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Carbon Border Adjustment Mechanism within the Framework of the World Trade Organization

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Annotation

This article analyses the European Union's Carbon Border Adjustment Mechanism (CBAM) from the perspective of international trade law, particularly the rules of the World Trade Organization (WTO). The study examines CBAM's compatibility with core GATT principles — Most-Favoured-Nation Treatment, National Treatment and Tariff Commitments — as well as the possibility of justification under the General Exceptions clause of GATT Article XX. It further explores the challenges CBAM poses within international climate law, in particular the principle of common but differentiated responsibilities (CBDR-RC) and its impact on developing countries. The findings suggest that full compliance of CBAM with WTO rules requires reforms such as redistribution of revenues and a phased approach to implementation.

Keywords

Carbon Border Adjustment Mechanism (CBAM), World Trade Organization (WTO), GATT, carbon leakage, climate policy, international trade law, European Union, developing countries.

Jahon savdo tashkiloti doirasida uglerod chegarasini tartibga solish mexanizmi

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Annotatsiya: Ushbu maqolada Yevropa Ittifoqining Carbon Border Adjustment Mechanism (CBAM) tashabbusi xalqaro savdo huquqi, xususan Jahon Savdo Tashkiloti (JST) me'yorlari nuqtai nazaridan tahlil qilinadi. Tadqiqotda CBAMning Most-Favoured-Nation Treatment, National Treatment va Tariff Commitments kabi asosiy GATT tamoyillari bilan mosligi, shuningdek GATT XX moddasidagi umumiy istisnolar orqali himoyalanish imkoniyatlari ko'rib chiqiladi. Shu bilan birga, mexanizmning iqlim o'zgarishi huquqi, xususan “common but differentiated

responsibilities” (CBDR-RC) tamoyili va rivojlanayotgan davlatlarga ta'siri nuqtai nazaridan tug'diradigan muammolari tahlil qilinadi. Tadqiqot natijalari CBAMning WTO qoidalariga to'liq mos kelishi uchun daromadlarni qayta taqsimlash va bosqichma-bosqich integratsiya kabi islohotlar zarurligini ko'rsatadi.

Kalit so'zlar: Carbon Border Adjustment Mechanism (CBAM), Jahon Savdo Tashkiloti (JST), GATT, carbon leakage, iqlim siyosati, xalqaro savdo huquqi, Yevropa Ittifoqi, rivojlanayotgan davlatlar.

Kirish. Yevropa Ittifoqi (YI) ning Carbon Border Adjustment Mechanism (CBAM) tashabbusi so‘nggi yillarda xalqaro savdo boshqaruvi, iqlim siyosati va WTO huquqi kesishgan nuqtada eng bahsli masalalardan biriga aylandi. CBAMning asosiy maqsadi Yevropa Ittifoqining 2050-yilga qadar “climate neutrality” maqsadiga erishish jarayonida yuzaga kelayotgan “carbon leakage” xavfini kamaytirish, shuningdek, YI ichki Emissions Trading System (ETS) tizimida amal qiladigan karbon narxini import qilinadigan karbon-intensiv mahsulotlarga tenglashtirishdan iboratdir [1]. Mexanizm dastlab sement, po‘lat, alyuminiy, o‘g‘it, elektr energiyasi va vodorod kabi karbon-intensiv tarmoqlarni qamrab olishi belgilangan bo‘lib, bu sektorlar ishlab chiqarish jarayonida yuqori miqdorda karbon chiqarishi va ishlab chiqarishni past ekologik standartlarga ega davlatlarga ko‘chirish xavfi bilan ajralib turadi[2].

CBAMning joriy etilishi xalqaro savdo tizimi uchun sezilarli huquqiy oqibatlar tug‘diradi. Ilmiy adabiyotlar CBAMning WTOning asosiy tamoyillari — Most-Favoured-Nation (MFN) Treatment **(GATT Art. I), National Treatment (GATT Art. III)** va **Tariff Commitments (GATT Art. II)** bilan ziddiyatga kirishi mumkinligini ta’kidlaydi[3]. Shu bilan birga, YI CBAMni **General Agreement on Tariffs and Trade** (GATT)ning **XX moddasi**dagi “**General Exceptions**” asosida himoya qilishga urinishi mumkin, biroq xalqaro sud amaliyoti bunday himoya faqat “no arbitrary or unjustifiable discrimination” isbotlangandagina qabul qilinishini ko‘rsatadi[4].

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[1] Seçil Yıldız and Zafer Öztürk, ‘Avrupa Birliği Sınırda Karbon Düzenleme Mekanizmasının DTÖ Hukukuna Uygunluğu’ (2024) 20 *IJMEB* 601–602. https://dergipark.org.tr/en/pub/ijmeb/issue/84601/1498269.

[2] R. Mehling et al, ‘Legal Basis and Design Options for Border Carbon Adjustments’ (SSRN Paper 3863038, 2021) 12–15. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3863038.

[3] Seçil Yıldız and Zafer Öztürk, ‘Avrupa Birliği Sınırda Karbon Düzenleme Mekanizmasının DTÖ Hukukuna Uygunluğu’ (2024) 20 *IJMEB* 603–604. https://dergipark.org.tr/en/pub/ijmeb/issue/84601/1498269.

