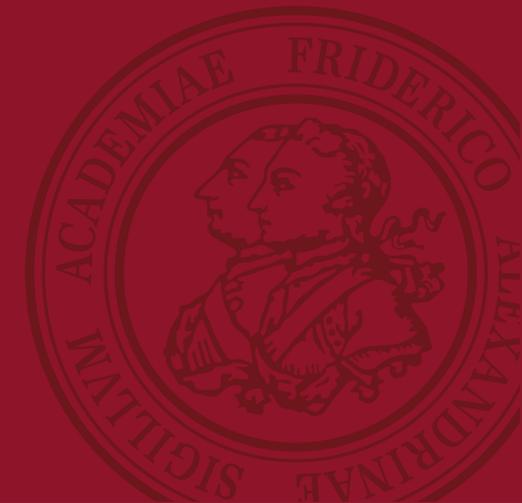


Including Consumption – Administrative Aspects

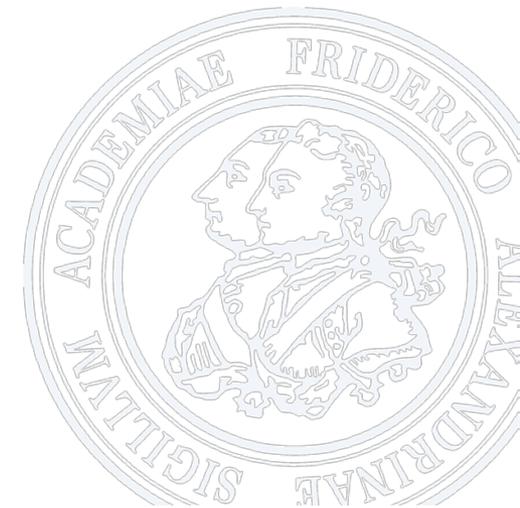
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Friedrich-Alexander-Universität Erlangen-Nürnberg
Chair for Tax Law and Public Law
January 26, 2015



Overview

- A. Inclusion of Consumption as an anti-leakage measure**
- B. Practical implementation**



A. Inclusion of Consumption as anti-leakage measure



Approaches for Addressing Leakage

- 1. Subsidies**
- 2. Free allocation (downward levelling)**
- 3. Auctioning plus border adjustments (Upward Levelling I)**
- 4. Output based free allocation plus Inclusion of Consumption (Upward Levelling II)**



1. How does Inclusion of Consumption work (Basic Idea)?

Two component model:

- Output based free allocation with BTA standard ensures production efficiency
- Release for Consumption of covered goods triggers charge under Inclusion of Consumption



2. Why is Upward Levelling II desirable?

- **Economic effects largely equivalent to Upward Levelling I**

thus, combination of upstream efficiency and encouragement of innovation and low-carbon-substitution down the value chain

effective remedy for leakage in a world of regionally differentiated carbon prices

- **yet comes without WTO law concerns as long as it does not constitute indirect discrimination**

3. What makes Inclusion of Consumption preferable to Border Adjustments under WTO law?

Two tier structure under WTO law:

- GATT generally prohibits discrimination of foreign products both compared to domestic products and to other foreign products (Most Favoured Nation Principle)
- Justification possible when environmental goals or protection of human health etc. are concerned, but restrictive conditions in chapeau

3. What makes Inclusion of Consumption preferable to Border Adjustments under WTO law?

- **Border adjustments** production specific: When charge on domestic products can be lowered depending on specific production modalities, the same must in principle apply to imported products; problems of verification and of administrative and compliance costs as well as of diverted trade flows



3. What makes Inclusion of Consumption preferable to Border Adjustments under WTO law?

- **Inclusion of Consumption** represents a general consumption charge; level does not depend on production specifics and can be set freely; approach thus does not require going into justification; can be oriented at globally marginal production rather than specific production



4. How can Inclusion of Consumption function in practice?

- **Two conceivable approaches**
 - Consumption tax on covered products
 - Inclusion of consumption in the narrow sense: set charge at level reflecting carbon costs under emissions trading mechanism



