

# A Preliminary Study of China's Carbon Neutrality Legislation — from the Perspective of the EU

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## ABSTRACT

In recent years, the issue of carbon neutral has gradually become the focus of global climate governance. Some developed countries and the European Union have always been pioneers of global climate actions. China proposes to achieve the goal of carbon neutrality by 2060, showing China's determination to follow the path of low-carbon recovery and green development. China will face tremendous pressure and difficulties, compared with developed countries' transition from "carbon peak" to "carbon neutral" in a shorter time. Lacking in clear carbon neutral path planning and legislative regulations, China should reasonably learn from the EU's climate ecology concepts, experience and leading system design of climate governance. Comparing current social foundation, China should actively construct a carbon neutral legal and regulatory system and implementation path in line with China's social development, promote a benign interaction between economic development and ecological optimization, so as to steadily achieve China's carbon neutral goal and rank the forefront of international climate governance.

**Keywords:** *carbon neutrality, legislative model, European Union, environmental justice.*

## 1. INTRODUCTION

Carbon neutrality is becoming an important part of global climate action. Some developed countries in Europe, like the European Union have set the target year and target range to strengthen their mid-term emission reduction targets[1], integrated economic and technological resources, explored low-carbon technology deployment, adopted relevant laws, and established a fair transition mechanism to ensure the achievement of the carbon neutral goal, which reflects a strong determination of carbon neutral with their leading international ecological legislation experience. However, most developing countries have only made positive commitments for the target year and target range, without a series of policies and regulations to ensure the implementation of carbon neutral targets.

China's "Fourteenth Five-Year Plan for National Economic and Social Development and Outline of Long-Term Goals for 2035" clearly stated the ecological goal that "green production and lifestyles will be widely formed, carbon emissions will steadily decline after

peaking, the ecological environment will be fundamentally improved, and the goal of building a beautiful China has basically achieved." [2] And China has put forward the goal of achieving carbon neutrality by 2060 in the general debate of the 75th United Nations General Assembly. Recently, the State Council issued the "Guiding Opinions on Accelerating the Establishment and Improvement of a Green and Low-Carbon Circular Development Economic System" [3] and further clarified the route of social development based on ecological protection, which reflects China's strong determination to achieve carbon peak in 2030 and carbon neutrality in 2060. However, China still lacks clear carbon neutral path planning and related legal rules and regulation. In the context of the increasing influence of carbon neutral actions, the European Union and other developed countries and regions currently have a leading role in the governance of carbon neutral actions. The key method to achieve the goal of carbon neutrality, strengthen international climate cooperation and promote global climate governance goals is to study the development history and legislative status on climate governance

issues of EU, compare and analyze China's actual national conditions, so as to reasonably absorb advanced ecological legislative experience and build a legal system that adapts to the path of low-carbon development in China.

Therefore, this paper will review the characteristics of EU climate governance amid different stages, their advanced concepts and related system construction in the second part of the introduction. In the third part, this paper will focus on the value foundation established by China's carbon neutral law. In the fourth part, a comprehensive comparison of similar foundations between China's current environmental governance development stage and the EU's climate governance development process. Meanwhile, it also puts forward reasonable suggestions on how China should absorb the design of the EU's climate governance system and how China should implement carbon neutral laws and regulations, based on China's basic national conditions.

## 2. OVERVIEW OF CARBON NEUTRAL LEGISLATION IN EU

### 2.1 The History of EU's Carbon Neutral Legislation

With the rise of emerging countries like China, developed countries have gradually realized that international competition has become fierce in recent years. With the gradual emergence of global environmental and ecological problems, the EU predicts that the green industrial revolution will be an inevitable trend for future world development. Therefore, the EU has led the direction of global green development. Now it has a leading advantage in many fields of ecological governance fields such as green industry, environmental protection organizations and renewable energy. However, the EU's relevant measures are also remarkable in the field of carbon neutrality. This section will review and comment on the EU's actions and legislation in the field of carbon neutrality.