[4] World Trade Organization, *Report of the Appellate Body in United States – Standards for Reformulated and Conventional Gasoline* (WT/DS2/AB/R, 29 April 1996). https://www.worldcourts.com/wto/eng/decisions/1996.04.29_United_States.pdf.

Bundan tashqari, CBAM xalqaro iqlim o‘zgarishi huquqi doirasida ham tanqid qilinmoqda. United Nations Framework Convention on Climate Change (UNFCCC) va Parij Bitimida belgilangan “common but differentiated responsibilities and respective capabilities” (CBDR-RC) tamoyili rivojlanayotgan davlatlar, ayniqsa kam rivojlangan davlatlar uchun alohida yondashuvni talab qiladi, biroq CBAMning amaldagi talablari bu davlatlar uchun og‘irlik qilishi mumkin[5].

CBAMning daromadlaridan foydalanish masalasi ham muhim siyosiy-huquqiy munozaralardan biridir. YI Komissiyasi daromadlarning asosiy qismini YI budjetiga yo‘naltirishni taklif qilgan bo‘lsa-da, ilmiy manbalarda CBAM daromadlarini rivojlanayotgan davlatlarga qayta taqsimlash GATT XX moddasi doirasidagi “good faith” va “absence of disguised protectionism” talablari bajarilishiga xizmat qilishi ta’kidlanadi[6]. Shunday qilib, CBAM xalqaro savdo huquqi, iqlim o‘zgarishi huquqi va iqtisodiyot chorrahasida turgan murakkab mexanizm bo‘lib, uning WTO bilan mosligi, iqlim majburiyatlariga moslashishi va rivojlanayotgan davlatlarga ta’siri xalqaro huquq uchun muhim sinovdir.

Border Carbon Adjustments (BCAs) — iqlim o‘zgarishi bilan bog‘liq chegaraviy soliq mexanizmi bo‘lib, an’anaviy Border Tax Adjustments (BTAs) ning ekologik versiyasidir. BTAs “destination principle”ga asoslanadi, ya’ni soliq mahsulot iste’mol qilinadigan joyda to‘lanadi, ishlab chiqarilgan joyda emas[7]. Bu prinsip ichki soliqlarni import mahsulotlariga qo‘llash va eksport uchun qaytarish orqali savdoni neytral qiladi. BCAs esa karbon narxlari farqlari va Parij Bitimida belgilangan turli karbon chegaralarini hisobga oladi[8].

Yevropada BCAs konsepsiyasi YI ETS bilan bog‘liq **“carbon leakage”** xavfini kamaytirish vositasi sifatida ko‘riladi. **Carbon leakage** — bu mamlakat ichida qat’iy

[5] R. Mehling et al, ‘Legal Basis and Design Options for Border Carbon Adjustments’ (SSRN Paper 3863038, 2021) 27–30. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3863038.

[6] R. Mehling et al, ‘Legal Basis and Design Options for Border Carbon Adjustments’ (SSRN Paper 3863038, 2021) 28. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3863038.

[7] M Demaret and R Stewardson, ‘Border tax adjustments under GATT and EC law and general implications for environmental taxes’ (1994) 28 *Journal of World Trade* 5–65. https://www.econstor.eu/bitstream/10419/64285/1/601138465.pdf.

[8] Joost Pauwelyn and David Kleimann, *Trade Related Aspects of a Carbon Border Adjustment Mechanism: A Legal Assessment* (European Parliament 2020). https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/603502/EXPO_BRI(2020)603502_EN.pdf.

karbon narxlari yoki iqlim siyosati joriy etilganda, ishlab chiqarish xarajatlarini kamaytirish maqsadida sanoat korxonalari boshqa mamlakatlarga ko‘chib, emissiyalarni chet mamlakatlarda davom ettirishi xavfi[9]. BCAs orqali ichki korxonalar raqobatdoshligini yo‘qotmasdan va xorijiy ishlab chiqaruvchilarni yuqori karbon xarajatlariga moslashtirish orqali iqlim siyosatini kuchaytirish mumkin[10]. Shu bilan birga, tanqidchilar BCAsni “green protectionism” sifatida ko‘rishadi, chunki u ichki korxonalarni himoya qilish orqali iqtisodiy maqsadlarni amalga oshiradi, iqlim maqsadlarini emas[11].

CBAM — BCAsning EU kontekstidagi evolyutsiyasi hisoblanadi. Ursula von der Leyen 2019-yilda Yevropa Komissiyasi prezidenti lavozimiga nomzodligi davrida “carbon border tax” ni joriy etishni e’lon qilgan va bu va’da 2019-yil oxirida European Green Deal Communication orqali rasmiylashtirilgan[12]. **Carbon Border Adjustment Mechanism (CBAM)** — bu Yevropa Ittifoqida import qilinayotgan mahsulotlarning karbon tarkibini hisobga olib, ularni soliqqa tortish yoki narxini moslashtirish orqali ichki ishlab chiqaruvchilarni himoya qiluvchi va iqlim siyosatini mustahkamlovchi mexanizmdir. CBAMning maqsadi import mahsulotlaridagi karbon xarajatini narxga aks ettirish, karbon leakage xavfini kamaytirish va EU ETSdagi bepul kvotalarni bosqichma-bosqich chiqarish bilan bog‘liq[13].

