



**FEEDBACK on the Package to strengthen the  
Carbon Border Adjustment Mechanism (CBAM):  
Temporary Decarbonization Fund and  
Proposal to amend the CBAM Regulation  
([Link 1](#) and [Link 2](#))**

**Position Paper**

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## **WKO Position Paper on the Package to strengthen the Carbon Border Adjustment Mechanism (CBAM): Temporary Decarbonization Fund and Proposal to amend the CBAM Regulation (2025/0418 (COD) and 2025/0419 (COD))**

The issues addressed in the proposals are of fundamental importance to the Austrian economy. It is essential to effectively protect EU manufacturers and users of CBAM goods as long as there is no global climate protection regime to ensure a level playing field. The increasing pressure of CO<sub>2</sub> costs highlights the shortcomings of the current climate protection regime, including CBAM - in particular the lack of protection for export competitiveness, rising costs in the EU, and the still narrow scope of CBAM and export regulations despite the extension within the steel and aluminum sectors.

With regard to the extension to include a large number of downstream products, the provision of concrete calculation examples for the downstream products to be included in the future appears to be a key element for better practicability. Although the basic calculation parameters and formulas for determining attributable emissions are already provided for in the draft, their practical application remains unclear for many affected companies without comprehensible sample cases and examples. There is currently a lack of reliable practical reference, particularly for complex downstream products and the determination of relevant material fractions. Without concrete and standardized calculation models, there is a risk of significant interpretation errors and legal uncertainties until the extended obligations come into effect, which would be particularly difficult to deal with for trading companies. In this context, a clear definition of the term “precursors” would also be beneficial in order to ensure uniform interpretation.

We also see an urgent need for systematic monitoring of possible countermeasures by third countries in relation to CBAM. Structured tracking appears to be essential in order to identify negative trade policy effects at an early stage and to be able to realistically assess the effectiveness of the mechanism. Although leakage aspects and anti-circumvention principles have generally been defined, there has been insufficient monitoring of potential retaliation measures to date. Without such external trade monitoring, it remains unclear whether the mechanism actually provides effective protection or creates new trade policy risks.

According to the summary of an impact assessment report by the Commission, extending the CBAM to downstream products would only have a moderate impact on the absolute number of SME importers newly included in the scope of the CBAM. SMEs account for around 50% of the additional importers covered, which corresponds to around 3,800 to 3,900 additional SME importers across the EU.

In its FAQ, the EU Commission itself emphasizes that there have been few studies on the effects of the CBAM to date and that, as a result, there is currently very limited data available on the actual effects of the CBAM that would allow for a robust assessment of the instrument.

The EU Commission's rapid impact assessment, based on very limited data, does therefore not alter the fact that the inclusion of downstream products in the CBAM will affect a wide range of industrial products. For companies involved in foreign trade, this goes hand in hand with increased administrative burdens and costs, complexity in terms of data availability and reliability, and greater legal uncertainty due to the room for interpretation of low-emission technologies. Extended customs and data requirements (including material

and chemical composition) increase bureaucracy and the risk of errors and sanctions. In the area of foreign trade, we therefore expect cost increases for the European manufacturing industry and ultimately for European consumers.

For this reason, we attach particular importance to the consistent implementation of the regular review of the mechanism provided for in Article 30(6)(b)(v) of the proposal with regard to the application of the mass-based threshold, including the possibility of raising this threshold and introducing an additional threshold based on shipments. Since the 50-ton threshold is the key CBAM simplification for European importing SMEs, we call for the inclusion in the text of the proposal of an annual, customs data-based reassessment (until 2028 and beyond) of the EU-wide impact on SMEs of the proposed and possible future CBAM extensions to downstream products. In particular, a leniency rule should also be applicable for SMEs close to the threshold (+/- 10 tons per year).

On another note, adjusting supply chains so that goods “benefit from lower default values” is explicitly mentioned as a circumvention practice. However, this should not rule out the possibility that this could also be a matter of legitimate procurement optimization. The aforementioned rule could lead to foreign trade companies being placed under general suspicion in the course of legitimate supply chain optimization.

