

Carbon Border Adjustment Mechanism or Protectionism?

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Introduction

The increasing levels of pollution offer a grim forecast of increasingly tragic climate outcomes. In the last 150 years, there has been a 40% increase in carbon dioxide emissions and, by 2033, a further increase is expected.¹ The vision adopted for this article is based on the idea that countries jointly pollute the planet that we all share, but they operate in an isolistic manner when it comes to finding solutions to prevent this global problem. Often, resulting in different approaches to solving the same issue: larger countries, often have a skewed view of the pollution problem, tend to downplay or ignore the results from smaller countries; while smaller countries, on the other hand, focus their entire way of life on implementing policies that could help create a sustainable future for humanity.

In this respect, the EU set clear targets to guide European environmental policy until 2020 and has developed a vision that extends to 2050.

Background: Implementation of the CBAM

On 1 October 2023, the Carbon Border Adjustment Mechanism (CBAM) entered into force in its transitional phase (this means that the EU has begun testing the policy, but it is not fully operational yet), with the first reference period for importers ending on 31 January 2024. However, let us dig deeper into what the CBAM is. As defined by the EU, the Carbon Border Adjustment Mechanism, or CBAM, is a “tool to put a fair price on the carbon emitted during the production of carbon-intensive goods entering the EU and to encourage cleaner industrial production in non-EU countries.”²

This measure imposes tariffs on imported goods, such as steel, cement and aluminum, from countries with less stringent environmental standards,³ with the possibility of extending this measure to a wider list of products and services. The main objective is to protect European industries and incentivise emissions reductions globally.⁴ This practice would require importers to purchase carbon emission

¹ "Climate Change 101 with Bill Nye" by National Geographic: This covers fundamental aspects of climate change, including human contributions to rising CO2 levels “ <https://www.youtube.com/watch?v=EtW2rrLHs08>

² “Carbon Border Adjustment Mechanism” *European Commission*. January 8, 2025. https://taxation-customs.ec.europa.eu/carbon-border-adjustment-mechanism_en?prefLang=fr

³ “Carbon Border Adjustment Mechanism,” *European Commission*.

⁴ Rim Berahab, “Is the EU's Carbon Border Adjustment Mechanism a Threat for Developing Countries?” *Policy Center for the New South*. January 13, 2022. <https://www.policycenter.ma/opinion/eus-carbon-border-adjustment-mechanism-threat-developing-countries#:~:text=Richiederebbe%20agli%20importatori%20di%20acquistare%20%C2%A0certificati%20di%20emissione%20di%20car%20bonio%20per%20le%20importazioni%20che%20il%27UE%20determina%20non%20siano%20prodotte%20secondo%20lo%20standard%20di%20emissione%20simili%20a%20quelli%20dell%27UE%2022>

certificates for imports that the EU determines are not produced according to emissions standards similar to those of the EU.

The main criticism is economic rather than environmental. Detractors of this tool question whether this policy is a hindrance to developing countries, and raise the doubt that it might be incompatible with the WTO regulations, particularly the General Agreement on Tariffs and Trade (GATT), as it benefits European countries by penalizing global imports, thus resulting in unfair competition in the market.

Countries' Response

In recent months, many countries considered to be developing countries,⁵ including Russia, Brazil, India and South Africa, have distanced themselves from the implementation of the CBAM, as considered against global trade rules, particularly the World Trade Organization (WTO) rules, as mentioned above. Specifically, these countries claim that the CBAM violates the WTO's Most-Favored-Nation (MFN) principle and the National Treatment principle. This leads to wonder whether non-EU countries will still be willing to trade with the European Union Member States; or if they will adopt retaliatory measures, which will inevitably have a negative impact on their trade relations and a consequential increase in global tensions. It will be up to the European Union to tackle this issue of illegitimacy regarding the CBAM, by demonstrating that this measure is fundamental for a future based on a greener economy.

The determination of whether CBAM violates WTO rules lies with the WTO Dispute Settlement Body (DSB). If countries like Brazil, India, or South Africa formally challenge the CBAM, they would initiate the process by filing a complaint. A panel of experts would be formed to analyze the compatibility of CBAM with the WTO's principles.⁶ Moreover, if the WTO rules against CBAM, the EU would be obliged to adjust or abandon the policy to avoid retaliatory measures.