EUda BCAs va CBAM bo‘yicha ilk takliflar 2008-yilda EU ETSning bepul kvotalardan auktsionga o‘tishi bilan yuzaga chiqqan. Energiya-intensiv sanoat vakillari bepul kvotalarning davom etishini talab qilgan, chunki xarajatlar karbon leakage va raqobatbardoshlikni yo‘qotishga olib kelishi mumkin edi[14]. 2009-yilda Fransiya

[9] H van Asselt, T Brewer va M Mehling (boshqalar), *Tackling Leakage in a World of Unequal Carbon Prices* (Climate Strategies, 2009). https://climatestrategies.org/wp-content/uploads/2009/10/cs-leakage-final-230909.pdf.

[10] E Pirlot, ‘Carbon Border Adjustments and WTO Law: Implications for EU Climate Policy’ (2021) 22 *Review of European, Comparative & International Environmental Law* 345–359. https://academic.oup.com/jel/article-abstract/34/1/25/6423116.

[11] P Holmes, T Reilly and J Rollo, ‘Border carbon adjustments and the potential for protectionism’ (2011) 11 *Climate Policy* 883–900. https://ideas.repec.org/p/sus/susewp/0610.html.

[12] European Commission, *European Green Deal: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions* (COM(2019) 640 final, 2019). https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52019DC0640.

[13] European Commission, *Carbon Border Adjustment Mechanism: Questions and Answers* (2021). https://ec.europa.eu/commission/presscorner/api/files/document/print/en/qanda_21_3661/QANDA_21_3661_EN.pdf

[14] European Parliament and Council, *Directive 2009/29/EC of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community* [2009] OJ L140/63. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32009L0029.

hukumati “carbon inclusion mechanism” taklifini ilgari surgan, 2016-yilda esa sement sektori uchun taklif berilgan[15]. Yevropa Parlamenti ham shu yil **European Parliament Environment, Public Health and Food Safety Committee** (ENVI) qo‘mitasi orqali shunga o‘xshash takliflar bergan, ammo zarur ovoz to‘plamagan.

2019-yilda yangi Komissiya kelishi bilan CBAM taklifi joriy etildi va 2021-yil 14-iyulda EUning “Fit for 55” paketiga kiritilgan. Taklif 2023-yil 1-yanvardan uch yillik o‘tish davri bilan amalga kiradi. Shu bilan birga, CBAM va YI ETSni qayta ko‘rib chiqish jarayoni bir-biriga bog‘liq, chunki bepul kvotalarning bosqichma-bosqich chiqarilishi CBAM dizayniga to‘g‘ridan-to‘g‘ri ta’sir qiladi[16].

Yevropa Ittifoqining CBAM chorasi import qilinadigan karbon intensiv mahsulotlarga qaratilgan chegaraviy to‘lovlar orqali YI ichki bozorida ekologik barqarorlikni ta’minlashga mo‘ljallangan. Shu sababli uning huquqiy maqomi WTO ning GATT shartnomasi doirasida baholanishi lozim. Quyida CBAMning asosiy GATT tamoyillari va moddalari doirasidagi huquqiy tahlil keltiriladi.

CBAM import qiluvchilar tomonidan sotib olinadigan sertifikatlar orqali amalga oshiriladi. Ushbu sertifikatlar narxi Yevropa Ittifoqining ETS tizimidagi karbon narxi bilan bog‘langan. Ya’ni, import qilinadigan mahsulotning ishlab chiqarilish paytidagi CO_2 chiqindilari miqdori hisobga olinadi va shu asosda CBAM sertifikatining narxi belgilanadi. Bu jarayon CBAMni **ichki soliq (domestic tax)** emas, balki **chegara to‘lovi (border charge)** sifatida ko‘rsatadi. Sababi, ichki soliq faqat ichki mahsulotlarga nisbatan qo‘llanadi, CBAM esa import qilingan mahsulotlar uchun chegara darajasida qo‘yiladi. Shunday qilib, CBAM **GATT II moddasi 2-qismi a bandiga** javob beradi, chunki bu modda import qilinadigan mahsulotlar uchun qo‘yiladigan chegara to‘lovi, ichki mahsulotlarga solinadigan soliq bilan tenglashtirilgan bo‘lishi kerak qoidani talab qiladi. CBAMning ETS narxi bilan bog‘lanishi aynan shu talabni ta’minlaydi[17]. Bundan tashqari, YI ichida mavjud

[15] French Senate, *Rapport n° 129 (2009-2010) sur le marché des quotas de CO_2 et le mécanisme d’inclusion carbone aux frontières* (2009). https://www.senat.fr/rap/l09-129/l09-1291.pdf.

[16] European Commission, *Carbon Border Adjustment Mechanism: Questions and Answers* (2021). https://ec.europa.eu/commission/presscorner/api/files/document/print/en/qanda_21_3661/QANDA_21_3661_EN.pdf

[17] Englisch J and Falcão T, *EU Carbon Border Adjustments for Imported Products and WTO Law* (2021) 51 *Environmental Law Reporter* 10857. https://doi.org/10.2139/ssrn.3863038.

bo‘lgan **bepul ETS kvotalari** CBAMning GATTga mosligini buzmaydi. Chunki CBAM faqat haqiqiy to‘lovlar asosida hisoblanadi, ya’ni bepul kvotalar tufayli yuzaga kelgan **imkoniyat xarajatlari (opportunity costs)** chegara to‘loviga kiritilmaydi. Shu bilan CBAM import uchun ortiqcha soliq yukini yaratmaydi va GATTning adolatli savdo tamoyillariga mos keladi[18].