The early concept of carbon neutrality was first proposed in the "Kyoto Protocol" in 1997, and it has become the focus of global ecological issues today. As a concept that was put forward in the United Nations General Assembly and gradually valued by the world, the connotation and extension of this concept have also experienced the process of institutional design and construction from the legal level [4]. With the signing of the "United Nations Framework Convention on Climate Change" and the "Kyoto Protocol", it also means that the EU has made corresponding emission reduction commitments internationally. In order to truly fulfill these commitments, the EU has launched the EU Climate Change Plan since 2000 and formulated a series of directives including Directive 2001/77/EC for renewable energy [5]. In the EU summit in 2007, a specific climate

protection goal was further formulated that the proportion of renewable energy structure will reach 20% by 2020[6]. The 2008 EU summit passed and approved the "Climate Action and Renewable Energy Package" bill, specifically including a total of six items, such as "Legal Framework for Carbon Capture and Storage" and the "Car Carbon Dioxide Emission Law", which has also formally become the framework of the European Union's low-carbon economic policy. As the earliest legally binding carbon emission reduction plan, the bill is considered to be an important foundation for global climate and energy integration policies to achieve the goal of mitigating climate change [7]. However, the carbon emission tax levied on transportation and heating fuels based on greenhouse gas emissions and energy types has been included in the EU tax system for the first time[8]. The Paris Agreement (hereinafter referred to as the "Agreement") was officially adopted at the United Nations Climate Change Conference in 2015. The EU also formally approved the "Agreement" in October of the following year. In response to the 1.5°C temperature control target in the "Agreement", it issued a policy document of "Net Zero Emissions by 2050" in November 2018. Under the strong promotion of the new European Commission President Ursula von der Lein, the European Union formally issued the "European Green Agreement" (hereinafter referred to as the "Agreement") in December 2019, which proposed that the carbon-neutral emission reduction target should be achieved globally by 2050. The draft of the "European Climate Law" was officially announced in March 2020, using the "Agreement" as the blueprint. The environment ministers of the EU member states reached a basic agreement on the content of the draft European Climate Law in October of the same year, and agreed to further strengthen the EU's 2030 emission reduction target to a reduction of 55% from the 1990 level[9]. It is clear that the goal of carbon neutrality will be achieved by 2050 in the legislative form of the European Climate Law[10]. It also means that EU member states need to fully realize the advantages of domestic legislative power and formulate corresponding policies and laws in light of domestic actual conditions and under the EU system, so as to ensure the realization of the content and objectives of the European Climate Law. But in fact, relevant work has already been carried out in Europe. For example, Sweden, one of the EU member states, promised to achieve carbon neutrality by 2045 in the form of national law in 2018 before the issuance of the Agreement, with 15% of the emission reductions offset by international emission reductions. Although Norway, located in northern Europe, is not a member of the European Union, it also proposes to include international offsets to achieve climate neutrality in 2030, and finally achieve climate neutrality through domestic emission reduction efforts in 2050[11]. In fact, the European developed countries represented by the European Union generally recognize 2050 as the target year, while the Nordic countries such as Finland and

Iceland have the most advanced goals of target year—all between 2035 and 2040[12].

## **2.2 The Key Elements and Functions of Carbon Neutral Legislation in EU**

The EU's carbon neutral legislation is a long process and not achieved overnight. The content of its conceptual connotation is also a huge system, which requires a lot of preliminary preparations as the framework and guidelines for the final legal implementation. A large number of supporting regulations also need to be promulgated, so as to form a complete system closed loop with the legislative results to complement each other, have laws to follow and justifications. However, it is still undeniable that certain measures or results in this process have played a programmatic role in the EU's carbon neutral legislation, with symbolic or even practical value. Judging by this standard, the "Agreement" and the "European Climate Law" can be regarded as the key elements, even the decisive elements in the EU's carbon neutral legislation.