Regarding the specific requirements of the two current proposals, we would like to highlight the following points:

#### **On the Proposal for a “Temporary Decarbonisation Fund”**

We welcome that the EU Commission has recognized the extremely damaging gap in ETS 1/CBAM climate protection measures and has at least sought to address the massive disadvantage for European production caused by the costs of European CO<sub>2</sub> pricing.

However, the proposed decarbonization fund, which is being proposed as a transitional solution to combat the relocation of CO<sub>2</sub> emissions to export markets, is **seriously flawed and unacceptable in its current form.**

#### **On Article 6 “Eligibility”:**

**We strongly reject the restriction of products eligible for the export solution.** Unfortunately, the affected industry is left in the dark as to how exactly the list of eligible products was “*precisely targeted*” in the *Commission Staff Working Document (SWD)* (see page 4 of the draft under “*impact assessment*”), because this SWD does not appear to have been published. But the factor applied by the EU Commission can be estimated from Recitals 12 and 13 and from Article 6 (and the annex). Apparently, **the export list of eligible products is to be determined on the basis of a low value-to-weight ratio.**

This **approach by the EU Commission is fatal** because all CBAM goods are subject to CO<sub>2</sub> costs on import or production (at least their precursors) in the EU, which massively restrict the competitiveness of all CBAM goods on the global market outside of the EU. In addition, other downstream products manufactured from CBAM goods will also become more expensive compared to products from third countries that are not subject to CO<sub>2</sub> costs or are subject to lower CO<sub>2</sub> costs.

**We strongly urge the EU to prevent any loss of market shares for EU manufacturers in exports** as long as the EU's major trading partners do not impose comparable climate protection requirements and, in particular, CO<sub>2</sub> costs.

Even if the EU cannot include all products that use CBAM goods in a rapidly effective export solution, which we must (under protest) assume will be the case due to the high administrative costs and lack of verification systems involved, the **“value-to-weight” approach** proposed by the EU Commission is **absolutely unacceptable** in terms of further restricting the CBAM goods list, which is already too narrow anyways.

With the (narrow) list of CBAM goods, the EU has already identified a (to be expanded) selection of goods that are climate-relevant and for which protection of EU manufacturers is necessary. EU exporters of CBAM goods (or goods manufactured with CBAM goods) stand no chance at all of offsetting the increased costs from CBAM if these goods are not on the export list. **This must lead to CBAM goods flows not being imported into the EU at all, where possible, but being diverted around the EU.** This inevitably means that more and more assemblies containing CBAM goods will be assembled outside the EU and exported directly from third countries to target markets in other third countries. **The export list must therefore include all CBAM goods in order to avoid this diversion.**

The “value-to-weight” approach means that **relatively cheaper CBAM goods are included on the export list**, but more expensive ones are not. This implies that:

Those who produce a **cheap** (usually with lower added value) but **CO<sub>2</sub>-intensive product in the EU for export** will be **favoured over EU producers of goods with higher value - and thus added value.** Does the EU really want to permanently burden the export of high value-added products with CO<sub>2</sub> costs in competition and use this money (25% of CBAM revenues) to finance the export of products with lower value or little added value? **This is a double incentive in the wrong direction.** The EU tends to burden high-tech or high value-added products in industries facing **increasing competition**, especially from China. Furthermore, it creates an incentive to **generate little added value per ton of CO<sub>2</sub>.**

Finally, any export mechanism must work **without unnecessary additional bureaucracy** and should also therefore be based on existing CBAM-good list.