National Treatment tamoyili (Art. III:2 GATT) bo‘yicha import qilingan **“like products”** mahalliy analoglarga nisbatan ortiqcha soliq yukiga duchor qilinmasligi kerak. Bu tamoyil import qiluvchilar va mahalliy ishlab chiqaruvchilar uchun teng sharoit yaratishni ta’minlaydi. “Like products” tushunchasi quyidagilar orqali aniqlanadi:

- **Physical characteristics** – mahsulotning jismoniy xususiyatlari, tarkibi, ishlash xususiyati.
- **End-uses / intended use** – mahsulotning maqsadli qo‘llanilishi, iste’molchi uni qanday ishlatadi.
- **Consumer preferences** – iste’molchi talabi, mahsulotning bozordagi qabul qilinishi va qiymati.
- **HS code classification** – mahsulotning Harmonized System (HS) xalqaro tasnif kodi[19].

CBAM quyidagi holatlarda National Treatment tamoyilini **buzishi** mumkin:

1. **Default values** – Agar CBAM import qilinadigan mahsulotlar uchun belgilangan standart chiqindilar qiymati noto‘g‘ri bo‘lsa, ba’zi import qiluvchilarni nohaq penalizatsiya qilishi mumkin. Masalan, mahsulotning haqiqiy CO_2 chiqindisi standart qiymatdan past bo‘lsa ham, yuqori qiymat asosida to‘lov olinishi.
2. **Verification mechanism** – Agar import qiluvchi mahsulotning haqiqiy karbon chiqindisini isbotlay olmasa, CBAM ularni adolatsiz ravishda yuqori to‘lovga duchor qilishi mumkin. Bu mexanizm yetarli darajada bo‘lishi muhim.
3. **Free allowances** – YI ichida mahalliy ishlab chiqaruvchilarga berilgan bepul ETS kvotalari mavjud bo‘lsa, ular import qiluvchilarga nisbatan ortiqcha imtiyoz yaratadi.

[18] European Commission, *Impact Assessment Report Accompanying the Proposal for a Regulation Establishing a Carbon Border Adjustment Mechanism* SWD(2021) 643 final, Part 1/2, 4bu m1–43. https://op.europa.eu/en/publication-detail/-/publication/a95a4441-e558-11eb-a1a5-01aa75ed71a1/language-en.

[19] WTO Appellate Body, *Japan – Taxes on Alcoholic Beverages II* (WT/DS8/AB/R, WT/DS10/AB/R, WT/DS11/AB/R), para. N.1.3.2.7–N.1.3.2.8 (Repertory of Reports and Awards). https://www.wto.org/english/tratoP_e/dispu_e/repertory_e/n1_e.htm.

Natijada import qilingan mahsulotlar teng sharoitda bo‘lmaydi[20].

Most-Favoured-Nation (MFN) tamoyili (Art. I:1 GATT) bo‘yicha bir davlatga berilgan imtiyoz barcha savdo sheriklariga ham berilishi shart. CBAMning MFN tamoyiliga zid bo‘lishi quyidagi holatlarda yuzaga keladi: mamlakatlarga qarab turlicha emissiya standartlari qo‘llash, ayrim davlatlarning karbon siyosatini tan olish boshqalarnikini tan olmaslik yoki ikki tomonlama **“green deals”** orqali ba’zi davlatlarga yengillik berish. WTO amaliyotida MFN bo‘yicha niyat emas, fakt bo‘yicha tengsizlik baholanadi, shuning uchun CBAM barcha davlatlarga bir xil qo‘llanilishi kerak[21].

Quantitative Restrictions (Art. XI GATT) bo‘yicha davlatlar import va eksportni **to‘g‘ridan-to‘g‘ri kvotalar yoki miqdoriy cheklovlar** orqali cheklamasligi kerak. Ya’ni, hech qanday mahsulotga maksimal hajm yoki miqdoriy limit qo‘yilmasligi shart. CBAM esa **to‘g‘ridan-to‘g‘ri kvota qo‘ymaydi.** Import qiluvchilar faqat **CBAM sertifikatlari**ni sotib olishlari kerak, sertifikat narxi CO_2 chiqindilariga bog‘langan. Sertifikatlash, emissiya tekshirish va ma’muriy yukning oshishi esa **de-facto cheklov** sifatida qaralishi mumkin. Shu sababli CBAM jarayoni **shaffof, bashorat qilinadigan va ortiqcha yuk yaratmaydigan** bo‘lishi lozim, shunda Art. XI talablari buzilmaydi[22].