As the legislative blueprint of the European Climate Law, the Agreement itself does not have the mandatory nature of the law. It can only be a policy document, without the characteristics of a legal document or a real legislative effect. However, as the general framework of the European green development strategy, the "Agreement" includes overall goals, specific action goals and policy measures in eight areas, covering almost all economic fields. With the initial purpose to develop the European Union into a fair and prosperous society and make their economy become competitive and resource-saving. The promulgation of the European Climate Law is under the purpose of the Agreement. The European Climate Law, as a legal norm that truly defines the goal of achieving carbon neutrality by 2050 in legal form, is far superior to the Agreement in terms of effectiveness. But in essence, the "European Climate Law" is only a concrete manifestation of the "Agreement". The content of the "Agreement" is refined with higher-level documents, but the overall standard is based on the objectives and framework of the "Agreement". Therefore, the "Agreement" exists as a programmatic document in the EU's carbon neutral legislation.

As another key element in the EU's carbon neutral legislation process, the European Climate Law mainly embodies its indispensable symbolic meaning and practical value. It is known that stipulating certain content or fields in the form of law is the highest level of effectiveness, with strongest compulsory force. It also plays the role of publicity and social value guidance, which is an inherent attribute of the law. As a complete process of EU carbon neutral legislation, its ultimate goal still needs to be within the scope of "legislation". The "European Climate Law" is the best embodiment of it. As the ultimate goal of carbon neutral legislation, the

birth of the "European Climate Law" symbolizes that the world's second largest economy[13] has incorporated environmental policies into the legal level for careful consideration. From the perspective of the human species itself, this is a big progress and favorable value guidance. At the same time, as the first step in the EU's entire carbon neutral legislation process, the legal norms that "achieve carbon neutrality by 2050" are written into it [14], with a great affirmation of the purpose of EU's carbon neutral legislation and actual significance. In addition, the implementation of the "European Climate Law" has also enabled the entire European continent to have a compulsory standard that can be applied for its practice of green growth strategies. This compulsory regulation gives the green growth strategy of the entire European continent a law to follow and a way to go. Therefore, the "European Climate Law" has irreplaceable symbolic significance and practical value, from the above two perspectives.

## **2.3 Summary**

From the perspective of the entire process of EU carbon neutral legislation and the corresponding key factors, legislation is still the most important method or fundamental purpose. It is not just a means to form the EU's green growth strategy, which shows the emphasis and determination of EU, due to the highest level of effectiveness of the legal norms. At the same time, the law can also play a positive role in publicity and guidance of social values, which is something that other methods do not have or the effect is far less effective than the law. As the fundamental purpose, legislation needs a lot of preparatory work in the early stage, taking the process and experience of EU carbon neutral legislation as a reference. For example, from the signing of the "United Nations Framework Convention on Climate Change" and the later "Kyoto Protocol", the concept of "carbon neutrality" was proposed, or the EU's climate change plan in 2000, or the EU's specific climate protection goals in 2007 and the "Climate Action and Renewable Energy Package" bill in 2008, or the "Paris Agreement" adopted in 2015, including the policy document of "Net Zero Emissions in 2050" in 2018, the release of the "Agreement" in 2019, and the publication of the draft of the "European Climate Law" by 2020 and reaching an agreement among member states. One of the representative ones in this process is the promulgation of the "Agreement", which is not as effective as the "European Climate Law", but it is the blueprint for the content and spirit of the "European Climate Law". The "European Climate Law" is a concrete manifestation of the "Agreement" from the high-efficiency level. The promulgation of the draft "European Climate Law" has enabled the European continent to achieve its goals in the field of carbon neutrality legislation, which is a legal document in the real sense for reference, with symbolic significance and practical value. As for China, there are a

certain number of policy documents, without relevant legislation for carbon neutrality. So from the perspective of the EU, an urgent problem that needs to be resolved is that China should adopt those reasonable value orientations and systems to build its own legal system, in order to make breakthroughs in the field of carbon neutrality, and to effectively realize the future supervision in this field. The following part will put forward ideas and suggestions around the value orientation and system construction of China's carbon neutral legislation.

