

(English version)

**Priority question for written answer P-000631/22  
to the Commission  
Danilo Oscar Lancini (ID), Elena Lizzi (ID)  
(10 February 2022)**

*Subject:* Carbon Border Adjustment Mechanism (CBAM)

In the impact assessment on the Carbon Border Adjustment Mechanism (CBAM), the Commission stated that the phase-out of the free allocation of allowances under the Emissions Trading System (ETS) would have a negative impact on both employment and exports. This is even more worrying considering that the carbon price is now much higher than the assumptions in the impact assessment and it could lead to an increasing risk of carbon leakage.

In a recent trade case with the USA, the Commission argued that free allocation does not represent a WTO illegal subsidy because it is neither a financial contribution nor foregone government revenue and does not provide a benefit to EU companies.

Meanwhile, the Commission told Parliament's ENVI and INTA committees that the coexistence of CBAM and free allocation is not WTO compatible because of double protection, and an export solution is not WTO compatible because it is an illegal WTO subsidy.

Can the Commission please clarify whether it is legally possible and consistent with international trade law:

1. to complement full benchmark-based free allocation with CBAM for emissions that are not already covered by free allocation for a transition period?
2. to implement/include an export mechanism to the EU ETS and CBAM in a WTO compatible way (such as through ETS free allocation for export)?

**Answer given by Mr Gentiloni on behalf of the European Commission  
(18 March 2022)**

At present, the risk of carbon leakage in some sectors strongly exposed to international trade is addressed in the EU through the free allocation of allowances under the EU Emissions Trading System (EU ETS) and by the possibility for Member States to compensate for the increase in electricity prices resulting from the EU ETS. The Carbon Border Adjustment Mechanism (CBAM) would be an alternative to these mechanisms.

Under the proposal for CBAM <sup>(1)</sup>, the reduction of free allocation should be implemented gradually while the CBAM is phased-in, to allow producers, importers and traders to adjust to the new regime.

This process cannot at any point result in more favourable treatment of EU production vis-à-vis imports. This means that the phase-in is coordinated with the phasing-out of the free allocation of EU ETS to installations in the EU laid down in the directive 2003/87/EC <sup>(2)</sup> and in the relevant delegated acts.

The proposal of the Commission has been carefully crafted to be in line with WTO rules.

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<sup>(1)</sup> COM(2021) 564 final; <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52021PC0564>

<sup>(2)</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC, OJ L 275, 25.10.2003, p. 32.