GATTning General Exceptions moddasi (Art. XX) CBAM uchun muhim himoya vositasi bo‘lishi mumkin. Agar CBAM yuqoridagi moddalarni buzsa ham, u XX(b) (inson salomatligini himoya qilish) yoki XX(g) (tabiiy resurslarni saqlash) asosida oqlanishi mumkin. XX(g) doirasida atmosfera va iqlim barqarorligi **“exhaustible natural resources”** sifatida qabul qilinadi va CBAM CO_2 emissiyasini kamaytirishga qaratilgan bo‘lsa, shartlarga javob beradi. Shu bilan birga, CBAM “**even-handedness”** talabini bajarishi, ya’ni CBAM shunchaki maqsadga erishish bilan cheklanmasligi, balki barcha import qiluvchilar uchun adolatli va teng sharoitni ta’minlashi kerak[23].

Chapeau (Art. XX) esa CBAMning eng yuqori darajadagi talabi bo‘lib, chora ixtiyoriy, adolatli va asosli bo‘lishi, mamlakatlar o‘rtasida **“arbitrary or unjustifiable**

[20] Englisch J and Falcão T, *EU Carbon Border Adjustments for Imported Products and WTO Law* (2021) 51 *Environmental Law Reporter* 10857. https://doi.org/10.2139/ssrn.3863038.
[21] Englisch J and Falcão T, *EU Carbon Border Adjustments for Imported Products and WTO Law* (2021) 51 *Environmental Law Reporter* 10857. https://doi.org/10.2139/ssrn.3863038.
[22] Englisch J and Falcão T, *EU Carbon Border Adjustments for Imported Products and WTO Law* (2021) 51 *Environmental Law Reporter* 10857. https://doi.org/10.2139/ssrn.3863038.
[23] Englisch J and Falcão T, *EU Carbon Border Adjustments for Imported Products and WTO Law* (2021) 51 *Environmental Law Reporter* 10857. https://doi.org/10.2139/ssrn.3863038.

discrimination" bo'lmasligini talab qiladi. CBAM uchun eng katta xavflar: default values orqali ayrim mamlakatlarni nohaq penalizatsiya qilish, xorijdagi karbon narxini tan olmaslik, va emissiya tekshiruvlarida shaffoflik yetishmasligi. Shu sababli CBAMning Chapeau (Art. XX) talabiga mosligi uning WTOga mosligini aniqlashda hal qiluvchi omil hisoblanadi.

CBAM GATT bo'yicha potensial ravishda qonuniy, ammo quyidagi shartlar bajarilgandagina: Art. II:2(a) – CBAM to'lovlari EU ETSning real karbon narxiga ekvivalent bo'lishi, Art. III:2 – import uchun ortiqcha yuk bo'lmasligi, Art. I – barcha davlatlarga teng qo'llanilishi, Art. XI – haddan tashqari ma'muriy to'siqlar yaratmasligi va Art. XX – chora iqlimni muhofaza qilishga bevosita aloqador va diskriminatsion bo'lmasligi. Agar YI ichida "**free allowances"** saqlanib qolsa, CBAMning WTOga mosligi deyarli imkonsiz bo'ladi [24]. **Policy Challenges & Debates**. Yevropa IttifoqiNING **CBAM mexanizmi** global savdo va iqlim siyosatining kesishmasida bir qator huquqiy va siyosiy bahslarni yuzaga keltiradi.

Birinchidan, **WTO qoidalari bilan muvofiqlik masalalari mavjud.** CBAM import qilinadigan mahsulotlarga EU ETS karbon narxiga mos soliq qo'yadi. Bu esa **MFN va National Treatment** tamoyillariga zid kelishi mumkin. Mexanizm **Production and Process Methods (PPM)** – ya'ni ishlab chiqarish jarayoni va uslublarini hisobga oladi, bu ayrim eksport qiluvchi davlatlar uchun adolatsiz bo'lishi mumkin, chunki ular ilgari o'zlarida karbon cheklovlarini joriy qilgan bo'lishsa ham, mahsulotlariga ikki marta soliq tushadi. GATT Article XX asosida CBAMni himoya qilishga urinishlar mavjud bo'lsa-da, bu mexanizmni "arbitrary or unreasonable discrimination" sifatida baholash mumkin. Shu nuqtai nazardan, CBAMning WTO bilan to'liq muvofiqligi hali aniq emas va xalqaro savdo nizolarini yuzaga keltirishi mumkin[25].

***Ikkinchidan,* UNFCCC tamoyillariga zid kelishi mumkin.** CBAM barcha import qiluvchi davlatlardan Yevropa emissiya standartlariga rioya qilishni talab qiladi. Bu mexanizm **UNFCCCning "common but differentiated responsibilities"** prinsipiga

[24] Englisch J and Falcão T, *EU Carbon Border Adjustments for Imported Products and WTO Law* (2021) 51 *Environmental Law Reporter* 10857. https://doi.org/10.2139/ssrn.3863038.
[25] Haoqing Meng, 'Challenges and Controversies to the European CBAM from a Legal Perspective' (2024) *Proceedings of the 3rd International Conference on Business and Policy Studies.* https://doi.org/10.54254/2754-1169/81/20241752.

ziddir, chunki rivojlanayotgan mamlakatlar tarixiy javobgarlik va texnologik imkoniyatlar bilan chegaralangan. Natijada, CBAM rivojlanayotgan davlatlar eksportini qiyinlashtiradi va yangi savdo to‘siqlarini yuzaga keltiradi[26].