### **3. CHINA'S CARBON NEUTRALITY LEGISLATION VALUE ORIENTATION**

Under the 2035 long-term goal plan, China clearly regards ecological governance goals as an important part of the national development process. Contrasting with the unbalanced development in the EU's industrial era, it is appropriate for China to pay attention to their balance governance of economic and ecological, which lays a good ecological foundation for China's future development at the strategic level. With the introduction of the "European Green Agreement" by the European Union so far, the most important climate governance programmatic document, its overall goal is to effectively respond to climate and environmental challenges, apply new growth strategies, promote the EU's transition to a fair and prosperous society, and build the EU into a competitive and resource-efficient economy. This not only shows that the EU is highly concerned about ecological and climate issues, but also reflects the EU's long-term strategic goal of maintaining and strengthening its comprehensive strength in the field of ecological governance. Compared with China's 14th Five-Year Plan, China and the EU coincide with the long-term goal of balancing ecological governance and economic development. As an important international strategic partner, the European Union occupy the commanding heights of global climate governance through the Green New Deal. Its advanced concepts, strategies and policies will simultaneously contribute to China's socio-economic development and ecological civilization construction from the macro development direction level and the specific policies and regulations level. China should work in the same direction as the European Union. In the process of carbon neutrality legislation, China should reasonably learn from the EU's climate governance system and formulate corresponding laws and administrative regulations. For example, the recently released programmatic documents of "Outline of the Fourteenth Five-Year Plan for National Economic and Social Development of the People's Republic of China and Outline of Long-Term Goals for 2035"[15] are used as guidance for the final legislative and even the purpose of amending the law. However, in the process of system construction, it is necessary to closely integrate China's actual national conditions and actual social conditions, so as to select legislative values and implementation paths

that are in line with Chinese development interests. The following part will discuss what kind of legislative value orientation China should adopt in its carbon neutrality legislation, and make reasonable suggestions based on the EU's relevant measures and legislation in comparison with the actual situation in China.

#### **3.1 Value Orientation of China's Carbon Neutrality Legislation**

China's carbon neutrality legislation should be established on the basis of balancing economic benefits and environmental justice. In 1998, the U.S. Environmental Protection Agency formally put forward a normative definition of environmental justice, that is, "All people are treated fairly and meaningfully participate in the development, implementation and implementation of environmental legal systems, environmental encouragement and environmental policies, regardless of race, color, country, or income,"[16] which not only focuses on environmental equality with disproportionate environmental burdens, but also begins to focus on the implementation of environmental laws and opportunities for public participation. Chinese scholars believe that "Environmental justice means that in the field of environmental protection, every citizen or group should receive equal attention and respect. When allocating environmental protection achievements, environmental risks and burdens, the law and the government that enforces the law should treat every citizen or group without discrimination." [17] However, combined with the theory of environmental quality stratification of the Japanese scholar Utsunomiya[18] and the principle of justice of the American philosopher John Rawls[19], environmental justice does not mean that everyone should enjoy undifferentiated environmental benefits, but that everyone should equally enjoy the basic environmental benefits of survival. However, for higher-level environmental benefits, some people can pursue environmental hygiene needs, comfort needs, and artistic needs under equal opportunities according to their own abilities. At the same time, it does not harm the environmental interests of the disadvantaged groups in society. In this way, it means that environmental justice has been implemented and embodied.

The value goal of economic benefits is not difficult to understand, that is, to obtain as efficient social labor distribution as possible through the exchange of goods or services, and to obtain as many business results as possible with the lowest possible labor cost[20] Therefore, economic benefits also have different perspectives in society. In the context of discussing the value of carbon neutrality legislation, the so-called "economic benefits" tends to be more macro-efficiency, and should take into account short-term, medium-term and long-term economic benefits.

In recent years, environmental and climate issues have received widespread international attention, and the global response to environmental and climate changes has accelerated. Therefore, the legal regulations of various countries on climate issues reflect the global consensus on the development of human destiny to a certain extent, and the value connotation of environmental legislation should also balance the protection of the environment and the development of society.

