eurelectric
powering people

Amendments to the CBAM proposal

Eurelectric amendments to the European Commission's Carbon Border Adjustment Mechanism proposal based on our reaction paper

December 2021

Eurelectric represents the interests of the electricity industry in Europe. Our work covers all major issues affecting our sector. Our members represent the electricity industry in over 30 European countries.

We cover the entire industry from electricity generation and markets to distribution networks and customer issues. We also have affiliates active on several other continents and business associates from a wide variety of sectors with a direct interest in the electricity industry.

We stand for

The vision of the European power sector is to enable and sustain:

- A vibrant competitive European economy, reliably powered by clean, carbon-neutral energy
- A smart, energy efficient and truly sustainable society for all citizens of Europe

We are committed to lead a cost-effective energy transition by:

investing in clean power generation and transition-enabling solutions, to reduce emissions and actively pursue efforts to become carbon-neutral well before mid-century, taking into account different starting points and commercial availability of key transition technologies;

transforming the energy system to make it more responsive, resilient and efficient. This includes increased use of renewable energy, digitalisation, demand side response and reinforcement of grids so they can function as platforms and enablers for customers, cities and communities;

accelerating the energy transition in other economic sectors by offering competitive electricity as a transformation tool for transport, heating and industry;

embedding sustainability in all parts of our value chain and take measures to support the transformation of existing assets towards a zero carbon society;

innovating to discover the cutting-edge business models and develop the breakthrough technologies that are indispensable to allow our industry to lead this transition.

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Generation & Enviornment Committee
WG Climate Change & Decarbonisation

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Introduction

- **Base default values on 10% worst performers.** The Commission's proposal to use default values based on average CO2 emissions of the price-setting source might not be sufficiently penalising if this source is not a worst performer. Instead, specific default values should be based on the 10 per cent of worst performers from the exporting country or its exporting sub-region from the outset, which would incentivise electricity exporters to provide actual data in order to lower the CBAM charge incurred.
- **Account for indirect CO2 emissions in simple and complex goods.** The fact that indirect CO2 emissions in simple and complex goods are not accounted for incentivises the imports of goods produced with CO_2-intensive electricity sources, which can create significant risks for the environmental integrity of the fit-for-55 package, as well as competitive distortions between EU producers and third countries. Through close cooperation with Eurelectric and others, data on indirect CO2 emissions present in complex goods imports could hopefully be properly accounted for and charged once the CBAM fully enters into force.
- **Avoid double protection**. For sectors where a CBAM is in place, free allocation should be removed. We therefore welcome the Commission proposal to phase out free allowances for CBAM sectors in this regard. The current CBAM design however does not provide coverage to the EU's exporting sectors, which we hope can be addressed in some shape or form.
- **Include hydrogen imports into the CBAM**. Though hydrogen imports are currently limited, it is anticipated that this will increase significantly in the near future. For hydrogen and its derivatives (e.g. ammonia) that are imported, the EU should ensure that this is as decarbonised as possible. We propose to include hydrogen and its derivative sectors in the first CBAM design, both their direct and indirect emissions. This should be coordinated with the introduction of a harmonised certification system that can distinguish different forms of hydrogen.
- **Manage administrative complexity for importers of electricity and EU member states**. To limit administrative complexity for entities/importers of goods that will be included in the CBAM, all provisions should be carefully examined (e.g. the 80% CBAM certificate registry rule) and then simplified as much as possible, which in turn increases the chance of compliance. The possible creation of CBAMs in other parts of the world should also be anticipated and where possible coordinated. Furthermore, standards need to be unified and transparency ensured in the functioning of the CBAM to not create excessive administrative burdens for the Member States.