Uchinchidan, **karbon hisob-kitobining murakkabligi.** CBAM faqat mahsulot ishlab chiqarish bosqichidagi emissiyalarni hisobga oladi, logistika, iste’mol va mahsulotning hayot sikli bosqichidagi gazlar inobatga olinmaydi. Bundan tashqari, rivojlanayotgan mamlakatlarda karbon hisob-kitobining standartlari va ma’lumotlar bazasi yetarli emas, bu mexanizmni amaliyotga tatbiq etishda qo‘shimcha qiyinchiliklar keltirib chiqaradi. Shu sababli, CBAMning real samaradorligi va adolatliligi savol ostida qoladi[27].

To‘rtinchidan, **rivojlanayotgan davlatlarga salbiy ta’sir qilishi mumkin.** CBAM sababli import mahsulotlariga qo‘shimcha soliq joriy qilinadi, bu esa mahsulot narxining oshishiga va global ta’minot zanjiridagi o‘zgarishlarga olib keladi. Natijada, yuqori karbonli sanoatlarda eksport raqobatbardoshligi pasayadi, ba’zi mamlakatlar ishlab chiqarishni boshqa joyga ko‘chirish variantlarini ko‘rib chiqishi mumkin. Shu bilan birga, CBAM rivojlanayotgan davlatlarni karbon qoidalarini o‘z ichki bozorda joriy qilishga undashi mumkin, ammo bu qo‘shimcha xarajat va texnologik majburiyatlarni talab qiladi[28].

CBAM global iqlim boshqaruvida karbon oqimini kamaytirish va emissiyalarni qisqartirishda muhim vosita bo‘lsa-da, uning joriy qilinishi bir qator murakkab huquqiy va amaliy masalalarni keltirib chiqaradi. Xususan, WTO va GATT qoidalari bilan muvofiqligi, UNFCCC tamoyillarini hisobga olmaslik, karbon hisob-kitobining murakkabligi va rivojlanayotgan mamlakatlarga qo‘shimcha iqtisodiy yuk tushishi kabilar.

Strategic Approaches / Reform Proposals. Yevropa Ittifoqining CBAM tizimi global iqlim siyosatini kuchaytirish va “carbon leakage” xavfini kamaytirishga qaratilgan bo‘lsa-da, ushbu mexanizmga nisbatan WTOning asosiy tamoyillari, xususan, MFN (Article I), National Treatment (Article III) va environmental exception (Article XX) bo‘yicha bir qator huquqiy e’tirozlar mavjud. Shu sababli CBAMning dizaynini isloh

[26] Haoqing Meng, ‘Challenges and Controversies to the European CBAM from a Legal Perspective’ (2024) *Proceedings of the 3rd International Conference on Business and Policy Studies.* https://doi.org/10.54254/2754-1169/81/20241752.
[27] Haoqing Meng, ‘Challenges and Controversies to the European CBAM from a Legal Perspective’ (2024) *Proceedings of the 3rd International Conference on Business and Policy Studies.* https://doi.org/10.54254/2754-1169/81/20241752.
[28] Haoqing Meng, ‘Challenges and Controversies to the European CBAM from a Legal Perspective’ (2024) *Proceedings of the 3rd International Conference on Business and Policy Studies.* https://doi.org/10.54254/2754-1169/81/20241752.

qilish bo‘yicha bir nechta yondashuvlar taklif etmoqchiman:

1. “Carbon Pricing Equivalence” mexanizmini joriy qilish. CBAMga bildirilgan asosiy tanqid — uning xorijiy ishlab chiqaruvchilar uchun **“no-discrimination”** tamoyilini buzish ehtimoli. Chunki hozirgi dizaynda faqat EU ETS tizimi yagona asos sifatida olinadi, xorijiy davlatlarda amal qiladigan karbon solig‘i yoki ETSga ekvivalent mexanizmlar e’tiborga olinmaydi. Shu sababli “Carbon Pricing Equivalence” yondashuvi CBAMning WTOga mosligini ta’minlashda eng muhim islohot sifatida qaraladi. Ushbu taklifga ko‘ra, YI xorijiy davlatlarda mavjud bo‘lgan karbon narxlash tizimlarini — masalan, Kanada, Koreya yoki Yangi Zelandiyaning ETS tizimlarini — **funksional ekvivalent** sifatida tan olish imkoniyatini yaratadi. Agar xorijiy ishlab chiqaruvchi allaqachon o‘z davlatida karbon uchun ma’lum miqdorda to‘lov qilayotgan bo‘lsa, CBAM ostida unga qo‘shimcha to‘lov yuklanmaydi yoki u sezilarli darajada kamaytiriladi. Bu yondashuv diskriminatsiyani kamaytiradi, MFN va National Treatment bo‘yicha e’tirozlarni yumshatadi hamda CBAMni WTOda himoya qilishni osonlashtiradi[29].