#### **On Article 6 (2) “opt-in”:**

Furthermore, the opt-in (Article 6 (2) and Recital 13) would apparently enable Member States with lower prices to include additional products or producers in their national territory (at the expense of other Member States) in **“national export lists.”** **Again, there is no reason to support a race for poor climate efficiency (low added value per ton of CO<sub>2</sub>).**

**We strongly reject the opt-in** because (i) it creates a clear incentive to achieve as little value as possible with one ton of CO<sub>2</sub>, (ii) it massively disadvantages Austria as a high-price country, (iii) it massively undermines harmonization via the EU regulation and triggers changes in internal EU trade flows, which would in turn require measures to prevent circumvention again, (iv) it would again result in massive bureaucratic consequences for authorities and companies, and (v) none of this is necessary at all if the entire CBAM goods list is included in the export mechanism.

### **On Article 7 “Conditionality”:**

**Environmental conditionality should reflect the existing provisions of the EU Emissions Trading System (ETS), but the payback period for the necessary investments is three years under the EU ETS, and, in the current proposal, five years is proposed (Article 7 (2)).**

### **On Article 9 “Calculation of support by the competent authorities”:**

It is essential to provide planning security for companies. The financial strength of the instrument is linked to very uncertain revenues (i.e., 25% of the revenues from the sale of CBAM certificates) and there will be a proportionally reduction in all applications so that the budget is not exceeded. In addition, the application is to be submitted once. .

It is incomprehensible how the EU Commission thinks it can trigger the investments needed for (maintaining) production in the EU with these massive planning uncertainties. Besides the massive **problem of pre-financing CO<sub>2</sub> costs**, applicants **do not know how much of their requested support they will actually receive due to the proportionally reduction** (see Article 9 (2) in conjunction with Article 10 (2)).

Furthermore, the fund will **only** run for **two years**, whereas industry needs much longer predictability of effective measures against carbon leakage.

Furthermore, **future EU Commission legislation is expected to deviate** from the recently adopted CBAM calculation modalities, **with effect as early as 2026**, which means that there is a lack of predictability and calculability in this regard as well.

**It would be more appropriate to relieve exporters of CBAM goods of the CO<sub>2</sub> costs calculated in accordance with the CBAM calculation rules when exporting.** In order to maintain the incentive effect for decarbonization, CO<sub>2</sub> benchmarks could also be used as a basis here.

### **On Article 11 “Disbursement of financial support”:**

The **functionality of the fund is too slow**, as support is only granted two years after the CO<sub>2</sub> costs have been paid by the companies (by 31 December 2029 at the latest - Article 11 (2)).

### **On the proposal to amend the CBAM Regulation**

(Quotations without further reference refer to the consolidated version of the CBAM Regulation)

#### **On Article 2 subparagraph 3 of the proposed amending Regulation**

Article 6 (2) (b) is proposed to read that operators shall make actual emissions available “via the CBAM registry” immediately after the amendment comes into force, because this amendment is not listed in the Article 2 subparagraph 3 of the proposed amending Regulation. This seems problematic, because the CBAM registry would be the only eligible way of transmission of this information. . This amendment should therefore be included in the list of provisions of Article 2 subparagraph 3 of the proposed amending Regulation to become applicable from 1 January 2028. Until then, it must also be possible for the CBAM registrant (or their agent or indirect customs representative) to submit this data.

Our proposal for Article 2 (3) of the CBAM amendment: *“However, **Article 1 (5) point (a)(1)**, Article 1 (6) (a), ...)”*

### On Article 6 (2) (e) :

Evidence that the CBAM goods were produced in the specified facility:

This new provision begins very vaguely with “(e) where applicable ...”; this leaves unnecessary uncertainty as to what constitutes “applicable” cases. However, it is clear from the context that evidence only needs to be provided in cases specified in the implementing regulations to be adopted by the EU Commission in accordance with Article 6 (6a) for goods and origins.

Our proposal is therefore as follows: “(e) where applicable according to paragraph 6a for the purpose ...”

### On Article 9 (5):

Reductions via Carbon Credits under Article 6 of the Paris Agreement: It is important that ETS 1 and CBAM provide for the same instruments. This issue is one of many examples of why these two instruments should not be negotiated and decided on separately. For reasons of protecting EU installations under ETS 1, the EU Commission should not be given powers that allow for different solutions between ETS 1 and CBAM. **Therefore, the penultimate sentence on Article 6 of the Paris Agreement should be deleted from the current proposal** and also be decided for the CBAM in the course of the ETS 1 revision, which is unfortunately not expected until Q3 2026.