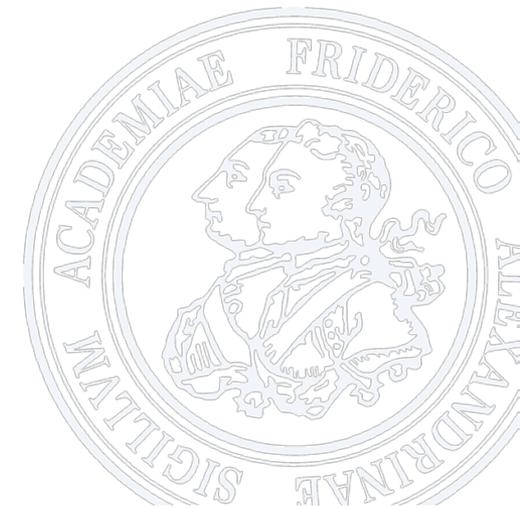
4. How can Inclusion of Consumption function in practice?

- **Different properties**
 - tax raises revenues for domestic budget;
 - charge under Inclusion of Consumption varies with carbon price under emissions trading mechanism;
 - diverging political economy and implementation implications, e.g. in the EU unanimity required only for tax but not for annex to EU ETS (see Ismer/Haussner, 2015, forthcoming)



4. How can Inclusion of Consumption function in practice?

- Approaches may coexist in practice in different states!

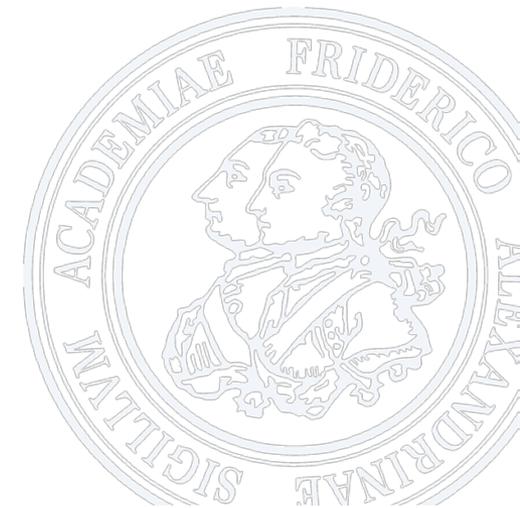


B.Practical implementation



1. How can Inclusion of Consumption function in practice?

- **No need to reinvent the wheel – excises as a functioning model**
- **Decisions required on**
 - covered products
 - level of charge
 - chargeable event
 - mechanism for imports
 - monitoring, verification



2. Decision on covered products

- **Trade-off** between effectiveness and compliance/administrative costs
- Scheme should be **limited to high-carbon commodities** (e.g. steel and clinker); possible to extend to take account of indirect emissions too (e.g. aluminium)
- Scope for **imports** different, albeit related question



3. Decision on chargeable event

- **Liability** created upon production (e.g. of steel) or import
- **Charge** however due only once there is Release for Consumption in the EU; opens possibility for duty suspension arrangements (e.g. customs warehousing) and automatic relief for exports
- **Release for consumption** also deemed to have occurred when wasted in production



4. Level of the charge

- **Charge as product of carbon price times benchmark carbon content per weight unit times weight**
- **Benchmark carbon content set at same level as output based free allocation (“claw-back”); should aim for best available technology**
- **Carbon price set for certain intervals; possibly more frequent updating in case of large price shifts**



5. Licensing for duty suspension arrangements

- adoption of minimum accounting standards;
- records of stock and movement of duty suspended carbon intensive products;
- compliance with other fiscal obligations (direct taxation, customs, VAT);
- compliance with requirements laid down by Member State where entity is situated;
- notification of changes to business activities or structure; and
- provision of guarantees, where required