2. CBAM daromadlarini “Climate Transition Fund” orqali rivojlanayotgan davlatlarga yo‘naltirish. Ko‘plab olimlar CBAMni “hidden protectionism” sifatida tanqid qiladi. Chunki CBAMdan tushadigan milliardlab yevrolik daromadlar hozircha YI byudjetiga yo‘naltirilishi ko‘zda tutilgan. Boshqalar esa ushbu holat CBAMning asl maqsadi — ekologik himoya — bilan mos kelmasligi va WTOda Art. XX (environmental exceptions) asosida himoyalashni qiyinlashtirishini ta’kidlaydi[30]. Shu sababli CBAMdan tushgan daromadlarning ma’lum qismi **rivojlanayotgan davlatlar va kam daromadli iqtisodiyotlarga iqlim texnologiyalari, energiya samaradorligi va dekarbonizatsiya loyihalarini qo‘llab-quvvatlash uchun maxsus “Climate Transition Fund”ga yo‘naltirilishi** eng maqbul yechim sifatida ko‘rsatiladi. Bu uchta maqsadni ta’minlaydi:

- CBAM proteksionistik emas, balki global ekologik tashabbus ekanini namoyish etadi;
- WTO sud organlari oldida CBAMning qonuniy “environmental purpose”ga ega

[29] Joost Pauwelyn and Dirk Kleimann, *Trade Related Aspects of a Carbon Border Adjustment Mechanism* (European Parliament Study, 2020) 18–22. https://op.europa.eu/en/publication-detail/-/publication/6bc15d85-e28a-11ea-ad25-01aa75ed71a1/language-en.

[30] James Bacchus, ‘Legal Issues with the European Carbon Border Adjustment Mechanism’ (Cato Institute Briefing Paper No 125, 9 August 2021) https://www.cato.org/briefing-paper/legal-issues-european-carbon-border-adjustment-mechanism.

ekanini kuchaytiradi;

▪Developing countries tomonidan bo‘ladigan siyosiy va iqtisodiy qarshilikni sezilarli darajada kamaytiradi[31].

3. Rivojlanayotgan davlatlar uchun bosqichma-bosqich joriy etish “Gradual Integration Scheme”. CBAMning amaldagi dizayni rivojlanayotgan va kam daromadli davlatlarning eksportiga eng katta bosimni yaratadi. Bu esa de facto diskriminatsiya xavfini oshiradi. United Nations Conference on Trade and Development (UNCTAD), World Bank va Organisation for Economic Co-operation and Development (OECD) ekspertlari rivojlanayotgan davlatlar uchun CBAMni **bosqichma-bosqich integratsiya qilish**, ya’ni **“gradual integration”** modelini joriy qilishni taklif etadi. Bu mexanizm quyidagilarni o‘z ichiga oladi:

- 5–7 yil davomida yumshatilgan MRV (Monitoring, Reporting, and Verification) talablari;
- texnik va moliyaviy yordam;
- karbon hisoboti uchun standartlashtirilgan o‘quv dasturlari;
- past daromadli davlatlar uchun vaqtinchalik imtiyozlar.

Bu yondashuv rivojlanayotgan davlatlar uchun zarba kuchini kamaytiradi va xalqaro savdoda adolat prinsipini mustahkamlaydi. Bundan tashqari, u CBAMni WTOda **“no unnecessary barrier to trade”** sifatida baholanishdan himoya qiladi va CBAMni global darajada moslashtiradi. Mazkur uchta strategik islohot CBAMning eng muhim huquqiy, iqtisodiy va siyosiy muammolarini bartaraf etishga qaratilgan[32].

Conclusion. Yevropa Ittifoqining CBAM tashabbusi global savdo, iqlim siyosati va xalqaro huquq sohalarining kesishmasida murakkab va bahsli mexanizm sifatida namoyon bo‘ladi. Tahlillar shuni ko‘rsatadiki, CBAMning asosiy maqsadi – EU ETS tizimida karbon narxining import qilinadigan karbon-intensiv mahsulotlarga moslashtirilishi va “carbon leakage” xavfini kamaytirish – iqlim siyosati nuqtai nazaridan muhim, ammo WTO tamoyillari bilan to‘liq mos emas.

[31] Magdalena Petrova, *Reimagining Carbon Border Adjustment Mechanisms: A Path to Climate and Development Synergy* (ANU Open Research Repository, 2023) https://openresearchrepository.anu.edu.au/server/api/core/bitstreams/76e12da5-a9a3-4f1d-8bff-a6f4a95f714b/content.

[32] Joost Pauwelyn and Dirk Kleimann, *Trade Related Aspects of a Carbon Border Adjustment Mechanism* (European Parliament Study, 2020) 18–22. https://op.europa.eu/en/publication-detail/-/publication/6bc15d85-e28a-11ea-ad25-01aa75ed71a1/language-en.

Huquqiy tahlil asosida quyidagi xulosalarni chiqarish mumkin:

1. **GATT moddalari bilan moslik** – CBAM konsepsiyasi to‘g‘ridan-to‘g‘ri Art. II, III va I moddalari talablari bilan moslashuvchan bo‘lsa-da, amalda “default values”, “verification” mexanizmi va “free allowances” masalalari sababli National Treatment va MFN tamoyillari buzilishi xavfi mavjud. Art. XI esa ortiqcha ma’muriy yuklar tufayli cheklov sifatida qaralishi mumkin.

2. **Art. XX bo‘yicha himoya imkoniyati** – CBAM iqlimni muhofaza qilish maqsadida GATTning XX(b) va XX(g) moddalari doirasida himoya qilinishi mumkin, ammo “Chapeau” talablari, ya’ni diskriminatsiya qilmaslik va adolatli tatbiq, CBAMning real dizaynida xavf ostida qoladi. Shu sababli, CBAMning WTO bilan mosligi faqat uning barcha import qiluvchilarga teng va shaffof tarzda tatbiq etilishi bilan amalga oshadi.