### On Article 17 (5a):

An additional guarantee is excessive. Article 17 (5) already contains clear rules on how to deal with new CBAM registrants with regard to their creditworthiness. We understand and agree that CBAM registrants, who do not comply with the provision requirement under Article 22, could do so due to a lack of creditworthiness/financial resources, or even with the intention of circumventing the rules.

However, the draft of the new paragraph (5a) is excessive. First of all, it also includes “*applicants*,” i.e., often new companies or companies that are just beginning to deal with the complexity of the CBAM. In these cases in particular, it is therefore completely excessive to immediately require a very expensive bank guarantee for more than two years for every failure to comply with the provision requirement.

Even for already registered CBAM applicants, errors can occur in operation and the coverage of the CBAM account can simply be overlooked.

Therefore, sanctions (such as requiring a bank guarantee or similar) should only be imposed **after the authority has issued a written warning to the “applicant” or CBAM registrant, setting a deadline of at least one week**. In repeat cases, this period may then be significantly shorter, e.g., one working day.

Furthermore, the proposed paragraph (5a) is too vague in its wording “*where the competent authority finds that...*”. To ensure legal certainty, the case of non-coverage of the CBAM account despite the provision obligation should instead be formulated as the event that requires a warning / additional guarantee.

We therefore propose for Art 17 (5a): “... *where the competent authority notes that the applicant or the authorized CBAM declarant did not comply with the requirement set out*

*in Article 22(2), the competent authority must request the applicant or the authorized CBAM declarant to fulfil its obligations within a deadline of one working day. The deadline for the first non-compliance with Article 22(2) shall be one week. If the applicant or the authorized CBAM declarant fails to comply within the given deadline, the competent authority may require the provision of a guarantee."*

**On Article 27a “Serious and unforeseen circumstances”:**

**We strongly reject this proposal for several reasons:**

- This is yet another example of how harmful it is to treat CBAM and ETS 1 separately.
- It is obvious that CBAM will impose higher costs on downstream industries that use CBAM goods. That is how ETS 1 and CBAM work.
- It is positive that the evident social problems, including those caused by rising inflation, are now being discussed publicly in relation to fertilizers. Climate protection in the EU without a correspondingly strong commitment to climate protection on the part of key trading partners will also increase costs for the EU market compared to the economic operators and consumers of its trading partners.
- If these costs are undesirable, there is a fundamental remedy within the ETS 1 system and CBAM, namely increasing free allocation and reducing the reduction factor. We point out or request for the free allocation - including the benchmarks - to be maintained at the 2025 level and for the reduction factor to be adjusted until demonstrable protection via CBAM is also ensured in exports and against import pressure.
- Until global climate protection measures are successfully implemented, the emissions trading systems must be improved, the CBAM, in particular, must be repaired with an effective export mechanism, and the EU must actively protect its economy and society. The most effective means of doing this is to maintain free allocation in ETS 1 and adjust the reduction factor – thereby automatically reducing the costs caused by the CBAM.
- Suspending the CBAM would spell ruin for manufacturers of CBAM goods in the EU. The uncertainty associated with Article 27a makes any investment in EU production impossible.
- **Article 27a must therefore be deleted in any case, and the suspension of the CBAM for fertilizers is rejected.**
- The ETS revision must include a clause ensuring that not only climate targets determine free allocations and reduction factors, but **also an assessment of international competitiveness, availability of the technologies and energy sources necessary for decarbonization, CO<sub>2</sub> infrastructures, etc. at competitive costs, and the acceptance and compatibility of CO<sub>2</sub> costs for the EU market itself** (see also the Draghi Report for initial approaches to this).

**On Annex I “List of downstream goods”:**

Many EU manufacturers of ETS 1 and CBAM goods have criticized the extension of the list of downstream products as insufficient. We would like to refer in particular to the manufacturers of household appliances (APPLiA) and Eurofer.

