



EC CBAM Proposal

July 20, 2021

ERCST event

Andrei Marcu
Michael Mehling
Aaron Cosbey

ERCST

Roundtable on
Climate Change and
Sustainable Transition

Ex-ante “red line” issues

- **Indirect emissions and costs:** inclusion of scope 2 & 3 emissions, value chain coverage threshold
- **Exports & Free allocation** (coexistence issue, exports application)
- **Accommodating foreign climate action:** allowing challenges of the default, and including national exemptions

Domestic & International “Challenges”

- No coverage for exports
- Not enough protection through the CBAM
- No ability to credit for non-price foreign climate policies
- Addressing indirect cost compensation
- Need for international revenue sharing
- Diplomacy: clashes with the spirit of the Paris Agreement

(Some of) the Issues for Discussion

- Why the choice of **sectoral scope**?
- **Electricity** has a special status with relatively ‘soft’ conditions
- **Country agreements** on recognition of carbon pricing – how will these be negotiated and work in practice?
- Definition of **declarant/importer** vs. operator of facility/installation
- No ‘**de minimis**’ provision for importers or declarants

(Some of) the Issues for Discussion

- Art. 6(3): definition of the **system boundaries** of production processes
- Carbon price in country of origin: definition of ‘**independent person**’
- Relationship between **competent authorities** and **Central Administrator**, including **issuance of CBAM certificates** and **cost of administering CBAM**
- Surrender of certificates and **possibility of hedging**
- **Circumvention** – only for value chain and not carbon content: will that be reviewed in 2025, e.g. with potential inclusion of Scope 2 emissions?

Initial Takeaways from the Proposal

- **First concrete proposal** on carbon adjustment at an international border
- Marks the **most credible effort so far** to impose an adjustment on internationally traded goods
- Proposed CBAM design takes a **measured approach** overall
- Adopts a **deliberate timeline**, with positive implications for:
 - WTO compatibility
 - Practical operationalization
 - UNFCCC process
 - Sorting out other policy issues

Initial Takeaways from the Proposal

- Is interpretation of **WTO law** changing to accommodate climate change?
- What would the **alternatives** to this proposal be if it is not seen to be sufficient (or sparks too many diplomatic and/or legal challenges)?

Speaking of International Challenges: **FAIR Transition and Competition Act of 2021**

- **Legislative bill** introduced to U.S. Congress by Senator Chris Coons (D-DE) and Representative Scott Peters (D-CA-52) on 19 July 2021
- Proposes introduction of a U.S. BCA on initially **aluminium, cement, iron, steel, natural gas, petroleum, and coal**, from 1 January 2024
- Import fee based on the '**domestic environmental cost incurred**' by U.S. producers under a portfolio of federal and state climate policies
- Similar system of '**production emissions**' and fallback benchmark
- No crediting, but **exemptions of LDCs** and countries deemed to be '**at least as ambitious**' *and* that do not impose a BCA on U.S. products