

Research Article

Environmental Law Regulation in Creating the Conditions for Sustainable Development of the Russian Economy With Simultaneous Reduction of Greenhouse Gas Emissions

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Abstract. Regulation of greenhouse gas emissions in Russia is just beginning. The mission of Russia's environmental development and climate change R&D program is to launch fundamentally novel basic research and techniques for the environment and climate. There are three major targets to be achieved by 2030: fundamentally enhance environmental security, improve the state of the environment, and study the climate and the mechanisms of adaptation to climate change. Actions will need to be taken to reduce the environmental impact of greenhouse gas emissions. In the near future, climate projects will move to the top of the global environmental agenda and will dominate among the projects for reducing greenhouse gas emissions. Global specialists have so far failed to deliver a clear definition of the forest climate project. It is up to lawyers to formulate the key quality criteria of the project implementation at the legislative level. Russian forests occupy the largest area in the world and form a core of the system that binds and stores carbon. Russia must use these expanses to augment the carbon absorbing capacity of our forests. A priority in the Russian R&D program will be research into the most effective mechanisms of carbon dioxide sequestration. Structuring of climate data and techniques is underway and, most importantly, it is becoming possible to verify them at the international level.

Keywords: greenhouse gases, carbon, carbon tax, organizations subject to regulation

Starting 2023, the EU is introducing a carbon tax for imported products involving high greenhouse gas emissions. Some 40 percent of Russian export may be subject to the tax. Russian enterprises will annually pay € 6 to 50 billion to the EU fund.

There are, however, many questions to ask the EU, such as about the ways of levying the tax and the mechanism of paying it. The tax will apply to products with so-called high "carbon footprint". Examples are petroleum, gas, metals, cement, fertilizers, and some other categories. Greenhouse gas emission thresholds meeting EU benchmarks will be defined for them, and if the threshold is exceeded, the exporter will have to pay the tax. According to different estimates, its amount for suppliers from Russia can be € 2 to 6.5 billion annually. The high fees contradict WTO rules. In their basic scenario, our

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economists argue that the tax will cost Russian-based exporters some € 33 billion on average until 2030 [1].

The recently published Federal Law # 296-FZ of 02.07.2021 “On limiting greenhouse gas emissions” (enters into force on 30.12.2021) was designed to facilitate a sustainable and balanced development of the Russian economy simultaneously with reducing the emissions of greenhouse gases. The Law introduces new terminology, stipulates actions to limit greenhouse gas emissions, defines the legal status of government bodies on the matter, sets the limits on permissible emissions, and outlines the general provisions for implementation of climate projects.

Russian government defines the criteria for climate projects to be included in the federal Register of Climate Projects, entrepreneurship support measures, climate project verification procedure, and the conditions climate projects should fulfil.

The government enables companies financially to implement projects designed to reduce emissions or augment sequestration of greenhouse gases. Besides, the largest generators will have to report their carbon emissions (starting not later than 2024 for those generating up to 150 000 tons CO₂ equivalent, to be extended to all companies emitting over 50 000 tons in the future) [2].

This being a framework act, it will have to be specified by numerous further regulations. Federal Law # 296-FZ also introduces the concept of “organizations subject to regulation” – legal entities and sole entrepreneurs whose economic and other activities involve greenhouse gas (GHG) emissions in amounts equivalent to 150 000 or more of carbon dioxide per year in the period until 01.01.2024 (in 2022–2023), and to 50 000 or more after 01.01.2024.

The reason for breaking up economic entities with different emission volumes into two stages is that information about GHG emissions from economic entities is almost absent, with only expert estimates available. It is therefore expedient to first focus the regulation on organizations generating 150 000 tons CO₂ equivalent emissions per year, and then, having streamlined the legislation, cover the rest of significant GHG emitters. By 01.01.2022, Russian government is supposed to adopt the criteria for legal entities and sole entrepreneurs to be regarded as organizations subject to regulation.

Organizations subject to regulation are obliged to deliver to the Federal Service for Supervision of Natural Resources (Rosprirodnadzor) yearly GHG emission reports (due July 1st of the year following the reported period) following the procedure and templates set out by the Russian Government. Rosprirodnadzor checks the reports and keeps the register of GHG emissions (state information system containing reports on GHG emissions). Draft federal law “On making amendments to the Russian Federation Code

of Administrative Offenses” has been prepared, envisaging liability for non-delivery of GHG emission reports (as well as incomplete delivery and/or delivery of inaccurate information in the reports), namely administrative fines: RUR 100 000 to 150 000 for officials; RUR 200 000 to one million for legal entities.

Legal regulation. The manual and guidelines on quantification of GHG emission volumes by organizations operating in the Russian Federation were endorsed by the Russian Ministry of Natural Resources and the Environment Order #300 of 30.06.2015. The manual and guidelines apply to the following industrial sectors: metal industry; oil processing; other industrial processes; flaring; fuel combustion and manufacturing of materials; transport.

Seeking to fulfil the 12.12.2015 Paris Agreement, Russian Presidential Decree #666 of 04.11.2020 “On reducing greenhouse gas emissions” instructs the Russian Government to:

- a) secure by 2030 a 70% reduction of GHG emissions from the 1990 level, taking into account the maximum possible absorbing capacity of forests and other ecosystems and under the condition of a sustainable and balanced socio-economic development of the country;
- b) work out and adopt the Strategy for socio-economic development of the Russian Federation with low GHG emissions until 2050, taking into account the specific features of different sectors of the economy;
- c) facilitate the implementation of actions for reducing and preventing GHG emissions and for augmenting the sequestration of such gases [3].

