

Brussels, August 2025

Carbon Border Adjustment Mechanism (CBAM) – extension to downstream products, anti-circumvention measures and rules on electricity emissions

Business & Science Poland Position

In response to the European Commission's invitation to participate in the public consultation on the development and expansion of the CBAM, Business & Science Poland would like to present its position and highlight key issues from the perspective of energy-intensive industries and producers competing on global markets.

We welcome the fact that the Commission recognises the challenges and shortcomings arising from the current design of the CBAM and is engaging in dialogue with industry, enabling the participation of concerned sectors in shaping the future framework of this mechanism. In this context, it is essential that the proposed changes – including the extension of the CBAM – are implemented in a fair, transparent, and practically applicable way, so as to genuinely support climate objectives while at the same time safeguarding the competitiveness of European companies both on the internal and international markets.

From the industry's perspective, it is crucial to ensure consistency between the CBAM and the existing EU ETS as well as with policies aimed at strengthening the competitiveness and resilience of European enterprises – particularly in energy-intensive, processing, and export-oriented sectors. The CBAM must not result in an asymmetry where EU exporters bear the costs of climate policy without any support, while importers from third countries are shielded by the mechanism at the border.

In the following sections of this document, we present specific comments and recommendations regarding the extension of the CBAM to downstream products, anti-circumvention measures, electricity rules, and the expected economic, social, and administrative impacts.

1. **Extension of the CBAM to downstream products** – the need for a selective approach and a full impact assessment; certain products, such as copper, should not be covered by the CBAM due to global pricing and the impossibility of passing on costs, while in other cases the absence of coverage generates the risk of displacement of EU production.
2. **Preventing circumvention** – the need to introduce proportionate and workable measures to counter avoidance of the CBAM through product modifications or manipulation of customs-statistical classifications.

3. **Rules for accounting emissions from electricity** – harmonising rules for imported electricity is justified, but current technical requirements may restrict the use of actual emissions data.
4. **Economic, social, and administrative impacts** – extending the CBAM may increase operating costs and administrative burdens, particularly in energy-intensive and export-oriented sectors, which requires a cautious approach and verification of the regulation's impacts.

The proposed changes to the CBAM give rise to a number of practical and systemic challenges which require in-depth analysis. Below we set out a more detailed discussion, including the identification of key problems and proposals for regulatory approaches.

1. Extension of the CBAM to downstream products

The extension of the CBAM to downstream products raises serious concerns from the perspective of EU producers and exporters. This applies in particular to processed products further along the value chain, manufactured using basic materials already covered by the CBAM, such as steel, hydrogen, ammonia, urea or aluminium.

Many of these products – e.g. semi-finished plastics, intermediate chemicals, industrial installation components, and products from non-ferrous metal ores – are “component” or “precursor” goods functioning within complex international supply chains. Covering them with the CBAM may lead to:

- **a higher risk of regulatory overlap** – e.g. when a base material such as hydrogen, ammonia or urea covered by the CBAM is charged again at the final product stage due to difficulties in reliably tracking the full supply chain;
- **fragmented and inconsistent application of the rules**, particularly where there is a mismatch between CN codes (products) and NACE codes (production processes);
- **discrimination against EU producers of materials covered by the CBAM on external markets** (outside the EU), as they lose free allowances, while their foreign competitors can offer finished products without an equivalent charge – resulting in the displacement of EU production from both internal and external markets.

The example of melamine illustrates well the protection gap in the current CBAM design. Although this product is made using the same raw materials as nitrogen fertilisers – in particular urea and ammonia – and is subject to EU ETS costs, it does not benefit from equivalent border protection in international trade. Nitrogen fertilisers, including ammonia and urea, were included in the CBAM as carbon leakage-exposed products – a positive step. At the same time, the absence of border protection for melamine – despite its similar emissions profile and high CO₂ cost share – leads to unequal competitive conditions. EU producers

bear the full CO₂ cost, while foreign competitors can offer the product free of such charges. This asymmetry increases the risk of displacement of EU production by more carbon-intensive imports and requires systemic analysis in future stages of CBAM development.

In BSP's assessment, the inclusion of the copper sector in the CBAM would be particularly problematic. This sector functions as a so-called "price taker" – selling products at globally determined prices, without the ability to freely adjust margins. As a result, producers are unable to pass on rising costs – including CO₂ costs – to customers. If EU copper producers are covered by the CBAM and simultaneously lose free allowances, their margins will be significantly reduced. This may lead to production cuts, with consequent job losses and the risk of relocation outside the EU.

Furthermore, since the CBAM applies only to imports and not exports, asymmetry arises. Non-EU exporters do not bear emissions costs, while EU exporters lose protection and must compete globally against privileged third-country operators. The lack of compensation for exported goods means reduced competitiveness of EU firms and the risk of their products being replaced by more carbon-intensive substitutes from outside the EU – ultimately leading to carbon leakage.

The loss of free allowances for such producers – without an appropriate compensatory mechanism – results in reduced profitability, lower production, and ultimately possible relocation outside the EU and job losses.

Another major challenge is traceability of emissions in the case of processed products. At present, there is a lack of reliable and verifiable emissions data in third countries, which prevents fair attribution of the carbon footprint to specific downstream goods. This applies in particular to indirect emissions (scope 2) and value-chain emissions (scope 3). Attempts to allocate emission burdens under such conditions risk distorting competition and encouraging manipulation of reporting.

