COMMENTS OF THE INSTITUTE FOR ENERGY RESEARCH (IER)

Before the Office of the United States Trade Representative

Docket No. USTR-2026-0661

Request for Comments: Current and Potential Impact of the European Union's Carbon Border Adjustment Mechanism (CBAM) on U.S. Producers, Workers, and Trade

Submitted to:
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Executive Statement

The Institute for Energy Research is submitting these comments in response to the U.S. Trade Representative's request for public input on the European Union's Carbon Border Adjustment Mechanism (CBAM). By forcing companies worldwide to follow rigid, arbitrary rules for counting carbon emissions, CBAM acts as a major trade barrier. Its implementation will penalize American producers, disrupt normal trade, and raise costs across many industries.[1]

The current administration has rejected carbon taxes and opposed international carbon tax programs, including the IMO Net-Zero Framework as a global shipping levy. Accepting CBAM's approach would seriously weaken America's ability to set its own policies as implementing it would mean American products imported into the EU would face tariffs. This would put heavy pressure on Congress to create a domestic carbon tax so that revenue is collected domestically. This would hurt American consumers and businesses by raising energy and goods prices at home and by expanding the federal tax system and its costs. The U.S. Trade Representative should reject this system, defend America's trade rights under international law, and protect America's economy from foreign rules being forced on it.

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[1] Murphy, Robert P. 2016. "The Problem with a Carbon Tax and Border Adjustments." Institute for Energy Research, June 28, 2016.
https://www.instituteforenergyresearch.org/regulation/problem-carbon-tax-border-adjustments/

Impact on the EU

Climate policy breaks down because people have a very low willingness to pay for it.[2] Complicating things, the political process often leads to deviations from blackboard policy proposals because of incomplete information, imperfect enforcement, ideological incentives, and the absence of clear third-party enforcement.[3] In that context, public opposition to direct, transparent costs often drives policymakers to adopt complex regulatory regimes that conceal true economic burdens from voters.[4]

Carbon tax and tariff programs like the EU Emissions Trading System (ETS) and CBAM create clear structural winners and losers across jurisdictions, industries, and political constituencies, and those outcomes can be exacerbated when they are imposed on top of existing environmental regulations. Navigating and bargaining over how gains and losses are distributed generates immense, ongoing administrative and political friction. While EU legislators set top-down emissions targets, the political process rarely prioritizes cost minimization. Future domestic political shifts routinely threaten to undo delicate regulatory arrangements, eroding policy credibility and locking the EU into an inflexible framework that increases total compliance costs without delivering net global economic welfare gains.

The EU Emissions Trading System inflicts severe economic harm by eroding European industrial competitiveness, disproportionately burdening lower-income households, and entrenching market interventions through a complex administrative architecture.[5] By placing costs on basic industrial imports (including steel, aluminum, fertilizers, cement, hydrogen, and electricity), the ETS and CBAM directly inflate input costs for their own manufacturing base.[6] Domestic European downstream manufacturers (such as automotive, construction, equipment, and consumer goods industries) face higher raw material prices than foreign competitors operating outside the EU. This incentivizes "downstream leakage," where European manufacturing, assembly, and finished-goods production migrate to non-EU jurisdictions to avoid inflated input costs.[7] In the aggregate, the EU's regulatory structure puts the EU at a

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[2] Matthias Rodemeier, "Willingness to Pay for Carbon Mitigation: Field Evidence from the Market for Carbon Offsets," *The Review of Financial Studies* 39, no. 1 (2026): 1–29, https://doi.org/10.1093/rfs/hhaf054.

[3] North, Douglass C. 1990. "A Transaction Cost Theory of Politics." *Journal of Theoretical Politics* 2 (4): 355–367.https://journals.sagepub.com/doi/10.1177/0951692890002004001

[4] Lucas, Gary M. Jr. 2017. "Behavioral Public Choice and the Carbon Tax." *Utah Law Review* 2017 (1): 115–174.https://dc.law.utah.edu/ulr/vol2017/iss1/3/

[5] Murphy, Robert P. 2016. "The Problem with a Carbon Tax and Border Adjustments." Institute for Energy Research, June 28, 2016. https://www.instituteforenergyresearch.org/regulation/problem-carbon-tax-border-adjustments/

[6] Institute for Energy Research. 2026. "The EU's Carbon Border Tax Took Effect on January 1." January 16, 2026.https://www.instituteforenergyresearch.org/international-issues/the-eus-carbon-border-tax-took-effect-on-january-1/

[7] Bachmann, F., and F.J.G. Nellen. 2025. "A Critical Analysis of the Carbon Border Adjustment Mechanism." Maastricht University. https://cris.maastrichtuniversity.nl/en/publications/a-critical-analysis-of-the-carbon-border-adjustment-mechanism/

competitive disadvantage by burdening European producers.[8] CBAM extends this failure. Rather than facing the EU ETS's transparent economic realities and domestic trade-offs, European leaders designed CBAM to project the illusion of costless environmental protection. By framing CBAM as an equalizer on imports, EU policymakers exploit the public's neglect of opportunity cost, obscuring the severe downstream price effects, supply chain friction, and deadweight losses imposed on consumers and international trading partners alike.

