

Draft ECI submission to the Commission consultation on the CBAM proposal

The European Copper Institute (ECI) is the leading advocate for the copper industry in Europe. ECI supports the EU's climate ambitions for 2030 and 2050. The copper industry is ready to do its part. Copper makes a significant net contribution to the clean energy transition as a sustainable raw material that is needed to decarbonise the economy. As an energy intensive industry, the copper sector is also working to further reduce its own carbon footprint.

The Commission has chosen not to include the copper sector in the scope of the proposed CBAM. We welcome this but are concerned about the intention to extend the scope of CBAM in the future to also cover other ETS sectors.

ECI believes that CBAM as currently proposed would not constitute an appropriate framework for the copper sector.

Because copper is traded on global commodity markets, copper producers cannot pass on the cost increases brought about by regulatory measures to consumers without losing market share to non-EU producers who do not face the same costs. Copper producers in the EU face both the direct cost (through the price of emission allowances) and the indirect cost (through the higher price of electricity charged by utilities) of the EU's climate policies, which leads to higher operational costs compared to producers in third countries where similar standards are not implemented.

This means that as long as third countries do not have climate policies resulting in equal climate costs for industry in the same timeframe as the EU, it is of crucial importance that the EU legal framework provides robust protection against carbon leakage.

CBAM as proposed would leave EU producers exposed to full (direct and indirect) carbon costs, while global producers would only be required to pay carbon costs for the share of their production imported to Europe. For our sector, a CBAM applied on products entering the EU market will therefore not protect against the overall reduced global competitiveness. For this reason, **free allocation and indirect cost compensation under the ETS framework play a crucial role in preserving a level playing field in the copper sector, and CBAM as designed could not effectively replace these measures.**

The most problematic areas of the Commission proposal in this regard are:

1. **Loss of effective protection against carbon leakage.** An increased climate ambition of reducing GHG emissions by 55% by 2030 requires stronger carbon leakage protection because it increases costs for European industry without increasing them for non-European industry, thereby increasing the risk of carbon leakage. For the reasons set out below, CBAM as proposed would not constitute an effective framework to ensure a level playing field and protect the European industry against the risk of carbon leakage. The proposed phase out of free allocation under the ETS for sectors covered under CBAM is therefore of

concern. This undermines the measure's environmental objectives, as the lack of appropriate protection against carbon leakage will lead to an increase in global emissions.

2. **Lack of consideration for impact on exports.** As proposed, CBAM would put EU exporters to a competitive disadvantage compared with third country exporters. The introduction of CBAM and the consequent phase out of free allocation would raise carbon costs for EU producers of the materials included within its scope both for the share of their output sold in the EU and the share exported. However, third country producers would face a carbon cost for the part of their production exported to the EU, without facing any carbon costs for exports to third countries.
3. **Inadequate provisions to avoid circumvention and costs absorption.** Article 27 on circumvention has a very limited scope and should be expanded to address **resource shuffling** whereby exporting countries could use their cleanest industrial plants to export to the EU and keep more polluting installations for the domestic market. The measures the Commission can take in case of circumvention should also be substantially strengthened.

The proposed framework would also affect EU and third country producers unequally as CBAM would only apply to the part of the third country operator's production that is imported to the EU, while EU producers exposed to the full direct and indirect carbon cost would face a significant increase in their production cost for their total output.

Equally, it is problematic that imported finished products containing copper which may have a higher carbon footprint than EU products would not be in the scope of a CBAM.

4. **Intention to possibly cover indirect emissions in the future.** We support the Commission's proposal not to apply CBAM to indirect emissions. Copper production processes are inherently electro-intensive and the cost of energy, mainly electricity, represents up to 30% of the operating costs of copper production. The indirect carbon costs of the EU ETS (through the higher prices we pay for electricity to power our production processes) are therefore of significant importance for the competitiveness of copper producers in the EU.

We believe it is not possible to design CBAM in such a way as to fully reflect the indirect carbon costs paid by producers in the EU. Indirect carbon costs occur as a price effect in the EU electricity market and are not an indication of emissions in production. We therefore do not think that CBAM could effectively replace the current compensation regime for indirect carbon costs.

Finally, the Commission suggests that the **list of sectors that may be added within the scope of a CBAM in the future** would be decided under secondary legislation. We

do not believe this is appropriate, given the potentially high impact of the inclusion under CBAM for some sectors.

In the copper sector, value chains are complex, involving many production steps, and material flows are highly interlinked. The range of products and intermediates is more diverse than in the sectors currently included in the Commission proposal. Copper producers in the EU are also highly dependent on imported raw materials.

It would therefore not be adequate to draw conclusions on the application of a CBAM for the copper sector based on the experience of the sectors included in the trial phase without a thorough assessment and dialogue with the industry. **The addition of new sectors should be decided through the ordinary legislative procedure** to give industry and other stakeholders the opportunity to engage in the decision-making process, as well as to increase regulatory certainty.