Business & Science Poland calls for any extension of the CBAM to downstream products to:

- **be preceded by a full impact assessment with the involvement of relevant sectors,**
- **be based on clear and proportionate criteria** – such as actual emissions levels, the share of basic materials, or the degree of processing,
- **take into account administrative feasibility and the availability of data** for importers and processors,
- **avoid situations where precursors already covered by the CBAM are additionally charged in finished products** due to the inability to reliably track the supply chain, leading to unjustified cost accumulation and carbon leakage through imports of finished goods.

In BSP's view, extending the CBAM without a full analysis of entire value chains is particularly risky – it leads to arbitrary differences in protection levels between technologically interlinked products. We therefore call for a cautious, stepwise approach and avoidance of fragmented solutions which may undermine regulatory

predictability and the integrity of the EU market. The impact of any CBAM extension must be thoroughly assessed in consultation with the relevant sector, and such extension should only be carried out through the full legislative process, not through implementing or delegated acts of the Commission.

We again underline that, from a technical perspective, it is currently not possible to cover the entire range of products manufactured in carbon leakage-exposed sectors with the CBAM. The number of related products (precursors and derivatives) is huge, often produced in interconnected production complexes, and embedded emissions are determined on the basis of unit, non-standardised methodologies. Reducing free allowances for such sectors will therefore not be offset fully by CBAM charges on imports. This will cause a significant loss of competitiveness for European producers in areas not covered by the CBAM.

2. Preventing circumvention – the need for proportionate and workable solutions

Business & Science Poland notes the increasing risk of circumvention of the CBAM, particularly in the context of complex value chains and the lack of consistency between product classifications (CN) and production processes (NACE).

There is a real danger that third-country producers will avoid CBAM charges through minimal product modifications or further processing of goods covered by the CBAM in such a way that the final product is not regulated. For example, a precursor (such as a copper cathode) covered by the CBAM may be processed outside the EU into a wire or component no longer falling under the mechanism – even though it was made from the same material. Such practices amount to a form of regulatory greenwashing and distort competition.

Moreover, the mismatch between CN and NACE codes, and the arbitrary inclusion of only selected products from a single technological process, increases the risk of manipulation of product classifications and deliberate splitting of production processes across different countries and tariff codes to avoid charges.

From the point of view of enterprises operating fairly in the EU, it is crucial that anti-circumvention measures are proportionate, practically applicable and based on robust risk analysis. They must not result in excessive administrative obligations or create a presumption of wrongdoing for law-abiding operators. Otherwise, the main burden of these regulations will fall on EU producers, rather than those who actually circumvent the system.

BSP also stresses the need to strengthen monitoring of the CBAM during the transitional phase and to carry out regular assessments of the mechanism's effectiveness based on actual trade and technological data – in line with the recommendations of the Draghi report.

3. Challenges in attributing carbon footprints to electricity imports

Business & Science Poland welcomes the Commission's efforts to harmonise and clarify the rules for accounting emissions related to electricity imports into the EU. We fully support the aim of ensuring that the CBAM in this area is consistent with the principle of equal treatment of producers and importers, while also fostering decarbonisation beyond the EU's borders.

However, we note that the current framework – including requirements for the physical attribution of electricity from third countries (e.g. PPA conditions, capacity allocation, grid congestion) – may in practice significantly limit the use of actual emissions data.

4. CBAM Economic, social, and administrative impacts of extending the CBAM

Extending the CBAM to additional goods – in particular downstream products – may not only fail to achieve the intended climate objectives, but may even exacerbate cost pressures on European industry, which is already facing rising energy and carbon prices, uncoordinated regulations, and a lack of support for exporters.

There are particular concerns about the loss of free allowances for sectors covered by the CBAM, which – without a compensatory mechanism for exports – leads to higher production costs and loss of competitiveness on external markets.

Furthermore, the mismatch between CN and NACE codes, as well as the selective coverage of only certain products from a single technological process, results in discriminatory situations and increases the risk of circumvention. It also leads to greater administrative burdens, especially for companies operating across several segments of the value chain.

Climate regulations, including the CBAM, must reflect the real operating conditions of industry, including the availability of emissions data, human resources, and implementation costs. At present, there is a lack of sufficiently transparent methodology for accounting indirect emissions (scopes 2 and 3), which creates the risk of manipulation and undermines confidence in the system.

Summary

Business & Science Poland supports the overall objectives of the CBAM as a tool to foster global decarbonisation and prevent carbon leakage. At the same time, we stress that its extension to downstream products and further clarification of the rules must be carried out in a realistic, fair, and workable way for EU industry.

From the business perspective, the following are particularly important:

- maintaining carbon leakage protection in the form of free allocation of allowances for EU producers,
- ensuring consistency between the CBAM, the EU ETS, and other EU policies,
- safeguarding EU exports and avoiding cost asymmetry in international trade,
- transparency and proportionality of reporting rules, especially for complex goods and downstream products,
- protection against double charging and regulatory displacement of EU production by imports of finished products from third countries,
- full impact assessments and systemic support for sectors exposed to competitiveness losses,
- strengthening monitoring of the CBAM during the transitional phase and adjusting the rules flexibly in line with the results of these assessments,
- implementing changes only through the full legislative process, involving the European Parliament and the Council, not through implementing or delegated acts of the Commission.

The impact of each CBAM extension should be thoroughly assessed in consultation with the relevant sector, taking into account its technological specificities, cost structure, and competitive position on global markets.

About BSP

Business & Science Poland (BSP) combines the experience of leading Polish enterprises with the European Union's agenda. We represent the knowledge and interests of Polish companies employing over 180,000 people in Poland, the EU, and worldwide. Our goal is to support the EU Single Market, taking into account the need for its responsible and effective transformation.