Broad empirical evidence also demonstrates that carbon taxes disproportionately penalize lower-income households, which allocate a significantly larger percentage of their budgets to energy-intensive goods and services.[9] Even when carbon revenue recycling mechanisms are proposed, they fail to offset the long-term drag on real wage growth, capital formation, and total factor productivity.[10] The regressive impacts of carbon taxes and tariffs have broader implications for EU governance as cost-of-living problems drive political instability.

Finally, the regulatory justification for programs like the EU ETS and CBAM often rely on inflated estimates of climate damages derived from social cost of carbon (SCC) models. Comprehensive meta-analyses reveal that publication bias, selective reporting, and methodological choices in academic literature have systematically pushed SCC estimates upward.[11] When models rely on unverified assumptions regarding macroeconomic growth rates and low discount rates, they produce distorted cost-benefit calculations that misstate the true economic trade-offs of market interventions. By tying trade access to inflated domestic carbon valuations, the EU locks its economy into an artificially costly regulatory apparatus.

Impact on the U.S.

Applying the EU's CBAM to American exports constitutes an unwarranted trade barrier, infringes on U.S. regulatory sovereignty, and directly threatens U.S. producers, workers, and downstream supply chains. Mandating granular, facility-level data collection for embedded direct and indirect emissions imposes disproportionate compliance costs and administrative burdens on U.S. exporters, small- and medium-sized enterprises, and multi-tier supply chains.

These administrative burdens harm American workers and producers in three ways. First, the burdens divert capital to compliance architecture. Resources that would otherwise support domestic research, capital investment, and wage growth are diverted to third-party verification

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[8]Fitch-Roy, O., & Bailey, I. 2023. *Green growth and competitiveness in EU climate policy: paradigm shift or 'plus de la même chose'?* Handbook on European Union Climate Change Policy and Politics, 173–186. Edward Elgar Publishing. https://doi.org/10.4337/9781789906981.00024

[9] Känzig, Diego R. 2025. "The Unequal Economic Consequences of Carbon Pricing." NBER Working Paper No. 31221, National Bureau of Economic Research, Cambridge, MA.https://www.nber.org/system/files/working_papers/w31221/w31221.pdf

[10] Murphy, Robert P. 2019. "New Study Admits Even Modest Carbon Tax Would Hurt the Next Two Generations." Institute for Energy Research, October 30, 2019. https://www.instituteforenergyresearch.org/climate-change/new-study-admits-even-modest-carbon-tax-would-hurt-the-next-two-generations/

[11] Tol, Richard S. J. 2024. "Trends and Biases in the Social Cost of Carbon." PMC, National Library of Medicine. https://pmc.ncbi.nlm.nih.gov/articles/PMC12220299/

auditors, specialized legal counsel, and administrative reporting mechanisms required by foreign bureaucrats.[12] Second, forcing U.S. manufacturers to reveal complex supply chain inputs, facility-level energy metrics, and production ratios to foreign regulatory bodies creates substantial risks of trade secret exposure and commercial disadvantage. Finally, as CBAM expands to encompass complex downstream finished products, U.S. manufacturers using American-made steel, aluminum, or chemicals will face compounded tariffs when exporting finished equipment to Europe. This structural friction threatens American manufacturing jobs, reduces export competitiveness, and creates severe market uncertainty.[13]

Recommendation

CBAM uses market access as a lever to force trading partners to adopt European-style carbon pricing. Accepting the premise of CBAM would severely undermine U.S. policy independence. If the EU implements the measure, American products exported to the EU would face carbon-related tariffs. This would put strong pressure on Congress to enact a domestic carbon tax. Such an outcome would penalize American consumers and businesses through higher domestic energy and goods prices and through the drag of an expanded federal tax apparatus. USTR should reject this framework, defend U.S. trade rights under international law, and protect Americans from foreign regulatory overreach.[14]

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[12] Bachmann, R., and A. Nellen. 2025. "A Critical Analysis of the Carbon Border Adjustment Mechanism." Maastricht University. https://cris.maastrichtuniversity.nl/en/publications/a-critical-analysis-of-the-carbon-border-adjustment-mechanism/

[13] Beaumont-Smith, Gabriella. Cato Institute. 2024. "Are Carbon Border Adjustments a Dream Climate Policy or Protectionist Nightmare?" Policy Analysis. https://www.cato.org/policy-analysis/are-carbon-border-adjustments-dream-climate-policy-or-protectionist-nightmare

[14] James Bacchus, "Legal Issues with the European Carbon Border Adjustment Mechanism," Cato Institute Briefing Paper No. 125 (August 9, 2021), https://www.cato.org/briefing-paper/legal-issues-european-carbon-border-adjustment-mechanism#does-eus-carbon-border-adjustment-mechanism-proposal-comply-wto-rules.