The analysis undertaken by Indra Overland, and Rahat Sabyrbekov (2022) is based on which countries could counter the European Carbon Border Adjustment Mechanism.⁷ They state that several

⁵ The World Bank classifies countries based on income levels (low-income, lower-middle-income, upper-middle-income, and high-income), which often correlates with development status. <https://data.worldbank.org/country>

⁶ WTO Understanding on rules and procedures governing the settlement of disputes https://www.wto.org/english/tratop_e/dispu_e/dsu_e.htm

⁷ Indra Overland, Rahat Sabyrbekov. "Know your opponent: Which countries might fight the European carbon border adjustment mechanism?" *Energy Policy*, Volume 169, 2022. <https://doi.org/10.1016/j.enpol.2022.113175>.

countries, including Iran, Ukraine and China, are likely to take retaliatory measures, escalating global trade tensions. However, the major economic repercussions that should concern the European Union, are those brought by China and the US. If these two powerful countries decide to oppose the mechanism, many other countries will likely follow their example, seeing the CBAM as a threat to their economies.

It seems that the European Union is cornered. On one hand, it has the opportunity to promote a more sustainable economy by protecting its industries. On the other hand, it faces a broader challenge: negotiating with countries that do not view climate change as their responsibility. Beyond that, the EU must convince non-EU partners to accept the likely increased costs they will face due to higher tariffs on CBAM goods imported into the EU.

Thus, the question that naturally arises at this point is: if the goal of the CBAM is not only to increase global pressure to reduce emissions in carbon-intensive industries but also to improve the competitiveness of EU-based producers, can this new policy be considered a form of European protectionism?

CBAM vs WTO

In addition to the European Union, several other nations have followed a similar path, like Canada and the United Kingdom. In Canada with the so-called “Carbon Border Adjustment Mechanism” and the United Kingdom with the “Carbon Pricing Mechanism.”⁸ Both measures are aimed not only at reducing carbon emissions, but also at protecting local industries. These practices have also been heavily criticized as protectionism, as they benefit local industries at the expense of foreign producers.

From this point of view, criticism arises in favor of the WTO which aims to ensure that members do not adopt protectionist measures towards their economy that could hinder international trade. (Bart Le Blanc).⁹ Another issue that arises when analyzing the CBAM in light of WTO policies is how products with different levels of carbon emissions are treated. According to WTO law, particularly the principle of

⁸ Carbon Border Adjustment Mechanism (CBAM) | Access2Markets.” n.d. Trade - European Commission. <https://trade.ec.europa.eu/access-to-markets/en/news/carbon-border-adjustment-mechanism-cbam>.

⁹ “What you should know about carbon-reduction incentive CBAM.” 2022. *The World Economic Forum*. <https://www.weforum.org/stories/2022/12/cbam-the-new-eu-decarbonization-incentive-and-what-you-need-to-know/>.

non-discrimination, imported products cannot be treated less favourably than local ones.¹⁰ However, the measures contained in the CBAM appear to differentiate between imported products depending on how much carbon they produce, contravening this principle.¹¹ This factor not only causes legal problems between the European Union and the WTO, meaning that imported products can't be treated worse than local products, since the CBAM makes a distinction based on carbon emissions. Nonetheless, this could also strain the well established relations between the member states of the EU and non-EU member states that may not have the necessary means to produce products with less carbon emissions. Thus, resulting in greater inequality and market unfairness.

Conclusion

In conclusion, we find ourselves faced with a problem that has arisen since society began to give weight to climate change: the choice between a thriving economy with an unsecured future for humanity, on the one hand; or slowing down the capitalist vision of the world and giving priority to a challenge against the destruction of our planet, on the other.

The European Union must collaborate with other countries, with other approaches to climate change, even if this collaboration may create discord, due to different economic and environmental ideas. It is true that different nations have different approaches to economic and political policy, but often countries forget how important our planet and caring for it is. This approach will fund green technology transfers to countries with fewer resources, like renewable energy projects in Africa or Asia, as seen in Germany's support for solar projects in Morocco. Additionally, creating flexible climate alliances, such as the US-India partnership for clean energy, can provide tailored solutions to countries' economic realities. By building trust and fostering cooperation, the EU could ensure that no country feels forced into policies that harm their economy while maintaining global progress toward climate goals.

This idealistic vision where everyone works hard to get to zero emissions, is often overshadowed by weights that are not fully developed as the priorities are others. It is necessary to balance both points of view: economic and environmental. The balance between the two will avoid countries prioritising one over the

¹⁰ World Trade Organisation, "Understanding the WTO - Principles of the Trading System."

https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm

¹¹ "CBAM will force change in carbon-intensive sectors." *Economist Intelligence Unit*. December 27, 2023. <https://www.eiu.com/n/cbam-will-force-change-in-carbon-intensive-sectors/>.

other and will allow to foster long-term cooperation.

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