

To the College of Commissioners
of the European Commission

26 May 2021

Dear President, dear Commissioners,

The European steel industry supports the objectives of the European Green Deal. We have the ambition of reducing our sectors CO₂ emissions by 30% by 2030 compared to 2018 levels (- 55% compared to 1990). This reduction can only be achieved if the large number of projects launched by our companies – over 100 across Europe – are covered by a robust and supportive EU framework.

With this respect, we wish to express our severe concerns on the preparation of the Carbon Border Adjustment Mechanism (CBAM) and its relationship with the revision of the Emissions Trading System (EU ETS). With the new, more ambitious EU climate target, it becomes even more essential that the rules prevent carbon leakage effectively, and not expose industry and workers unnecessarily to threats from more carbon intensive extra-EU companies which are not subject to the same environmental standards.

When revising the EU ETS, ‘shock reductions’ of free allocation for industry, such as ‘rebasings’, and any correction factor on benchmark based free allocation should be avoided. This is perfectly doable until 2030, even with the more ambitious 55% target. Please remember that in normal market conditions, our industry already faces a shortage in CO₂ certificates of approximately 20% – a net annual shortage of around 50 million t CO₂ equivalent. At current CO₂ prices of 55€/t this would correspond to € 2.75 billion direct and indirect costs per year. None of our competitors exporting into the EU has to bear such cost, if any at all. These unilateral costs constitute pure leakage – leakage of investment capacity that our competitors do not suffer, inevitably followed by carbon leakage – an absurd situation.

We are therefore in favour of participating in a CBAM effectively addressing carbon leakage, one that is

- complementary to the currently applied, benchmark-based level of free allocation and compensation, at least during the first phase of the transition (until 2030),
- set at an effective level which incentivises exporters to the EU to decarbonise,
- including both direct and indirect CO₂ costs, and
- introduces export rebates preventing leakage of the 20 million tonnes of EU steel exported annually.

We wish to closely cooperate with the Commission in order to develop an effective CBAM.

However, if the Commission still considers a faster phase out of free allocation for sectors to be covered by CBAM – e.g. 50% or less in 2023 and no free allocation in 2030 – then our industry cannot be part of the ‘first wave’ of sectors covered by CBAM and instead should keep free allocation and compensation at benchmark level, because otherwise it will lead to an even higher risk of carbon leakage:

An abrupt introduction of an untested CBAM replacing free allocation and compensation fully or to a large extent immediately exposes steel industry to the risk of source shifting (extra-EU producers export only from their most efficient plants to the EU), circumvention and absorption of the border measure.

It would have a disruptive impact on the EU steel industry and the related value chains, as it would expose EU steel producers and downstream sectors to the full carbon costs, undermining the financial ability of our companies to invest in low carbon technologies.

Our industry would have 10 to 100 times more carbon costs than global competitors, because of costs on every single tonne of EU steel, while competitors will have costs only on the share of their production they export to the EU (0% – 10%). This would create a damaging and significant mismatch especially when combined with the steadily increasing carbon related costs in the EU. This would weigh heavily on EU companies' balance sheets, and the uncertainty that EU steelmakers would be able to pass on all carbon related costs to their customers, and if so, only at the expense of significant loss in market share. The average profit margins our companies achieved over the past six years were below 2%: the higher carbon price may entirely remove those margins and our companies' capacity to invest in cleaner technology.

We may lose our export markets, as it is uncertain that full CO₂ cost rebate will be applied. If the average price for a tonne of steel is, for example, €600, a 50% to 100% shortage in free allocation and compensation will mean an unbearable cost increase by €50 to €100 per tonne for primary steel at the current CO₂ price and upwards of €100 to €200 per tonne if the price reaches €100 as forecast.

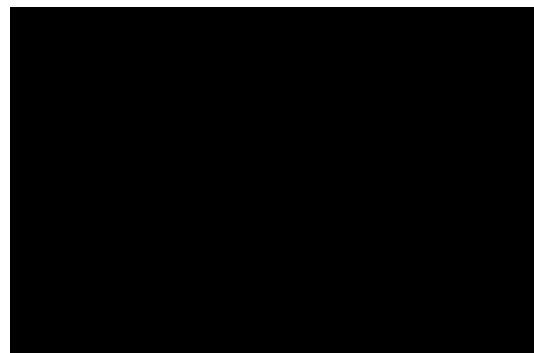
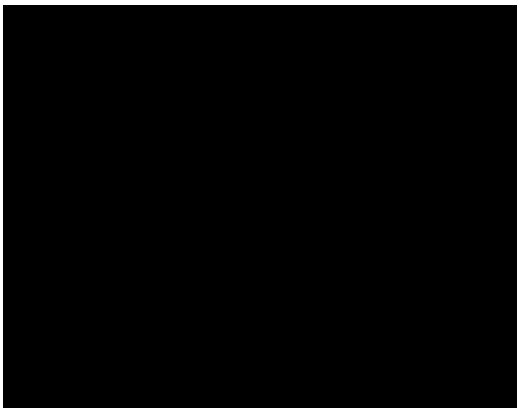
It is therefore of utmost importance that CBAM is introduced with care, at least in the first phase of the transition complementary to current, benchmark-based leakage provisions. This view is also supported by the European Parliament in its resolution of 10 March 2021. Some myths should therefore be clarified:

- A complementary CBAM is not double protection, as only EU ETS costs not covered by free allocation and compensation are levied at the border
- It is fully compatible with WTO as it does not discriminate against imports – see attached legal report¹
- It avoids higher leakage risk and could increase leakage protection during the transition phase, especially given the steadily increasing carbon price, which reached €55 in May
- Because it would apply to importers' emissions only to the extent they exceed benchmarks, a complementary CBAM decreases the product price impact on downstream sectors within the EU, hence better preserving the entire value chain.
- It reduces the direct impact on trade flows and mitigates trade tensions, providing a longer transition for international negotiations, while EU producers could continue to invest in new technologies.

We trust above will be taken into due account to develop a 'Fit for 55 package' that reconciles climate ambition with industrial competitiveness and makes the EU steel industry the flagship for, rather than the collateral damage of, the European Green Deal.

Along with the CEOs of the EU steel industry we urgently seek a meeting with the President and the relevant members of the College to discuss the above and find alignment on a Green Deal on Steel.

Yours sincerely,



¹ Annex: Legal Opinion by Prof. [REDACTED], WTO compatibility of a Carbon Border Adjustment Mechanism (CBAM) in combination with Free Allowances under the EU Emissions Trading System

Please consult the report's conclusions, inter alia on page 2 it states:

4. *In accordance with the available environmental and economic impact data, the combination of the existing free allowances under the ETS and the new CBAM (including export rebates) can accommodate environmental interests because a well-calibrated CBAM can address risks that are not covered under the existing ETS. **WTO law does not per se prohibit such co-existence of measures**, provided that an appropriate methodology is used to calculate the exact scope of CBAM measures so as not to overlap with the coverage of ETS allowances.*

5. *In light of the fact that the lack of such co-existence risks being highly damaging, and the fact that **there is no automatic legal prohibition on the combination of such measures**, it would be overly restrictive to rule out co-existence at this point. Should a WTO Member decide to initiate proceedings against an EU combination of measures, **the EU could mount a strong legal defence as there is no precedent for a per se prohibition**. Even if a WTO panel were to find that the EU measures had to be adjusted, this would have to be executed at the earliest several years into the future, would not apply retro-actively and would still allow the EU a considerable margin for further negotiations, as is inherent to the WTO system.*