, Culture & Society* 27, 2 (Summer 2009): 142-53.
2. Éloi Laurent and Jacques Le Cacheux, "An Ever Less Carbonated Union? Towards a Better European Taxation Against Climate Change," *Notre Europe*, December 2009. http://www.notre-europe.eu/uploads/tx_publication/Etud74-Laurent-LeCacheux-en_01.pdf
3. Laurent, "Bleu, Blanc... Green?"

4. Ysé Serret and Nick Johnstone, eds., *The Distributional Effects of Environmental Policy* (Paris: OECD, 2006).
5. An exemption happens when a social group, usually for political and/or economic reasons, is allowed not to pay the tax, partially or in totality (e.g., fishermen or cab drivers). A compensation happens when a social group is submitted to the tax but receives later a financial compensation proportionate to the amount paid. In the first case, behaviors will not change, in the second one, individuals or groups are encouraged to change the behavior related to the payment of the tax (e.g., drive from house to work instead of using collective transportation). This is the very logic of "Pigovian taxation" (named after Cecil Arthur Pigou) that uses taxes to frame behaviors.
6. OECD, *The Political Economy of Environmentally Related Taxes* (Paris: OECD, 2007).
7. Agence de l'environnement et de la maîtrise de l'énergie.
8. Nicolas Sarkozy, 16 September 2009, Elysée Palace.