

Carbon Border Adjustment Mechanism

European Copper Institute position for trilogues

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The European Copper Institute (ECI) supports the EU's climate ambitions for 2030 and 2050. Ambitious policies are needed to increase electrification, the deployment of renewables and energy efficiency to decarbonise the European economy and reduce dependency on Russian fossil fuels.

Copper is a crucial raw material for electrification and for the energy transition at large: it is the one non-ferrous metal used in all the main decarbonisation technologies today. More copper will therefore be needed in the coming years to enable the decarbonisation of the economy.

As an energy intensive industry, the copper producers that we represent in Europe are taking steps to decarbonise their production sites and are **committed to working towards carbon neutrality by 2050**. Copper producers today face the **twin investment challenge** of increasing production to meet the needs of the energy transition, while also investing to lower the environmental and carbon footprint of copper production.

In Europe, **unprecedented energy prices** are increasing the operational costs of copper smelters and refiners, and causing a competitive disadvantage vis-à-vis producers in other regions where energy prices remain lower. Access to affordable renewable and low-carbon electricity is a pre-requisite for decarbonising copper production. In the current context, this is a key concern for the industry.

We welcome the underlying idea behind CBAM to introduce a level playing field for carbon costs between EU and non-EU producers, which would allow phasing out the current carbon leakage protection measures under the EU Emission Trading System (ETS). In practice, however, **several important concerns remain as to the ability of CBAM to establish a real level playing field**, in particular in relation to the treatment of EU exports, the inclusion of indirect emissions, circumvention and the on-the-ground application of CBAM.

Copper is not included in the list of sectors to which CBAM will apply in the first instance. However, we note the intention of the EU institutions to expand CBAM to other ETS sectors in the future. In this regard, **we are deeply concerned by the approach of the European Parliament that would mandate the application of CBAM to all ETS sectors by 2030** and

empower the Commission to extend the scope of CBAM through delegated acts. **The extension of CBAM to new sectors cannot be automatic and must be subject to impact assessments for each new sector. The extension into new sectors must also follow the ordinary legislative process** to allow industry and other stakeholders the opportunity to engage in the decision-making process.

Extension of CBAM to new sectors must follow the same process as applied to the first five sectors

Each sector is different and the appropriateness of applying CBAM to new sectors must therefore be assessed on a case by case basis. For instance, 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 to which CBAM will apply in the first instance. 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 extension of CBAM to new sectors can therefore only be proposed following a thorough impact assessment for each new sector.**

As per the Commission proposal, the extension into new sectors should follow the ordinary legislative process, and should not be done through delegated acts, given the potentially significant impact on new sectors included. Industry and other stakeholders should have the opportunity to engage in the decision-making process like the sectors to which CBAM will apply first.

We call on the co-legislators to reject the European Parliament's proposal to already now mandate the extension of CBAM to all remaining ETS sectors by 2030. The extension of CBAM to new sectors must follow the same process as applied to the first five sectors.

Extension of CBAM to indirect emissions must consider impact of marginal electricity pricing system on EU producers' indirect costs

We support the Commission and Council's position to only extend the scope of CBAM to indirect emissions once an appropriate methodology that establishes a level playing field between European and non-European producers is found. For the effect to be the same for both, the inclusion of indirect emissions must be done in a way that considers the exposure of EU producers to indirect carbon costs passed on in electricity prices.

Due to the marginal pricing system applied in European electricity markets, indirect emission *costs* of European electro-intensive producers do not correlate with their indirect *emissions*. Even if a company is powering its operations with renewable or low-carbon electricity, its electricity bill is based on the price of the marginal energy source which is mostly gas or coal, including the ETS carbon costs passed on by utilities. As a result, European industries pay much higher indirect carbon costs (in the form of electricity bills) than their actual, real life indirect emissions.

If indirect emissions were included in the scope of CBAM, and as a result the current State aid framework for indirect compensation would be removed, this would lead to European smelters paying higher carbon costs than third country producers. Perversely, EU production from low-carbon energy sources would face higher carbon costs than carbon intensive production from third countries.

The ETS indirect costs compensation system, which accurately reflects the indirect costs which European producers face, should continue to apply to CBAM sectors until an adequate methodology has been developed by the Commission to reflect the discrepancy between the indirect emissions costs and indirect emissions of EU producers.

Over time, as the European electricity mix continues to decarbonize, the difference between indirect costs and indirect emissions will be reduced. The inclusion of indirect emissions in CBAM should therefore become less problematic once the EU electricity grids have significantly decarbonised.

CBAM must not disadvantage EU exports

The introduction of CBAM and the parallel phase out of free allocation raises the carbon costs for all EU undertakings using the materials included in scope. For EU producers, CBAM is a cost on their overall production, while for non-EU producers it only applies to the share of their production exported into the EU. This puts EU companies at a competitive cost disadvantage when exporting products outside the EU.

For CBAM to have the desired effect of levelling the carbon costs borne by EU and non-EU producers for the products in scope, it must include an effective solution to ensure that EU exports are not disadvantaged. To this effect, we support the European Parliament's approach to maintain free allocation of EUAs for CBAM sectors, subject to an assessment of WTO-compatibility by 2025. The Council's proposed ex-post assessment of the impact of CBAM on exports before 2026 and every 2 years thereafter does not provide an effective solution as it will not avoid the loss of export markets to non-EU producers.

Phase-out of free allocation under the ETS

We support the Commission and Council's approach to phasing out free allocation for CBAM sectors over a ten-year period. The phase-out should however only begin once a solution has been found to ensure that European exports are not disadvantaged under the CBAM framework.

We are at the same time concerned about the European Parliament's suggestion that free allocation should be phased out over six years only and that this same approach should already be mandated for all other sectors that will be included under CBAM at a later stage. Each sector is different and the appropriateness of applying CBAM to new sectors must therefore be assessed on a case by case basis. **The extension of CBAM to new sectors cannot be automatic and must be subject to impact assessments for each new sector. The extension into new sectors should follow the ordinary legislative process based on a proposal by the Commission, and the phase-out timeline for new sectors should be decided during this process, so that due consideration can be given to the characteristics of the new sectors.**

About the European Copper Institute

The European Copper Institute (ECI) is the leading advocate for the copper industry in Europe and the European arm of the International Copper Association (ICA). Our members mine, smelt, refine and recycle copper for use across the economy, in the electricity system, buildings, transport and industry.

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