Paper Launch:
Solutions for exports of EU CBAM-covered goods

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ERCST
Roundtable on
Climate Change and
Sustainable Transition

Agenda

- Paper presentation
- Panel interventions
- Roundtable discussion
- Upcoming CBAM events and activities

Why Exports Matter in CBAM

- The CBAM, while addressing carbon leakage within the EU, currently **lacks provisions to protect EU exports**, posing a risk to a significant segment of the EU industry.
- Without export support, EU industries exporting CBAM-covered goods—like steel or cement—lose ground to competitors in countries with lax climate rules, **risking both economic losses and higher global emissions** as production shifts to dirtier regions, a problem called export-related carbon leakage.
- Pressure is intensifying in 2025 as the final design of CBAM takes shape, with forthcoming reviews and EU decisions under the Omnibus 2025 framework set to be finalized by 2026. This unfolds against the backdrop of **rising input costs, global overcapacity, and trade barriers**—such as U.S. tariffs—that pose significant challenges for EU exporters.
- Exports remain vulnerable, as free allowances under EU ETS phase, EU producers face rising costs, unlike competitors in weaker carbon pricing regions. **Loss of competitiveness in global markets could erode EU market share, with economic and environmental consequences**.

What's Wrong with the Status Quo?

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- **Exports are critical** to CBAM-covered industries:
  - Iron & steel (22% of EU production value in 2018)
  - Aluminum (18% of EU production value in 2018)
  - Fertilizers (14% of EU production value in 2018)
  - Cement industry (7.7% in 2020, down from 17.7% in 2014)., with some EU states rely heavily on exports (e.g., Greece exported 59.8% in 2020).
- **Competitive global markets** limit the ability of EU producers to pass on carbon costs to buyers.
- The European Commission (2021) predicted a **6.8% loss in export market share** due to the absence of export provisions. Loss of EU exports could lead to **higher global emissions**, as EU industries generally have **lower carbon intensity** than foreign competitors (e.g., fertilizers, aluminum, cement).
- Without export safeguards, **CBAM threatens the viability of key industries** like fertilizers and petroleum refining, which rely on global markets. **Rising energy costs and capacity constraints** put plants at risk of closure, while unprotected exports face declining competitiveness. This could lead to economic decline, job losses, and higher global emissions as production shifts to regions with weaker environmental standards—undermining EU climate goals.

What to Do?

Alternative policy options to reduce carbon costs

1. **Lowering costs of industrial decarbonizing investment**: Grants, loans, and tax incentives can reduce investment costs for cleaner technologies.
2. **Ensuring the supply of needed inputs at adequate scale and low cost**: Large-scale, low-carbon electricity and hydrogen are essential for decarbonization but remain costly and scarce.
3. **Creating lead markets**: Green government procurement can help secure demand for low-carbon products.

Challenges & limitations

- **Uneven impact across firms and sectors**: Only selected firms will ultimately benefit from most support measures. Even measures with broad-based impacts, like reduced electricity costs, will inevitably benefit some industries (like aluminium) more than others.
- **Uncertain policy success vs. fixed carbon costs**: Success of industrial policy support is always uncertain, while carbon pricing increases are definite.
- **Insufficient fiscal resources**: The EU cannot fully cover the high costs of transitioning to low-carbon production, leaving industries exposed.
- **Timing mismatch**: Carbon leakage risks begin in 2026 as free allowances phase out, but success at industrial policy and market reform take many years.

Objectives and Categories

- A well-designed export adjustment under CBAM should achieve four key objectives:
  - **Prevent market share loss** for European producers facing higher carbon costs than global competitors,
  - **Maintain incentives for industrial decarbonization**,
  - Ensure **compliance with WTO** trade rules, and
  - **Minimize administrative complexity** for effective implementation and oversight.
- Policy proposals to address export-related carbon leakage fall into three categories:
  - **Exemptions, rebates, or compensation** within the CBAM/EU ETS regime,
  - Entirely separate **support mechanisms** for exporters, and
  - **Alternative carbon pricing systems** alongside CBAM and the EU ETS.

