EUROPEAN METALS

The European non-ferrous metals association.

European Metals' position paper on the draft proposal amending CBAM Regulation as regards downstream scope extension and anti-circumvention measures

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European Metals welcomes the Commission's efforts to tackle some of the most pressing shortcomings of the CBAM Regulation as it enters its definitive phase of implementation. Nonetheless, **the proposed amendments only partially resolve these issues and should be further reinforced during the upcoming negotiations**.

These improvements should also be implemented **without delay** – well before the suggested 2028 timeline – to prevent prolonged exposure of European industry to further carbon leakage risks.

Several **priority adjustments** are required to enhance the effectiveness of the Commission's proposal, namely:

1. **Expand CBAM downstream coverage to include the remaining 100% aluminium products**, to effectively prevent carbon leakage in key segments of the aluminium downstream value chain.
2. **Avoid using downstream expansion as a backdoor for horizontal CBAM scope extension,** especially while significant concerns persist on the capacity of the existing framework to provide effective carbon leakage protection.
3. **Maintain but improve the new emergency brake under Art. 27a,** by defining key terms, clear parameters for its activation, and effects on CBAM application.
4. **Fully close the aluminium scrap loophole,** by introducing a single default value for direct emissions of unwrought aluminium to all aluminium goods in the CBAM scope when used as precursor.
5. **Defer decisions on international carbon credits in CBAM,** especially until their treatment under the EU ETS is clarified, and to avoid creating competitive distortions between EU and non-EU installations.
6. **Keep indirect emissions out of CBAM scope,** in line with the European Commission's findings in the CBAM review report, so as to avoid further undermining the competitiveness of the European industry.

While these targeted, short-term revisions are important and should be implemented timely, **significant structural issues persist in the design of the CBAM Regulation, alongside concerns about its overall effectiveness**. Such concerns should be factored in the context of the upcoming review of the EU Emissions Trading System, considering how both frameworks are interlinked and

jointly impact European industries. Ultimately, CBAM was created with the objective of preventing carbon leakage and it must be designed in a manner that effectively delivers on that goal. **Should it fall short, a thorough reassessment of its purpose and performance will be required** to determine whether it remains the most appropriate policy instrument for the future.

1. Expand CBAM downstream coverage to include the remaining 100% aluminium products

We welcome the Commission's proposal to extend the CBAM scope to downstream products that are 100% made of aluminium, as aluminium is already covered under the CBAM Regulation (Annex I(2)). Yet the proposed scope of the extension remains incomplete. **Several downstream products made of 100% aluminium are still excluded and should be added** to effectively prevent carbon leakage in key segments of the aluminium downstream value chain, such as the automotive and packaging sectors.

Annex I(2) should therefore be amended to include the following CN codes: *8716 90 90 15; 8309 90 10; 8409 91; 8414 90 00; 8708 50; 8708 7050; 8708 94; 8708 99, 8708 91 20 20, 8708 91 20 30, 8708 91 35 10, 8708 91 99 30, and 8708 91 99 40.*

2. Avoid using downstream expansion as a backdoor for horizontal CBAM scope extension

While, as a general principle, we support extending the CBAM scope to downstream products that are 100% made of non-ferrous metals already covered by CBAM (i.e., aluminium and ferro-alloys), **any extension to other downstream products partially incorporating non-ferrous metals not currently within the CBAM scope should be considered cautiously and only once the framework has clearly demonstrated its ability to meet its stated objectives**.

Moreover, **under no circumstances should such downstream extensions result in a horizontal expansion of the CBAM scope to additional commodities and metals**, especially while significant concerns persist on the capacity of the existing framework to provide effective carbon leakage protection, ensure a robust solution for exports from CBAM sectors, and establish a truly level playing field.

3. Maintain but improve the new emergency brake under Art. 27a

We welcome the 'emergency brake' introduced by Article 1(17) of the EC's proposal. This is a practical and fundamental mechanism for a new and untested system such as CBAM, whose impacts may vary significantly across sectors and are nonetheless expected to weigh heavily on the European industry.

The mechanism should be understood as a critical safety valve for industries operating under unpredictable geopolitical conditions and in highly competitive global markets, where they face third-country competitors not exposed to comparable carbon costs. If CBAM fails to maintain a level playing field for European producers, or if it imposes an unsustainable cost burden on downstream industries, the mechanism should allow for the exemption of the affected sectors and the reinstatement of free allocation.

To ensure that the mechanism serves its purpose without creating legal or market uncertainty, its wording should be further clarified. **We recommend defining key terms (e.g., 'serious harm', 'unforeseen circumstances'), establishing clear parameters for its activation, and specifying its effects on CBAM applications.** To avoid legal fragmentation and ensure certainty, these provisions should be embedded directly in the Regulation rather than addressed through non-binding guidance.

As currently drafted, Article 27a wording suggests the mechanism could be triggered at the level of individual products rather than entire sectors. **It should instead apply at the sector level** to ensure consistent treatment across all relevant products and avoid negative spillovers along the value chain and market fragmentation. Likewise, **it should be made explicit that free allocation under the ETS should be reinstated if a sector is exempted from CBAM application**.