Amendment Proposals

Text proposed by Commission | *Amendment proposal by Eurelectric*

Amendment 1

Annex I: list of goods and greenhouse gases

Original text

Original text + **amendments**

"***Hydrogen***

CN code	***Greenhouse gas***
2804 10 00 – Hydrogen	***Carbon dioxide***
2814 10 00 – Anhydrous ammonia	***Carbon dioxide***
2814 20 00 – Ammonia in aqueous solution	***Carbon dioxide***

Justification

We believe the EU should avoid becoming excessively reliant on imports of hydrogen and its derivatives (e.g. ammonia) given that hydrogen will be obtained from renewable sources within the EU in a cost-efficient way. For the hydrogen that is imported, the EU should ensure that it is as decarbonised as possible. Importing grey hydrogen (based on fossil fuels) to meet the EU's demand would put the objectives of the fit-for-55 package and EU Green Deal at significant risk. Not charging the same carbon costs on imported hydrogen through the CBAM would also create significant competitive distortions between domestic producers and producers from neighbouring third countries. Eurelectric therefore proposes to include the hydrogen sector in the first CBAM design. The European Commission in table 7-2 of the CBAM's impact assessment states that hydrogen is currently not included as it is not much traded, but this may change in the near future and the CBAM must be prepared for this. The inclusion of hydrogen and its derivatives under the CBAM should go hand in hand with the introduction of a harmonised certification system to distinguish different forms of hydrogen, and so should be closely coordinated with the revision of the Renewable Energy Directive and the upcoming Hydrogen and decarbonised gas market package. Both direct and indirect emissions should be taken into account in the CBAM and the certification system, as the electricity mix used to make hydrogen and its derivatives can be highly CO2-intensive.

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 2

Annex III: methods for calculating embedded emissions,
sections 2 (simple goods) and 3 (complex goods)

Original text	Original text + **amendments**
'Attributed emissions' mean the part of the installation's direct emissions during the reporting period that are caused by the production process resulting in goods g when applying the system boundaries of the process defined by the implementing acts adopted pursuant to Article 7(6).	'Attributed emissions' mean the part of the installation's direct ***and indirect*** emissions during the reporting period that are caused by the production process resulting in goods g when applying the system boundaries of the process defined by the implementing acts adopted pursuant to Article 7(6).
The attributed emissions shall be calculated using the following equation: $AttrEm_g = DirE$	The attributed emissions shall be calculated using the following equation: $AttrEm_g = DirE + Em_{el} + Em_{el,exp}$
Where DirEm are the direct emissions, resulting from the production process, expressed in tonnes of CO2e, within the system boundaries referred to in the implementing act pursuant to Article 7(6).	Where DirEm are the direct emissions, resulting from the production process, expressed in tonnes of CO2e, within the system boundaries referred to in the implementing act pursuant to Article 7(6)***,***
	Em_{el} are the indirect emissions accounted for electricity consumed within the system boundaries of the process,
	And $Em_{el,exp}$ are emission equivalents of electricity exported from the process system boundaries

Justification

Once the CBAM fully enters into force and has financial implications as of 1 January 2026, the proposal states that the CBAM will only apply to direct CO2 emissions, while indirect emissions from the electricity that went into the production of these goods are not accounted for. This means that a potentially significant share of actual emissions embedded in goods imports is not subject to a CBAM charge. This would put at risk the environmental integrity of the fit-for-55 package and create significant risks for competitive distortions between EU producers and third countries, putting less pressure on third countries to become more climate friendly and decarbonise their power sector. Though adding indirect emissions should not make the CBAM unworkable, leaving them out of the scope may have very negative effects, so a balanced methodology is required.

The final decision by the European Commission on whether or not to include indirect emissions in the calculation will be made during the 2023-2025 transitional phase, subject to the Commission's ability to collect sufficient data. In that regard, we urge EU policymakers to work closely together with Eurelectric and other stakeholders on how to make sure that data on indirect CO2 emissions present in simple and complex goods imports are properly accounted for and charged once the CBAM fully enters into force. For example, just as with its use of default values for direct emissions, the Commission could make use of punitive, default values based on the 10% worst performers in situations where data on indirect CO2 emissions cannot be properly retrieved from the exporting country.