Assessment of Proposals

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Category	Export Rebates or Compensation						Other Financial Support		Alternative Instruments	
Proposal	France (2022)	Aegis (2021)	Cembureau (2021)	European Aluminium (2021)	FuelsEurope (2022)	Sartor et al. (2022)	Jakob et al. (2024)	Sgaravatti (2024)	Neuhoff et al. (2025)	Freshfields (2022)
Description	Partial rebate system that limits rebates to avoid overcompensation	EU ETS benchmark-based non-monetary adjustment in the form of free allocation for exports	CO_2 charge exemption for EU exporters to third countries, if the country in question is not covered by an equivalent carbon pricing mechanism	Proposal affording reimbursement of carbon costs under the EU ETS through a "mirror system" of CBAM export declarations	Adjustment mechanism with free allocation based on the costs faced by the 10 percent most efficient EU producers	Partial rebates based on established ETS benchmarks, continuing partial free allocation for exports, complemented by state aid for all producers	Subsidies for innovation and technology adoption targeted specifically at exporters, indirectly reducing compliance costs and carbon intensity	Competitive funding and subsidies prioritizing exporters to indirectly enhance their global competitiveness without directly linking to export performance	Standardized carbon charge on basic materials, allowing WTO-compatible rebates for exports and extending coverage along the product value chain	Maintaining the free allowances mechanism for EU industries, complemented by CBAM obligations exclusively for products consumed domestically
Avoiding Market Share Loss	High	High	High	High	High	High	Moderate (indirect)	Moderate	Moderate	High
Incentives to Decarbonize	Medium-High	Medium-High	Medium	Medium-High	Medium-High	Medium-High	High	High	High	Medium
WTO Compatibility	Medium	Medium	Low-Medium	Low	Medium	Medium	Medium-High	Medium-High	High	High
Administrative Feasibility	Low-Medium	Medium	Medium	Medium	Medium	Medium	High	High	Low	Low
Overall Assessment	Balance of leakage protection, legal compliance, and clear decarbonization incentives, with moderate complexity	Legally cautious approach, balancing WTO compliance and export competitiveness, though not eliminating complexity	Design of CO_2 exemption not elaborated, thus environmental incentive unclear; reliance on destination principle may increase administrative burden	Strong direct protection for exporters, but potential WTO compliance risks, and some administrative complexity	Balances leakage protection with incentives to decarbonize and WTO legality; administrative feasibility challenges persist	Effective leakage protection with balanced decarbonization incentives, moderate legal uncertainties remain	Indirect approach with reduced legal risk and strong decarbonization benefits, but only moderate direct leakage protection	Indirect support avoids legal challenges, balanced administrative complexity, but possibly insufficient for highly competitive export markets	Approach addresses broad supply-chain leakage risks and has strong WTO compliance prospects, but incurs high complexity in implementation	Strong export competitiveness protection with lower legal risk, but potentially weaker decarbonization signals and additional layer of administrative complexity

Recommendations

- To address export-related carbon leakage while balancing economic, environmental, legal, and administrative concerns, a **partial rebate system** is recommended, closely following ERCST's 2022 proposal. Key features are:
  - **Non-tradable Export Adjustment Certificates (EACs):** Not issuing re-sellable allowances reduces legal risks associated with direct financial subsidies.
  - **Exchangeable for EUAs:** Producers can use these certificates to fulfill compliance obligations under the EU ETS, mitigating their compliance costs without compromising the emissions cap.
  - **Benchmark-based allocation:** Award based on EU ETS product benchmarks ensures only partial compensation, maintaining decarbonization incentives and preventing overcompensation.
  - **Administrative feasibility:** Leverages existing ETS structures, reducing complexity.
  - **Dynamic regulatory adaptation:** Allows for periodic reviews, potential suspension of free allocation phase-out, and integration with broader financial support mechanisms.
- This approach effectively protects **European industrial competitiveness** while reinforcing **EU climate leadership**. It balances **climate ambition with industrial viability**, preventing carbon leakage while encouraging global adoption of carbon pricing policies.

International Trade Law: An Impediment?

- **Legal uncertainties around WTO compatibility**, particularly with GATT and ASCM, have stymied a constructive debate on export-related leakage solutions under the EU CBAM.
- Most legal analyses concur that some legal risk remains that export rebates could be viewed as prohibited subsidies under WTO law due to foregone revenue from EU allowance auctioning.
- The European Commission's competence on international trade – including assessment of matters related to WTO legality – has limited the influence of Member States to call for a debate.
- EU trade partners **are increasingly willing to disregard WTO rules in order to advance domestic interests**, leaving the EU and its efforts to uphold the rules-based international order at an increasing disadvantage.
- Export adjustments are **critical for EU industrial competitiveness and climate policy**. Taking decisive action on export adjustments could strengthen EU climate policy and industrial interests, outweighing legal uncertainties.

Conclusions

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- When discussions on CBAM's architecture began, exports were deemed important enough to warrant debate, but the **"no export provision"** prevailed due to concerns about WTO compatibility, which the European Commission considered essential for CBAM's success.
- While WTO concerns remain, the **global trade landscape has shifted**, with the WTO playing a less visible role in recent disputes, making the risk of non-compliance less clear but still present.
- The **risk of violating WTO provisions exists but is uncertain**; introducing export provisions would modify the risk but cannot guarantee compatibility with the WTO until tested.
- Exports have become more crucial for the EU, with reports from **Draghi** and **Letta** highlighting the competitive pressure on the EU. Excluding exports from CBAM only intensifies this challenge.
- Alternative solutions for handling exports within CBAM are discussed but are not sufficient. **Timing is critical**, as the transition of EU industry cannot afford delays like those in the EU ETS.
- The **lack of effective export provisions** in CBAM will not be an acceptable outcome. Policymakers face a choice: introduce an export provision with some WTO risk or exclude it, potentially jeopardizing EU industry's future.

Panel interventions

- Vicente Hurtado Roa, **DG TAXUD, European Commission**
- Michael Grubb, **University College London**
- Yves Melin, **Cassidy Levy Kent LLP**
- Paweł Różycki, **Ministry of Climate and Environment, Poland**
- Sam Van den plas, **Carbon Market Watch**
- Robert Jan Jeekel, **ArcelorMittal**

Roundtable discussion

Upcoming CBAM events and activities

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- **8th April**: Expert Consultation: Expansion of the CBAM scope.
- **June**: Launch Event: Expansion of the CBAM scope.
- **September**: Expert Consultation: Implementation challenges of CBAM.
- **October**: Launch Event: Implementation challenges of CBAM.