4. Fully close the aluminium scrap loophole

Strengthened measures to prevent circumvention are especially urgent in the case of **aluminium scrap**. The current CBAM design has failed to close this loophole due to the complexity of global scrap flows and the lack of reliable verification methods – primarily because recycled aluminium cannot be distinguished from primary aluminium and scrap is assigned zero emissions.

The Commission's proposal to include pre-consumer aluminium scrap as a precursor in the calculation of embedded emissions in goods does not fully resolve the issue, particularly since post-consumer scrap remains excluded (Annex III of the proposal).

We reiterate that the most straightforward and effective way to close this loophole would be to apply a single default CBAM value for direct emissions of unwrought aluminium to all aluminium goods in the CBAM scope when used as precursor. Regrettably, the recently adopted Implementing Regulation on default values (*(EU) 2025/2621*) does not follow this approach, and we urge the Commission to correct this promptly rather than delaying action until 2028.

This default value should:

- Apply to the volume of aluminium in the imported product, regardless of production route or scrap content, and with no distinction between different kinds of scrap.

- Be based on the average CO_2 emission intensity of primary aluminium production in the country of origin (i.e., country of smelting) and applied.
- Use a global average if no primary production exists in the country of origin.
- Be periodically revised to reflect primary aluminium decarbonisation developments in the respective country.

This approach would not only close the loophole related to the distinction between pre- and post-consumer scrap but also prevent the diversion of metal to so-called 'secondary-route countries' to exploit artificially low default values.

While adopting a single default value remains the most effective solution, **at a minimum the Commission's proposal should eliminate the distinction between pre- and post-consumer scrap**. Third-country producers could simply overstate the share of post-consumer scrap used to reduce their reported embedded emissions, with no reliable way to confirm the accuracy of their claims. In fact, although the text suggests that MRV systems should ensure pre-consumer scrap is not misreported as post-consumer scrap, this is impossible to verify in practice.

This creates a structural imbalance: European downstream transformation and recycling operators would still face full carbon cost pass-through under CBAM and the EU ETS, while foreign producers could lower their declared CBAM liability through scrap accounting.

5. Defer discussions on international carbon credits in CBAM until their use in the ETS is clarified

Article 1(9)(b) of the proposal suggests that, in regulating the accounting of carbon prices paid abroad, the Commission may consider recognising the use of international carbon credits under Article 6 of the Paris Agreement. We acknowledge that these credits could provide flexibility for EU installations when complying with EU targets – an approach recently confirmed by EU policymakers regarding Member States' efforts towards the EU 2040 climate target.

However, **discussions on the use of international carbon credits for CBAM compliance are premature and should be deferred until the treatment of such credits under the EU ETS is clearly defined.** It is essential to avoid a situation in which third-country producers are allowed to use international carbon credits for CBAM compliance, while EU ETS installations are not afforded the same possibility within the ETS – particularly given that the EU accounts for only around 5.9% of global GHG emissions and domestic abatement options are more limited than in other jurisdictions[1].

While flexibility is important to maximise opportunities for GHG emissions abatement, greater clarity is needed on how the use of international carbon credits can be relied on in a way that

[1] For more information see EDGAR's 2025 report on GHG emissions from all world countries (here).

ensures a level playing field between EU and third-country installations and prevents competitive distortions.

6. Keep indirect emissions out of CBAM scope

The Commission's review report on CBAM[2] makes clear that including indirect emissions into CBAM (for sectors beyond those already covered) requires further analysis and is not appropriate at this stage. We strongly urge co-legislators to uphold this position, and **we reiterate that including indirect emissions from the non-ferrous metals sector under CBAM would immediately harm the competitiveness of the European Industry.**

In fact, it is important to note that indirect emissions under CBAM and indirect carbon costs under ETS are fundamentally different concepts. Indirect carbon costs in the EU arise from the combination – unique to the world – of ETS costs and marginal pricing system. ETS costs are passed through by power producers into electricity bills, meaning that consumers bear these indirect carbon costs even when using low- or zero-carbon energy, while third-country producers could declare lower or zero costs despite more carbon-intensive electricity. To put it simply, including indirect emissions in CBAM would make European goods more expensive to produce than identical goods with the same or even higher carbon footprint manufactured outside the EU.

Such costs cannot be meaningfully mirrored through a carbon border adjustment. Rather than preventing carbon leakage, including indirect emissions in CBAM for sectors beyond those already covered would weaken the level playing field for European producers. **ETS indirect cost compensation remains the most effective mechanism to address this issue and should thus be extended beyond 2030**.

Conclusion

The reviews to the CBAM Regulation presented by the Commission in December 2025 are important amendments that – once fine-tuned – should be implemented without delay, and well ahead of the 2028 timeline to avoid prolonged exposure of the industry to further carbon leakage.

However, **deeper shortcomings in the Regulation's design remain**, raising serious concerns about the competitiveness of key European industries amid high energy and carbon costs.

With regard to the broader **CBAM framework**, the Commission should refrain from introducing additional regulatory complexity or financial burdens for European businesses, especially while questions persist regarding CBAM's capacity to meet its stated objectives.

[2] COM/2025/783 final (here).

As regards the **ETS**, the upcoming 2026 review must ensure that its governance remains fit for purpose and reflects the evolving European and international context, while preventing the erosion of Europe's industrial base. European Metals stands ready to work with policymakers to ensure that both frameworks deliver cost-effective decarbonisation while safeguarding competitiveness.