In order to realize the value goal of environmental legislation, environmental justice is indispensable, and the absence of environmental justice will lead to the failure of the purpose of environmental legislation [21]. To realize the essence of environmental justice through legislative means is to use the justice principle of law to reasonably regulate the relationship between man and man and between man and nature. Social resources are always limited, and the sustainable development of mankind must be realized through social control, and the value of law is reflected in the process of social control. In the context of carbon neutral legislation, the connotation of environmental justice in the establishment of relevant legal systems is to ensure that social climate resources can protect the basic living environmental interests of all members of society, and make sure that members of society have a fair opportunity to obtain higher-level environmental benefits, while protecting the best interests of disadvantaged groups. Therefore, the construction of a legal system related to carbon neutrality takes environmental justice as one of the key foundations, which is an inevitable choice to realize the purpose of ecological environment legislation.

Under China's long-term outlook for 2035, the national goal is basically to realize socialist modernization. Regarding the current stage and long-term goals of China, the continuous development and breakthrough of the economic foundation will become the inevitable foundation of national development, which is not only an inevitable support for China to enter the forefront of an innovative country, but also an endogenous force for achieving green development. Environmental justice and economic benefits should be complementary and not separated from external and internal one. Actively achieving the goal of carbon neutrality is the foundation of ensuring high-quality economic and social development, and the realization of the green development goal of socialist modernization is inseparable from the support of the economic foundation. If environmental justice is only considered as the first consideration of the value of carbon neutral legislation, there will be a lack of thinking about the development of economic benefits. Incorporating economic benefits into the consideration of legislative value is conducive to broadening the path of implementation of carbon neutrality. Economic benefits and environmental justice will have a positive interaction in development.

#### **4. SUGGESTIONS FOR THE ESTABLISHMENT OF CHINA'S CARBON NEUTRAL SYSTEM**

In view of the differences in the social foundation between the EU and China, China should selectively absorb and internalize the EU's advanced climate governance path, and formulate a carbon neutral legislative layout in line with China's social development, based on China's actual national conditions and development stages.

Regarding the EU's climate governance planning, it occupies the global commanding heights, no matter its concept, strategy or implementation situation. Among them, it is worthwhile for China to learn from and internalize the EU's integration of other environmental issues and resource forces in climate governance measures. First, the EU has fully integrated science, technology, capital, and information resources in response to climate governance, so as to serve the climate governance consensus. Second, after the introduction of climate governance-related legislation and regulations at the implementation level, substantive work such as standard setting, inventory collection, and supervision and inspection will be concentrated in the same institution to handle, benefiting from the unification of all stages in the implementation process, and providing the greatest operational convenience for the realization of relevant laws and policies. Take the "European Green Agreement" as an example, the European Commission has clarified the macro plan for the EU's green transformation in the agreement, covering the overall goal and a full set of legislation, policy formulation and policy deployment. The European Commission plans to use two years to introduce policy transformations and legislation in various fields. Each action plan specifies whether legislation and planning timetables are required. [22]. In addition, the "European Green Agreement" also clarified that all member states will be guaranteed to participate in the green transformation through funds and technology at the EU level, while it will unite more countries through climate diplomacy to jointly address global climate issues at the international level [23]. At the same time, in order to assist certain regions and countries that are highly dependent on fossil energy in actively participating in cooperation on climate goals and achieving a smooth transition, the EU has begun to prepare for a "just transition mechanism", [24] aiming to actively solve the social problems arising in the process of green transformation, in order to accelerate the promotion of carbon neutral actions.

In contrast, Chinese efforts to deal with climate governance are not unified, and the goals and directions of research institutions or individual researchers are quite different, without synergy been formed. Meanwhile, they can't accurately target the national development goals. Scientific research talents and resources have not been

well integrated and used, facing the real national conditions of a vast area but uneven distribution of resources. The carbon neutral target planning doesn't fully consider the social security level of regions with uneven development and regions that are highly dependent on fossil energy to drive their economy. In this regard, China should refer to the EU's overall thinking on climate governance, fully integrate existing domestic technology, policies, funds, and talents, and formulate a unified carbon neutral legislative plan. Meanwhile, China needs to give full consideration to the extended social issues radiated by the carbon neutral action to ensure the protection plan, the scientific, effective and developmental nature of the carbon neutral legislative design and policy deployment.

