



TAXUD DIRECTOR GENERAL Gerassimos THOMAS

**MEETING WITH MR JAKOB B. HANSEN
(FERTILIZERS EUROPE) AND MR MARCO
MENSINK (CEFIC)
16 April 2021, 10h00**

TABLE OF CONTENT

1. Scene setter
2. Cefic and Fertilizers Europe positions on Carbon Border Adjustment Mechanism
3. Defensives
4. Annex (CV)

1. SCENE SETTER

You will meet Mr Jakob B. Hansen (Fertilizers Europe) and Mr Marco Mensink (Cefic). The meeting was organised upon their request. The intention is to discuss Carbon Border Adjustment Mechanism (CBAM).

In their previous exchange with the Commissioner during the roundtable with CBAM stakeholders, held last March, both Cefic and Fertilizers Europe emphasised the importance of maintaining free allowances in order to ensure competitiveness of the European industry and its value chains. They consider CBAM to be complementary to the EU ETS, which should be designed in a way to ensure carbon leakage protection, for both imports and exports, adequate to EU's climate ambitions.

On several occasions, Fertilizers Europe argued that, due to its high trade and energy intensity as well as the fact that fertilizers are relatively simple products, the sector would be well suited for CBAM.

In turn, Cefic advocates for a comprehensive industrial policy strategy that would allow industry to competitively transform to a low-carbon economy.

Possible issues to be raised during the exchange relate to the design of CBAM, selection of sectors to be covered, potential risks (e.g. disrupting impact on value chains, relocation of downstream industries, and increase in prices of products/materials covered by CBAM); and planned support to industry in its transition to carbon-neutrality.

2. CEFIC AND FERTILIZERS EUROPE POSITIONS ON CBAM

Previous exchanges with Cefic

During the recent roundtable between the Commissioner and CBAM stakeholders, of 8 March, Marco Mensink Director General of Cefic, emphasised that the EU chemicals industry imports primarily base materials from non-EU markets and exports specialised chemical products outside the EU (China, the US, UK and in the longer term Africa).

He stressed the importance of free allocation to the chemicals industry, especially in the context of its export orientation. Protection for both imports and exports, he argued was important to ensure competitiveness. Based on this, Cefic favoured a phase in-phase out approach in the introduction of CBAM against existing anti carbon leakage measures.

Cefic's position

The EU ETS currently protects industrial installations against carbon leakage through free allocation of allowances. Cefic agrees on the need to protect against carbon leakage and safeguard the competitiveness of domestic industries. As regards CBAM, as a possible alternative instrument to free allocation to avoid carbon leakage, Cefic's position is that a simple CBAM addressing only imports, without free allowances or comparable measures to address the additional cost for exports, will not be sufficient to secure competitiveness along the value chains and avoid consequent economic and social loss. A CBAM would have to take account of all embodied emissions along the value chain both direct and indirect. Otherwise, it may lead to imports of cheaper downstream products, contrary to the policy, objective, and damage upstream capacity. For these reasons, CEFIC is considering two additional design options for carbon leakage protection, to address export and value chain carbon leakage risks: 1) a climate contribution that would be paid by consumers for emissions up to benchmark-level; and 2) the combination of an imports contribution (with a continuing ETS price) and free allowances for EU producers.

In this context, Cefic has argued that the impact assessment on the CBAM should look at all carbon pricing policies and carbon leakage prevention options including direct and indirect carbon costs and consider several scenarios. For the new measure to deliver the required benefits for the chemicals industry, Cefic has highlighted the importance of ensuring export competitiveness, World Trade Organisation compatibility and alignment with the Paris Agreement. The critical role of international dialogue has also been emphasized in order to avoid trade conflicts, while revenues resulting from new measures are proposed to be used to support low carbon manufacturing and investment. Cefic has further stressed that the current

carbon leakage measures, based on the free allowances, must not be compromised. Any chosen option should minimise cost and complexity, while the framework must be robust as regards monitoring, reporting and verification.



Previous exchanges with Fertilizers Europe

Fertilizers Europe has been in contact with the Commission, on several occasions, both at political and at service level to express their support for a CBAM. They consider fertilizers as a good candidate for the measure stressing that it should complement the ETS and that free allowances are maintained in order to ensure competitiveness for the EU industry and value chain.

During the recent roundtable between the Commissioner and CBAM stakeholders, of 8 March, Jacob Hansen, Director General of Fertilizers Europe stressed that the fertilizer industry will have a very important role to play in the transition to a green hydrogen economy, as producers and consumer of hydrogen, but even more importantly as producers of green ammonia which will play an important role in the hydrogen economy as carrier of hydrogen and as basis for green fertilizers and green maritime fuel.

Fertilizers Europe position

In an open letter sent to President von der Leyen as well as Executive Vice-President Timmermans and Commissioner Gentiloni, Fertilizers Europe defend that CBAM is not an alternative but a natural and logical addition to the system of existing carbon leakage measures. In their view, the EU ETS as it currently stands is not enough to cover all parts of carbon leakage, particularly those that result from imports of products into Europe without a carbon cost attached to them. Therefore, CBAM needs be designed as a complementary measure, to be introduced while factoring in the actual carbon costs faced by EU producers. In combination with continued free allowances, CBAM can ensure competitiveness of European industries on the export markets as well as the competitiveness of the entire value chain within the Single Market.

Furthermore, in a statement issued in reaction to the European Parliament's vote on CBAM¹, Jacob Hansen, Director General of Fertilizers Europe, argued that due to its high trade and energy intensity, the sector is well suited for CBAM. Several fertilizer producers have already announced projects to upscale low carbon technologies, but without adequate support this transition would be unattainable. In this regard, he supported the Parliament's call for the continuation of free allowances under CBAM design to ensure competitiveness of European industries.