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 3

Annex III, point 4.2.1: Specific default values for imported electricity in Article 7(3)

Original text	Original text + **amendments**
4.2.1. Specific default values for a third country, group of third countries or region within a third country	4.2.1. Specific default values for a third country, group of third countries or region within a third country
Specific default values shall be based on the best data available to the Commission determining the average CO2 emission factor in tonnes of CO2 per megawatt-hour of price-setting sources in the third country, group of third countries or region within a third country. Where specific default values are determined for a third country, a group of third countries or a region within a third country, and electricity is imported from another third country or another region into the third country, or another group of third countries or region within a third country with the purpose of being re-exported to the Union, the same specific default value shall not be used.	Specific default values shall be based on the ***10% worst performing installations producing electricity*** in the third country, group of third countries or region within a third country. Where specific default values are determined for a third country, a group of third countries or a region within a third country, and electricity is imported from another third country or another region into the third country, or another group of third countries or region within a third country with the purpose of being re-exported to the Union, the same specific default value shall not be used.

Justification

The European Commission proposes to use default values for determining embedded emissions of imported electricity [Article 7(3)]. Specific default values will be based on the average CO2 emissions per megawatt-hour of price-setting sources in the third country, and only if that cannot be determined will the Commission make use of more punitive, alternative default values that are based on the CO2 intensity of electricity from fossil fuels in the EU. The issue with this specific default value approach is that there might not be a "price-setting" source like is the case in the EU. If a price-setting source is available, it might not be a worst performer, and it might not be subject to actual carbon costs. Furthermore, basing alternative default values on fossil fuel electricity in the EU might underestimate the actual worst performers in third countries. Instead, Eurelectric proposes to base specific default values on the 10 per cent worst performing installations of the exporting country or its exporting sub-region from the outset. Electricity exports that perform better than the 10% worst performers will have a financial incentive to provide actual data to the Commission, as providing actual data would lower the CBAM charge incurred. The Commission should allow electricity exporters to prove that they are better than the default value.

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 4

Annex III, point 4.2.2: Alternative default values for imported electricity in Article 7(3)

Original text	Original text + **amendments**
4.2.2. Alternative default values	*4.2.2. Alternative default values*
Where no specific default value has been determined for a third country, a group of third countries, or a region within a third country, the default value for electricity shall represent the CO2 emission factor in the **EU**, in tonne of CO2 per megawatt-hour. That means the weighted average of the CO2 intensity of electricity produced from ***fossil fuels*** in the ***EU***. The weight reflects the production mix of the ***fossil fuels*** in the ***EU***. The CO2 factor is the result of the division of the CO2 emission data of the ***energy industry*** divided by the gross electricity generation based on ***fossil fuels*** in megawatt-hour.	Where no specific default value has been determined for a third country, a group of third countries, or a region within a third country, the default value for electricity shall represent the CO2 emission factor ***of the 10% worst installations in*** the ***world***, in tonne of CO2 per megawatt-hour. That means the weighted average of the CO2 intensity of electricity produced from ***the 10% worst performing installations producing electricity*** in the ***world***. The weight reflects the production mix of the ***10% worst performing installations producing electricity*** in the ***world***. The CO2 factor is the result of the division of the CO2 emission data of the ***10% worst performers producing electricity*** divided by ***their*** gross electricity generation in megawatt-hour.
Where authorised declarants of goods originating in a third country, or for a group of third countries having a significant exchange of electricity with the EU, it can be demonstrated, on the basis of reliable data, that the ***average CO2 emission factor of price-setting sources*** in that third country or that group of third countries is lower than the one in the EU or lower than the specific default value, an alternative default value based on that average CO2e emission factor shall be established for that country or group of countries."	Where authorised declarants of goods originating in a third country, or for a group of third countries having a significant exchange of electricity with the EU, it can be demonstrated, on the basis of reliable data, that the average CO2 emission factor of electricity exported from that third country or that group of third countries is lower than the 10% worst performing installations producing electricity or lower than the specific default value, an alternative default value based on that average CO2e emission factor shall be established for electricity exports from that country or group of countries.

