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**LONG ABSTRACT**

***THE EUROPEAN GREEN DEAL AND ITS INSTRUMENTS FOR ENVIRONMENT PROTECTION: THE “CARBON BORDER ADJUSTMENT MECHANISM” CASE***

The “Green Deal” is a driving strategy of a new economic policy agenda that is emerging in various parts of the world, including Europe. It is, in a nutshell, a strategy that is fundamentally based on the skilful combination of public intervention and private initiatives to review priorities in the choices on the production of goods and the provision of services according to a vision of the economy oriented towards environmental protection, climate neutrality and sustainable development.

In this regard, please consider that the European Green Deal is a strategy to combat climate change launched by the EU in December 2019. The act outlining its essential lines is, in fact, a Communication from the Commission, a policy document, entitled the European Green Deal COM(2019)640.

The strategy, of course, does not end with the communication above, but runs through a considerable variety of measures: European sectoral strategies (see those on biodiversity, food safety and industrial policy), action plans for the circular economy and proposals in strategic sectors such as energy and fuels, transport and land use in the so called “Fit for 55%” package.

The term Green Deal, therefore, does not refer to a single act but to the overall regulatory process through which the Commission gives shape and substance to the climate change strategy outlined at the end of 2019, with the aim to reach “climate neutrality” by 2050.

The adoption of the Green Deal, moreover, shows the maximum openness of the Union’s legal system to environmental principles, as this strategy, as said, places the environment and sustainable development at the centre of the Union’s political agenda. See the “climate” neutrality one, an overall objective of the strategy under consideration and, in terms of content, it is understood as the “zeroing” of net greenhouse gas emissions. In the overall formulation of European climate legislation, in conjunction with the Green Deal, it is clear that climate neutrality goes beyond mere decarbonisation to a true guiding principle, for the spectrum of actions it covers to protect the environment and for the depth of function on the interventions it envisages. Among the most recently introduced principles in environmental matters in the Union’s legal system, the principle of not causing significant harm (DSNH) certainly occupies prominence, which translates into an assessment of the conformity of the measures adopted by the European institutions and the Member States in implementation of Union law. This principle is known above all because it constitutes a limit to the financing of national measures introduced through the various PNRRs, assuming extreme relevance in the different stages of implementation, monitoring and control.

The affirmation of the Green Deal approach reinforces the role of public powers (supranational, national and subnational) in their relations with individuals and economic and industrial operators, foreseeing and facilitating the adoption of measures to promote, incentivise and shape the choices of private subjects themselves. The public authorities, therefore, also based on the new principles just mentioned, adopt policies aimed at directing economic actors towards a plurality of combined objectives, conditioning their operational choices and determining their investments and business strategies. The assumption, as also highlighted in the doctrine, followed by the Green Deal is the following: the green transition underway cannot but be driven by the market and the conveniences or losses of economic actors (see the fossil fuel

sector). Nevertheless, in order for the green transition to take place effectively, and to overcome the ambiguities and risks of the “green economy”, market forces and rules are not deemed sufficient. From this angle, therefore, the Green Deal strategy rests on intrusive and widespread public intervention, which informs operators and promotes new green productive assets. At the same time, it is the private actors, as mentioned, who are called upon to carry out a series of activities for the realisation of the public interest underlying the Green Deal policies.

Because of these interconnections and relationships, a fundamental part of the implementation of the Green Deal is entrusted to the public economic category of the “conforming State”, that is, as also mentioned above, a context in which public powers go beyond their activities of promotion, innovation, regulation and limitation, going so far as to “conform”, that is, to functionalise and determine the actions of private actors regarding strategic choices and investment sectors.

An example, although of particular interest and subject of investigation here, is the carbon border adjustment mechanism (CBAM). Established by Regulation (EU) 2023/956, the CBAM is proposed and created as a tool to counteract the phenomenon of “carbon leakage”, *i.e.* the relocation of carbon emissions to non-EU countries, guaranteeing an equivalent price for products imported into the European Union compared to domestic ones; at the same time, it incentivises the reduction of carbon emissions by encouraging the use of more efficient technologies, with the overall aim of improving the current system based on the “cap&trade” scheme introduced by Directive 2003/87/EC (ETS).

It is an approach, therefore, that marks a reversal in the relationship between public authorities and private initiative: the latter, in fact, in the name of environmental protection, is directed, by means of an economic burden, to an economic production that is less polluting, although potentially more expensive (at least in the short term).

The speech/paper proposed for the SIDE conference, therefore, will investigate not only the conforming force of the European Green Deal with respect to environmental protection in the sense of climate neutrality, but also the regulatory resistance of its application instruments, *i.e.* the CBAM, highlighting, beyond the regulatory data, also its benefits and critical profiles for European and national companies.