¹ Available at https://www.fertilizerseurope.com/wp-content/uploads/2021/03/Fertilizers-Europe-PR_EP-resolution-on-CBAM.pdf

3. Defensives

The ETS system is sufficient to address climate change. The CBAM will hurt EU competitiveness at a time when we should focus our efforts to recover from the pandemic?

- In order to successfully increase the EU climate ambition by reducing carbon emissions, there is a need to address the risk of carbon leakage. The Carbon Border Adjustment Mechanism is a key element of the Commission's comprehensive green growth agenda and will be proposed in June 2021 as part of the 'Fit for 55' Package'. This package put our commitment to increase the 2030 targets for emissions reductions to at least 55% into concrete action. It will cover in particular the review of sectorial legislation in the fields of climate, energy, transport, and taxation.
- This said, the Green Deal is more than a climate strategy - it is the new growth strategy for the EU. The Green Deal is at the core of our economic stimulus package. The investments and reforms required to prop up and strengthen our economies must help accelerate the transition toward climate-neutral and resilient societies. This is how we will boost growth, competitiveness and employment and support our labour market.
- The Carbon Border Adjustment Mechanism is a climate policy instrument. It will incentivise third country producers in sectors affected by carbon leakage to adopt low carbon production processes.

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[REDACTED]

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[REDACTED]

What CBAM options are being considered? What is the state-of-play?

- The ongoing full Impact Assessment, which started in September and should be completed by spring 2021, is looking into six broad options. A notional ETS, an import tax or an excise duty are among these options and we will probably start the CBAM with a number of selected sectors, where the risk of carbon leakage is particularly high.
- The Carbon Border Adjustment Mechanism is a climate measure and, as such, the different options under consideration in the context of the Impact Assessment will be evaluated on the basis of climate effectiveness, WTO legality as well as other criteria. Finally, on transition, the question of how to introduce or phase-in CBAM will need to be carefully assessed.
- As part of the Public Consultation that was concluded in October 2020, we received over 600 responses. The feedback from the consultation is feeding into the analysis.

[REDACTED]

How will you select sectors to which the Carbon Border Adjustment Mechanism may apply?

- It is one of the core principles of the CBAM that it should be designed in a way that would allow for eventually covering all sectors and products.
- The Commission commissioned a study on (among other things) the selection of products (primary and/or downstream products) which could be subject to a Carbon Border Adjustment Mechanism. Practical implementation and possibility to measure embedded carbon emissions will be key drivers.
- Furthermore, in our impact assessment, we are focusing on sectors where there is a greater risk of carbon leakage.
- We will also pay attention to the feasibility of the measure as well as its economic (which includes administrative and compliance costs), social and environmental impacts, and introduce it only where it makes sense.
- Iron and steel, aluminium, cement, fertilizers and electricity are part of the sectors we are looking into.

Will you include Hydrogen in the scope of CBAM?

- Hydrogen is indeed going to play an important role in electrification. If imports of high emissions hydrogen develop, there could indeed be a risk of carbon leakage.
- CBAM will be designed as sector neutral. If we detect a risk of Carbon Leakage with respect to a specific product, we will be ready to include it at the given point in time.

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What measures, if any, are being considered to support industries in their transition to carbon-neutrality?

- The Carbon Border Adjustment Mechanism is a key element of the Commission's comprehensive green growth agenda. As part of the 'Fit for 55 Package' under the Green Deal, it will be one of the means to help with the transition towards a greener and more sustainable economy.
- Indeed, the Green Deal is more than a climate strategy - it is the new growth strategy for the EU. The Green Deal is at the core of our economic stimulus package. The investments and reforms required to prop up and strengthen our economies must help accelerate the transition toward climate-neutral and resilient societies. This is how we will boost growth, competitiveness and employment and support our labour market.
- I also would like to recall that the EU finances a number of policies that support investments needed for the transition to a climate-neutral, green, competitive and inclusive economy. Some 37% of the spending of the RRF, for instance, will support the green transition.
- The Investment Plan and the Just Transition Mechanism will also contribute to address the transition needs for investment, including in the most affected areas/sector.

How can a CBAM, used as a source to repay borrowing from Next generation EU borrowing, be WTO compatible?

- The EU has to respect its international obligations, among which respect of WTO rules. [REDACTED]
[REDACTED]
[REDACTED]. Therefore, it is essential that this Mechanism is designed as an environmental measure to reduce (global) emissions. On the other hand, the measure will have to be as simple as possible.
- As a rule, a Carbon Border Adjustment Mechanism will have to be non-discriminatory towards products imported from third countries (or even among third countries). In principle, they should not be treated less favourably than like products of EU origin. There are however different provisions in the GATT rules which could apply among which general exceptions to the basic rules. A careful analysis is being made.

Risks of relocation of downstream industries

- It is too early to talk about the potential impact on particular sectors and respective downstream industries. This will largely depend on both the final design of the measure and the specific products to which it would apply. These aspects are part of the Commission's ongoing impact assessment.
- It is important to assess the implications of a wide range of options in order to be able to identify a design that is workable in practice, achieves the objective and meets the most crucial principles, such as non-discrimination and World Trade Organisation compatibility. The forthcoming impact assessment and the studies preceding will inform the Commission and enable it to propose the best possible design.
- Notwithstanding the above, any proposed option should remain simple in design and also seek to minimise costs for trade, the complexity to importers and trade partners and impact on downstream sectors. At the same time, the design must ensure clear monitoring, reporting and verification.

Contact(s) – briefing contribution: [REDACTED]

4. ANNEX

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