3. **Rivojlanayotgan davlatlarga ta’siri** – CBAM rivojlanayotgan va kam daromadli davlatlar eksportiga og‘irlik keltiradi, bu esa “common but differentiated responsibilities” tamoyili bilan ziddiyatda bo‘lishi mumkin. Shu sababli bosqichma-bosqich joriy etish va daromadlarni “Climate Transition Fund” orqali qayta taqsimlash strategiyasi muhim hisoblanadi.

Shunday qilib, **CBAM o‘zi kerak, ammo uning joriy dizayni WTO qoidalari va rivojlanayotgan davlatlar uchun adolatlilik nuqtai nazaridan to‘liq optimallashmagan.** Mexanizm iqlim siyosati maqsadlarini qo‘llab-quvvatlaydi, ammo GATT va MFN/National Treatment talablariga to‘liq mos kelishi uchun “Carbon Pricing Equivalence”, daromadlarni qayta taqsimlash va bosqichma-bosqich integratsiya kabi islohotlar zarur. Shu yondashuvlar amalga oshirilsa, CBAM global iqlim boshqaruvi va savdo tizimi o‘rtasida balansni saqlash imkonini beradi va WTO doirasida qonuniy himoyaga ega bo‘lishi mumkin.

Foydalanilgan adabiyotlar ro‘yxati:

1. Seçil Yıldız and Zafer Öztürk, ‘Avrupa Birliği Sınırda Karbon Düzenleme Mekanizmasının DTÖ Hukukuna Uygunluğu’ (2024) 20 *IJMEB* 601–604 https://dergipark.org.tr/en/pub/ijmeb/issue/84601/1498269.

2. R Mehling et al, 'Legal Basis and Design Options for Border Carbon Adjustments' (SSRN Paper 3863038, 2021) 12–30 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3863038.

3. M Demaret and R Stewardson, 'Border tax adjustments under GATT and EC law and general implications for environmental taxes' (1994) 28 *Journal of World Trade* 5–65 https://www.econstor.eu/bitstream/10419/64285/1/601138465.pdf.

4. Joost Pauwelyn and David Kleimann, *Trade Related Aspects of a Carbon Border Adjustment Mechanism: A Legal Assessment* (European Parliament 2020) https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/603502/EXPO_BRI(2020)603502_EN.pdf.

5. H van Asselt, T Brewer and M Mehling, *Tackling Leakage in a World of Unequal Carbon Prices* (Climate Strategies, 2009) https://climatestrategies.org/wp-content/uploads/2009/10/cs-leakage-final-230909.pdf.

6. E Pirlot, 'Carbon Border Adjustments and WTO Law: Implications for EU Climate Policy' (2021) 22 *Review of European, Comparative & International Environmental Law* 345–359 https://academic.oup.com/jel/article-abstract/34/1/25/6423116.

7. P Holmes, T Reilly and J Rollo, 'Border carbon adjustments and the potential for protectionism' (2011) 11 *Climate Policy* 883–900 https://ideas.repec.org/p/sus/susewp/0610.html.

8. European Commission, *European Green Deal: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions* (COM(2019) 640 final, 2019) https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52019DC0640.

9. European Commission, *Carbon Border Adjustment Mechanism: Questions and Answers* (2021) https://ec.europa.eu/commission/presscorner/api/files/document/print/en/qanda_21_3661/QANDA_21_3661_EN.pdf.

10. European Parliament and Council, *Directive 2009/29/EC of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas*

emission allowance trading scheme of the Community [2009] OJ L140/63 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32009L0029.

11. French Senate, *Rapport n° 129 (2009–2010) sur le marché des quotas de CO_2 et le mécanisme d'inclusion carbone aux frontières* (2009) https://www.senat.fr/rap/l09-129/l09-1291.pdf.

12. Englisch J and T Falcão, 'EU Carbon Border Adjustments for Imported Products and WTO Law' (2021) 51 *Environmental Law Reporter* 10857 https://doi.org/10.2139/ssrn.3863038.

13. European Commission, *Impact Assessment Report Accompanying the Proposal for a Regulation Establishing a Carbon Border Adjustment Mechanism* SWD(2021) 643 final, Part 1/2, 4–43 https://op.europa.eu/en/publication-detail/-/publication/a95a4441-e558-11eb-a1a5-01aa75ed71a1/language-en.

14. World Trade Organization, *Report of the Appellate Body in United States – Standards for Reformulated and Conventional Gasoline* (WT/DS2/AB/R, 29 April 1996) https://www.worldcourts.com/wto/eng/decisions/1996.04.29_United_States.pdf.

15. WTO Appellate Body, *Japan – Taxes on Alcoholic Beverages II* (WT/DS8/AB/R, WT/DS10/AB/R, WT/DS11/AB/R), para. N.1.3.2.7–N.1.3.2.8 https://www.wto.org/english/tratoP_e/dispu_e/repertory_e/n1_e.htm.

16. Haoqing Meng, 'Challenges and Controversies to the European CBAM from a Legal Perspective' (2024) *Proceedings of the 3rd International Conference on Business and Policy Studies* https://doi.org/10.54254/2754-1169/81/20241752.