Taking Chinese actual national conditions and environmental governance stages as the starting point, Chinese carbon neutrality laws and regulations should focus on relevant legislation, rationally delegate power to local administrative departments, strengthen self-discipline in the carbon emission industry, and focus on integrating international cooperation with a comprehensive layout.

Ensuring the realization of the goal of carbon neutrality through legislation is a necessary policy for Chinese low-carbon circular development path. The ecological benefits and development of carbon neutral legislation the goal can be effectively realized by formulating and supervising the carbon emission standards of enterprises and individuals, improving the deficiencies of the existing environmental protection laws, paying attention to the fair transition in low-carbon development, and preparing the legislative layout of the carbon tax mechanism.

It is also needed to reasonably decentralize local administrative departments. According to the differences in the industrial structure of each region, carbon emission industry standards and carbon market mechanisms are formulated, conforming to the local economic structure and taking into account of ecological and economic benefits. Through the formulation of corresponding administrative regulations, the implementation of local supervision and policy implementation will be effectively guaranteed.

Besides, it is needed to promote the construction of a green economic system. It is required to strictly control the development plan of energy-intensive industries such as steel and petrochemicals, gradually realize the transition of the energy system to a clean and low-carbon energy system through policy guidance, and shorten the energy system's low-carbon transition cycle as much as possible through industry self-discipline.

It is also needed to pay attention to changes of the international climate governance situation, focus on opportunities for cooperation with neighboring countries

and leading countries in climate governance such as the European Union on carbon neutrality goals, and fully refer to and evaluate the construction, operability and development of related systems such as carbon market, carbon tax, carbon subsidy, and low-carbon transition social security mechanism[25] for achieving the goal of carbon neutrality, so as to make a reasonable system construction plan suitable for China's development.

## 5. CONCLUSION

It takes the European Union and other developed countries 60-70 years to transit from carbon peaking to carbon neutrality, while China's target period for "carbon peaking" is 10 years, and the period for achieving the "carbon neutral" target is 30 years. Compared with developed countries, China's transition period has been greatly shortened, which means that China's "carbon peak" and "carbon neutral" tasks are more difficult, and China's carbon neutrality-related measures will be faster and more vigorous.

The climate problem draws attention of the European Union and other developed countries, due to the deterioration of the ecology caused by economic development. Under China's 2035 vision, economic development can't be shelved, and ecological protection can't be sacrificed. Therefore, under the guidance of the 14th Five-Year Plan, carbon emissions caused by economic development must be resolved through better development. China must better coordinate economic development and goals of "carbon peak" and "carbon neutral" on the way to build a modern socialist country, and avoid duplicating developed countries' detour of first development, then carbon reduction, and first high carbon, then low carbon to the greatest extent. China should embark on a new development path to build a modern country with a low-carbon approach[26].

With its leading ecological governance concepts and measures, the European Union is firmly at the forefront of global climate action. Its policies and legislation of climate governance are also one of its basic signs of maintaining regional competition. If China expects to comprehensively enhance its comprehensive national power and seize the right to speak in international governance, it should seek development and breakthroughs in climate governance and ecological legislation. The tide of global carbon neutral action is a valuable opportunity that can't be missed. The medium and long-term greenhouse gas emission strategy with the goal of carbon neutrality should be clarified as soon as possible. China can also learn the overall development ideas from the European Union, give full play to the system advantages of "concentration of power" and "high quality and efficiency" under the socialist economic and political system with Chinese characteristics, and clearly introduce mandatory legal documents to restrict the implementation effects of various sectors of society.

Meanwhile, Chinese government need to reasonably delegate power to local governments, quantify and set carbon emission indicators in line with local economic development according to local conditions, and give full play to the role of market tools, and promote the self-discipline of market players to achieve the goal of carbon neutrality through healthy market competition. China will catch up the global ecological development under the goal of carbon neutrality through balancing social equity in the energy transition period, actively participating in international cooperation of climate governance.

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