

A more effective Carbon Border Adjustment Mechanism for a competitive and decarbonised EU industry

AoB requested by France, Italy and Slovakia

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The Carbon Border Adjustment Mechanism (Regulation (EU) 2023/956 establishing CBAM) is a cornerstone of the European Green Deal. This tool should enable the European Union (EU) to achieve its climate ambitions, combat carbon leakage, ensure a level playing field between EU and non-EU producers and encourage other states to reduce their emissions

The EU *Clean Industrial Deal* ambitiously aims to give the necessary impulse to a green and competitive European industry. To meet these objectives effectively, the CBAM regulation, along with the rest of the European measures that regulate or have impact on carbon market, must continuously ensure fairness and efficiency, while reaching the appropriate balance between environmental and industrial policy measures. However, some risks mainly connected to carbon leakage and a heavier than expected administrative burden have already been identified together with possible solutions, notably in the 2024 Draghi report. The Report further focuses on monitoring, gradual implementation, international coordination, and simplification of compliance measures reflects a balanced strategy that acknowledges both environmental and economic concerns.

It is also important to consider the current geopolitical situation and recent EU security decisions that could have an unexpected impact on specific strategic economic sectors in terms on carbon leakage.

The European Commission has announced a two-step revision of the CBAM regulation, including an early, comprehensive simplification proposal with a particular focus on the needs of smaller market players, to promote a simpler, lighter, faster EU regulation that is “fit for competitiveness”, and a broader assessment of the Mechanism which may include i.e. an endorsement for the broadening of the scope of CBAM and an assessment of the impact on exports of EU CBAM industries. That proposal is being discussed in a different Council formation and is not the subject of this AOB.

CBAM is currently in its transitional phase and the definitive regime will commence in 2026. It is therefore of the essence that key aspects of the regulation are addressed in a timely manner.

- 1. Addressing the administrative burdens associated with CBAM implementation.** The complexity of this system can lead to delays and a significant increase in management and operational costs for European companies. A simplification of the regulatory framework is needed to provide operators with clearly defined and simplified technical rules. Basing the CBAM on pre-defined emission values for upstream and downstream sectors could significantly simplify reporting requirements, assuming that this would not result in an artificial lowering of emission values. Furthermore, an exemption for small importers should be considered. It has to be noted that by launching the so called omnibus procedure on CBAM regulation the Commission has already taken important steps in this direction.

2. **Addressing downstream carbon leakage.** While the CBAM Regulation applies at this stage to the six pilot sectors and some 20 ‘neighbouring’ downstream products, other sectors and downstream products could be exposed to the risk of carbon leakage, considering also the combined effect of the phase-out of free EU ETS allowances. Following an in-depth analysis, the scope of the CBAM regulation should be extended to downstream sectors and products at risk of carbon leakage by the end of the transition period. With regard to the inclusion of complex products at risk of carbon leakage, such as certain highly processed end products, it might be necessary to consider a simplified method for calculating embedded emissions. This approach could prioritise the main carbon-intensive components of complex products, based on predefined values.
3. **Addressing carbon leakage in exports.** The CBAM regulation risks an uncompensated disadvantage for European products covered by the EU ETS and exported to third country markets. At this stage, the CBAM does not provide for any measures to prevent the risk of carbon leakage from exports. Article 30 of the CBAM Regulation provides for an ex-post assessment of the risk of carbon leakage to be exported every two years from the end of the transition period (the first analysis to be carried out by the end of 2027), if necessary accompanied by a legislative proposal by the European Commission. This ex-post approach could represent a serious industrial risk for the EU. In order to assess such a risk at an early stage and prevent it effectively, an ex-ante evaluation should be carried out before the end of the transition period.
4. **Extend CBAM to indirect emissions only if it does not jeopardise decarbonisation and the competitiveness of the electro-intensive sectors** by a withdrawal of the existing framework for indirect cost compensation
5. **Evaluate the impact of CBAM on the competitiveness of the EU industry.** The Commission is required to submit a report by 2028 on the impact of the CBAM, notably on carbon leakage to exports, resource shuffling, and an evaluation of the overall application of the regulation. Such a report should be anticipated to the end of the transition period. It should propose, if necessary, appropriate and proportionate measures to prevent carbon leakages in support of exporting industries, by maintaining, among other measures, targeted free ETS allowances for exportations to ensure a level playing field.