6. Conditions for licenses for Carbon Warehouses

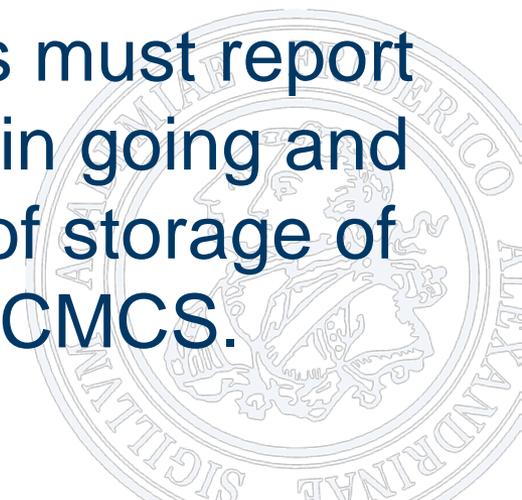
- details of the address and a description of the premises are provided;
- details of the stock reporting system are provided; and
- records, for each Carbon Warehouse of stock and movement of carbon intensive products are kept



7. Monitoring, reporting and verification

A system for monitoring, reporting and verification should include:

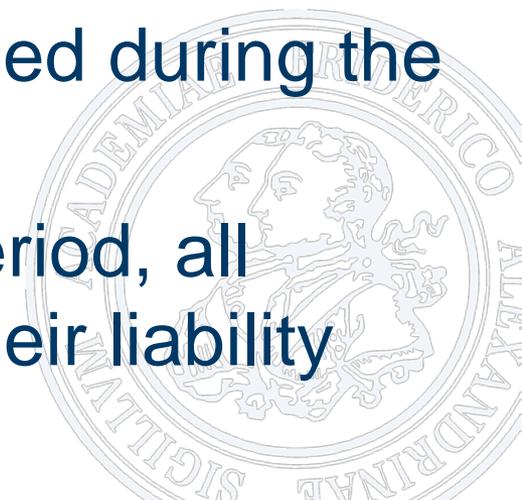
- Electronic reporting - A Carbon Monitoring and Control System (CMCS) be established to track the movement of duty suspended carbon intensive goods.
- Reporting - Warehouse Keepers must report (in weight) production volumes, in going and outgoing movements and level of storage of carbon intensive goods into the CMCS.



7. Monitoring, reporting and verification

A system for monitoring, reporting and verification should include:

- Adjustments - exports and products moved to another registered entity should be deducted from a registered entities liability.
- Write offs - there shall be no write-offs for products lost, wasted, or damaged during the production process.
- Acquittal - at end of reporting period, all warehouse keepers must pay their liability calculated from the CMCS



7. Monitoring, reporting and verification

A system for monitoring, reporting and verification should include:

- Simplified reporting - procedures could be considered for trade within a Member State, regular bilateral trade between Member States, and movement between warehouses registered to the same warehouse keeper.



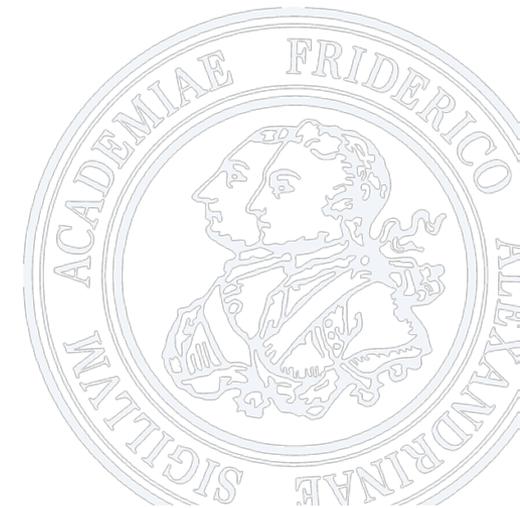
8. Compliance and enforcement

- The following enforcement mechanisms are recommended:
- Relevant agencies carry out enforcement actions including audits, unannounced site visits and stock takes.
- Anti-abuse laws should be drafted to limit criminal abuse of the scheme.
- Imports and exports of metal declared as scrap should be monitored across European Union external borders.



9. Imports

- Import creates liability to the charge
- Products covered must go beyond commodities (in EU, such downstream products also bear charge)
- However, no need to chase after steel screws in laptops: only where significant carbon content relative to value



Thank you for your attention!

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