

Concerns on EU CBAM from a view outside of the EU

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General Impressions

- ✓ While we understand the purpose of CBAM, if implemented incorrectly, it could have a negative impact on free trade principle based on WTO/TBT rules, which both Europe and Japan recognize as important.
- ✓ In the design and operation of the CBAM, we believe that sufficient consideration must be given to ensure that it is not viewed as an unfair or protectionist trade measure by the countries outside the region, including Japan.
- ✓ The Paris Agreement is based on the principle of common but differentiated responsibilities (CBDR), and the heterogeneity of pathways taken by countries, including Japan, towards carbon neutrality should be fully respected.

Concerns-1: Accurate measurement and comparison of EU-ETS (installation base) and CBAM (product base) emissions

- EU-ETS measures emissions and carbon prices based on **installations or companies**, while CBAM requires those on **products**. Within the EU, how will emissions and carbon prices of EU-ETS be allocated to each steel products?
- In the transition period, we understand that embedded emissions can be measured by using regional measuring methodology (ex. SHK system in Japan) with different system boundary and boundary conditions, and accordingly the accuracy of the comparison cannot be guaranteed. How will this challenge be addressed?
- IEA specified [five key measurement methodologies including ISO14404](#) among the various methodologies in the steel industry. Harmonization of methodologies and data collection of emissions in the steel industry are recognized as important issues by the G7 – for the global benchmarking in the steel sector, now being addressed by the IEA Working Party on Industrial Decarbonization with cooperation of worldsteel.
- WTO also recognizes the importance of global transparency and consistency of the steel industry's emissions calculation methodology.

Concerns-2: Consistency with WTO/TBT rules

- Excessive CBAM reporting obligations during the transition period, which are additionally imposed only on importers and not on European businesses, may become a hindrance in the supply chain of imported CBAM products.
- At least by the phase 3, many European companies have had “surplus credit by over allocation” in the ETS and the companies have been able to carry the surplus credit to the next phase (banking). The banking may result in no carbon price payment for European companies for the time being, whereas there is no banking for imported CBAM goods, and carbon price payment will begin at the start of the definitive period – resulting in unfairness.
- There are various tax exemption and preferential industrial electricity tariffs implemented in European countries in exchange for the EU-ETS. These favors could be “negative” carbon price. What is the actual carbon price on European products reflecting such favors? In the comparison of carbon pricing, not only explicit carbon price but also implicit carbon price and “negative” carbon price must be considered.
- There is no provision for reimbursement if the carbon price of imported CBAM goods is higher than that of the EU.

Other concerns

Penalties during the transitional period

- Setting penalties during the transition period is inappropriate, given that the method for calculating embedded emissions/carbon price is not clear and the time between publication of the final implementing regulations and the start of the transition period is too short.
- The two-year transition period should be positioned as a period of communication and coordination to reach an agreement with relevant parties in each country.

Protection of confidential information provided by non-EU producers

- While CBAM declarants (importers) can obtain confidential information such as embedded emissions and scrap ratio of CBAM goods from multiple competing suppliers, there are no legal provisions to prevent information leakage or use for other purposes.

Accreditation of verifiers outside the EU

- Verification must be performed during the definitive period, and EU-ETS verifiers will be also recognized as CBAM verifiers. However, if only the EU-based EU-ETS verifiers are accredited, non-EU producers of CBAM goods will be subject to a very large time and cost burden as well as administrative procedures.
- Since the European Commission has the authority to adopt implementing regulations on the accreditation of verifiers based on the CBAM Regulation, it should accredit non-EU verifiers as soon as possible.

Conclusions

- ✓ At this point, we have many questions about the details of the EU-CBAM. We also concern that it conflicts with the principle of free trade under WTO rules.
- ✓ It is impossible to comply with the EU-CBAM's requirements under these circumstances.
- ✓ The EU needs to take seriously how the EU-CBAM is viewed by non-EU countries and to improve the system accordingly.
- ✓ We would then like to assess whether EU-CBAM is compatible with the WTO/TBT rules, and make a decision on further actions to be taken.