The world’s most prominent experts came up with three scenarios for Russia upon introduction of the EU carbon tax.

The optimistic scenario is that the EU will impose the tax only in 2028, and will tax only the difference between actual CO₂ emissions during production and the EU benchmark. The burden on Russian producers in this case will be €6 billion over three years (2028–2030). Gas, nickel, and copper suppliers will be affected the most: the carbon intensity of their produce is twice or thrice higher than the European benchmark. Current production of petroleum, petrochemical products, potassium fertilizers, and other exported goods fully complies with the European benchmarks.

In the basic scenario, the tax will be imposed in 2025 and will apply only to direct GHG emissions (during the production process per se). In this case, the burden on Russian exporters will be €33.3 billion in 2025–2030.

In the negative scenario, the tax may cost Russian exporters €50.6 billion until 2030. This will happen if the border tax is imposed as soon as in 2022 and will apply to both direct and related CO₂ emissions i.e., emissions from sources owned by other organizations but somehow related to the exporter's activities.

Russia now has a plan for reducing GHG emissions until 2050. The parameters of the tax the EU is going to impose on "dirty" imports with high carbon footprint are yet unclear. Implications for Russia, however, are significant. Europe is the largest market for Russian goods, receiving 46% of Russian exports. In 2019, Russia exported a \$189 billion worth to EU countries. As of now, the carbon border tax is listed among risks. If the EU does impose this tax, Russian government may provide support to the affected companies in the form of tax benefits and preferences. Ministries have already been instructed to prepare proposals on support for the companies potentially affected by the carbon tax by October 1st.

Russian producers can avoid the tax and export cuts by renovating their processes with "green bonds" funding. This means not only access to cheaper funding, but also a higher quality and transparent reporting. The Russian State Development Corporation has already announced its willingness to attract some RUR 300 billion to the economy [4].

The European Commission has worked out and proposed to impose so-called border tariffs to target the import of iron and steel (and products made thereof – pipes and rails) into the EU. Carbon border tariffs have been suggested for aluminum, cement, fertilizers, and electricity, which are in high demand in Europe. If this plan is adopted, there will be a transitional period from 2023 to 2025, during which the actual emissions embedded in the goods imported to the EU will be controlled on a quarterly basis. Twenty five WTO members do not support this initiative of the European Commission.

Russia has a draft Low-carbon Development Strategy 2050 produced by the Ministry of Economic Development. The draft was adopted on August 23, 2021. It is acknowledged in this document that the volume of GHG emissions in Russia will not decrease. Instead, it will even grow somewhat to 2.29 billion tons CO₂ by 2050. The Ministry has estimated, however, that due to sequestration by forests and wetlands "net emissions" will decline by 25% – from 1.58 billion tons CO₂ in 2019 to 1.19 billion tons in 2050 [5].

For Russian legislation on reduction of GHG emissions and Russia's international treaties to be implemented an independent (other than European) system of science-based estimation of the emission/deposition balance needs to be elaborated.

It is important for Russia to build the legal basis for carbon polygons and carbon farms – areas with a unique ecosystem allocated for the monitoring of climatically

active gases. This includes the legal framework for the development and customization of on-land techniques for field and forest agrochemical control of soils and respiration of greenhouse gases. According to the Paris Agreement on climate change, which Russia has signed but not yet ratified, the party countries undertake to control atmospheric CO₂ emissions. The calculation of emission quotas takes into account the absorbing capacity of forests in each country. In implementation of its international climate agreements, Russia adopted official methodology for calculating the absorbing capacity of forests. Many scientists, however, point to its flaws which may cause the country to adopt excessive commitments on limiting CO₂ emissions [6].

This is where it gets tricky: what is considered forest and what is the correct way to estimate its capacity to absorb CO₂ from the atmosphere? Experts argue that the official methodology the Ministry of Natural Resources and the Environment has resolved to use significantly underestimates the absorbing capacity of our forests and completely disregards the natural biomes with similar absorbing capacity, namely peatlands and tundra. A consequence of this seemingly purely scientific mistake is that Russia may commit to excessive targets on carbon dioxide emission control, which will inevitably slow down economic growth. The methodology adopted by the European Union for calculating GHG emission quotas does not take into account carbon absorption by forests, so that only direct emissions from industry, transport, housing and public utilities are included in the calculations [1].

The absorbing capacity of Russian forests is computed using the “System for regional estimation of the forest carbon balance” (ROBUL). This technique is based on research conducted in the 1960s-1990s and its application results in a multi-fold underestimation of the absorbing capacity of Russian forests (meanwhile, 20% of the world’s forest is in Russia) compared to developed countries [7].

At the same time, alternative methods have been worked out e.g., by the All-Russian Research Institute for Silviculture and Mechanization of Forestry (VNIILM). The numbers there are very different. To wit, ROBUL estimate of the positive carbon balance for our forests is as low as 600 million tons per year, while the VNIILM estimate is 2 billion tons i.e., almost 3.5 times higher. Furthermore, according to the latter method, Russian forests now offset 80 percent of the country’s industrial emissions and in 25 years this is going to be 100 percent. However, the VNIILM methodology has not yet been approved by the Ministry of Natural Resources and the Environment and has no official power.

Europe does not take forest into account in carbon tax calculations, but this may change if a new methodology for estimating emissions and sequestration is suggested. The carbon tax will definitely be imposed in Europe, but the EU has not yet publicized

its final specific parameters. This leaves us some opportunity to influence their stance. Negotiations are to start this year. Russian forests will get a chance only if forest climate projects are implemented. Hence, the principal task for Russia now is to augment the potential of Russian forests in absorbing greenhouse gases by means of carbon sequestration projects, including forest climate projects.

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