Justification

As stated, basing alternative default values on fossil fuel electricity in the EU might underestimate the actual worst performers in third countries. Instead, Eurelectric proposes to base specific default values on the 10 per cent worst performing installations of the exporting country or its exporting

sub-region from the outset. If those specific default values cannot be determined for the exporting country or sub-region, then the alternative default values could be based on the worst polluting power plants in the world. Information on these worst plants in the world is publicly available, e.g. Grant, Don; Zelinka, David; Mitova, Stefania (2021). "Reducing CO2 emissions by targeting the world's hyper-polluting power plants". Environmental Research Letters:

https://iopscience.iop.org/article/10.1088/1748-9326/ac13f1/pdf

Electricity exports that perform better than the 10% worst performers will have a financial incentive to provide actual data to the Commission, as providing actual data would lower the CBAM charge incurred. The Commission should allow electricity exporters to prove that they are better than the default value.

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 5

Article 22, point 2: Surrender of CBAM certificates

Original text	Original text + **amendments**
For the purposes of paragraph 1, the authorised declarant shall ensure that the required number of CBAM certificates is available on its account in the national registry. In addition, the authorised declarant shall ensure that the number of CBAM certificates on its account in the national registry ***at the end of each quarter*** corresponds ***to at least 80 per cent*** of the embedded emissions, determined by reference to default values in accordance with the methods set out in Annex III, in all goods it has imported since the beginning of the calendar year.	For the purposes of paragraph 1, the authorised declarant shall ensure that the required number of CBAM certificates is available on its account in the national registry. In addition, the authorised declarant shall ensure that the number of CBAM certificates on its account in the national registry ***by 30 April each year*** corresponds to the **number of allowances that is equal to the total** embedded emissions, determined by reference to default values in accordance with the methods set out in Annex III, in all goods it has imported since the beginning of the calendar year.

Justification

With the introduction of the CBAM, it is obvious that the administrative complexity will increase for entities and importers of goods that will be included in the mechanism. This includes entities who have been allocated transmission capacity through explicit capacity allocation and who nominate this capacity for electricity imports. The proposed provisions might increase the administrative burden on those entities, some already during the transitional period until the end of 2025. For example, Article 22 stipulates that importers of electricity and goods are obliged to hold on their accounts at the end of each quarter a number of CBAM certificates that correspond to at least 80 percent of embedded emissions. The provision is inconsistent with the compliance obligation imposed on the installations under the EU ETS, which are not required to do so; they must only surrender the correct amount of allowances by 30 April each year, with no constraint on the number of allowances held each quarter. We therefore call on policymakers to carefully design the CBAM's administrative commitments with a view to maximising their consistency and simplification, which would in turn increase the chances of compliance.

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 6

Article 2, point 12: Scope

Original text	Original text + **amendments**
The Union, ***may*** conclude agreements with third countries with a view to take account of carbon pricing mechanisms in these countries in the application of Article 9.	The Union ***should make it its priority to*** conclude agreements with third countries with a view to take account of carbon pricing mechanisms in these countries in the application of Article 9.

Justification

The introduction of a Carbon Border Adjustment Mechanism (CBAM) for electricity is welcome, but Eurelectric believes that ultimately its end goal should be to encourage neighbouring markets to develop their own carbon markets, and link them to the EU ETS. Building on the successful link with the Swiss ETS, further linkages would support a larger, more stable carbon market and enable a level-playing field with electricity generated at the other end of interconnectors.

Eurelectric pursues in all its activities the application of the following sustainable development values:

Economic Development

- Growth, added-value, efficiency

Environmental Leadership

- Commitment, innovation, pro-activeness

Social Responsibility

- Transparency, ethics, accountability

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