The draft only provides a rather general explanation of the assessment and the options for expanding to include downstream products in the *explanatory memorandum* (page 6 of the document under review). As far as can be seen, the other documents also do not specify which products (CN codes) were actually examined and which factors are or are not fulfilled. However, this information is important for assessment and transparency.

In general, however, it can be summarized that the “carbon leakage risk” depends on the following factors:

- **“Trade intensity** = total imports and exports in relation to the total consumption of this product in the EU.”
- **“Cost push** = how high are the carbon costs of the downstream product in relation to the added value of its production.”
- A **“minimum value for total emissions”** (during production) of the downstream product (a kind of de minimis threshold) to ensure that only downstream products with high climate relevance are included.

However, even with the **minimum value for total emissions**, the question arises as to why this should be appropriate. Climate relevance is ensured precisely by the fact that only imports of more than 50 tons per year are relevant. Such a minimum value **can be very damaging, especially for EU manufacturers of niche products** whose products do not have a “large” total amount of emissions but have high CO<sub>2</sub> costs in the preliminary products (such as furniture containing steel or aluminium).

**This minimum value must therefore be removed.** Among other things, this should also lead to the inclusion of CN code 9403 99 10 - metal furniture parts.

It is also striking that the EU Commission may not have treated all products equally: Both, the CN code requested by the WKÖ for the extension 830242 - “Other base metal mountings” (fittings) as well as a similar CN code 830249, were **not included** in the CBAM extension **in full accordance** with the description in the CN CODE according to the relevant TARIC classification, but with the restriction **“containing steel or aluminium”**. This can also be seen from the fact that these two CN codes are preceded by “ex-”. **However, this has obviously contributed to the inclusion of these two CN codes (restricted to steel and aluminium).**

In contrast, the following codes, which were also requested for inclusion, were not included:

- 8302 10 00 - Hinges of base metal, and
- 9403 99 10 - Metal furniture parts,

even though hinges and these furniture parts under these CN codes have similar trade intensities and value-added intensities / CO<sub>2</sub> intensities as the extended products under CN code 830242 for fittings **“containing steel or aluminium”**.

We therefore call for the inclusion of these two CN codes, 8302 10 00 and 9403 99 10, each with the restrictive addition **“containing steel or aluminium”**.

Finally, it should not be overlooked that the list was evaluated on the basis of an analysis of **historical data**. Furthermore, **niche products** and **relevant individual cases** would be **ignored**. Provision should therefore be made for Member States or companies to be able to apply to the EU Commission—upon submission of EU-wide data—for an extension for future periods for individual products that are not yet on the list.

#### **On Article 2 “Entry into force and application”:**

As already described above in relation to Article 1 (5) point (a)(1) of the proposed amending Regulation, the provisions on entry into force and application should be reviewed again from a legal perspective.

## Conclusion

Finally, we would like to point out that the most effective protection of EU competitiveness and the best climate protection can be achieved if the **EU Commission interprets and adapts its climate targets (including free allocation and reduction factors) - in view of the lack of global climate protection mechanisms - in such a way that CO<sub>2</sub> costs are reduced and, at the same time, EU climate protection mechanisms are further developed.** Unfortunately, we currently observe that the central mechanisms ETS 1 and CBAM are still being treated independently of each other, which we consider to be fatal. Until global climate protection is successfully implemented, the emissions trading systems must therefore be improved and the CBAM, in particular, must be repaired with the export mechanism. The EU must actively protect its economy and society. The most effective means of doing this is to maintain free allocation under the ETS 1 and adjust the reduction pathways accordingly, thereby automatically reducing the costs caused by CBAM.

Only if the EU becomes and remains successful in the global competition can it convince other regions of the world of the usefulness of climate protection mechanisms. **To this end, it is necessary to examine all climate protection measures before adjusting their targets in terms of their impact on competitiveness and to align them accordingly** (see also the “Draghi Report” on this matter).



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