

What Do the Opposers Voice About CBAM?

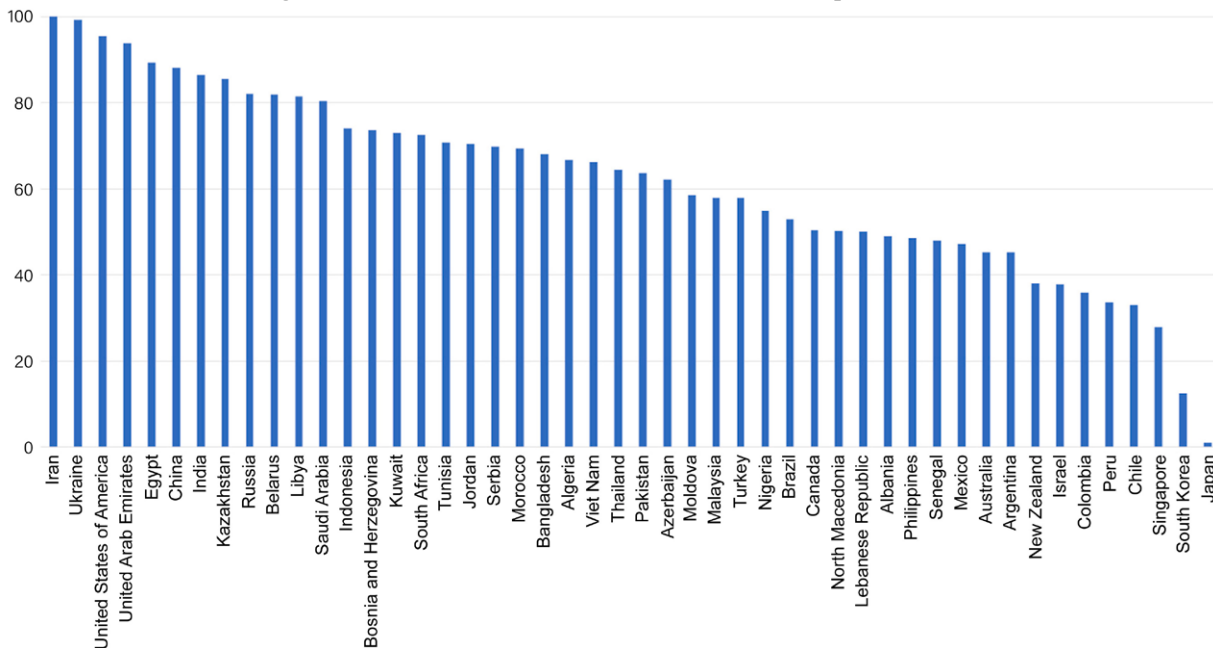
An Insight Into the Opposition Party

Since the announcement of the EU CBAM, we have seen a wave of resistance across the world, with China and India being the most vocal. **CBAM is almost a full-range and structural impact that can be described as "astronomical" in terms of the scale of its impact on a country's industry and economy. In addition to China and India, there are bound to be several other countries that will object to CBAM or may counter it in the future. This article summarizes the existing opposers' voices to make readers put CBAM into perspective.**

Before looking at the various opposing voices, there is a study that is of value for readers to refer to and make their own judgments. The authors, Indra Overland and Rahat Sabyrbekov, have published an interesting and predictive study on ScienceDirect, a scientific and medical bibliographic database. This study has the title of "Know your opponent: Which countries might fight the European carbon border adjustment mechanism?". They used a scientific and verifiable method to predict the countries most likely to fight CBAM in the future and made rankings in **Figure 1**.

The rankings take into account variables such as the volume and incremental cost of trade with the EU, carbon intensity, the track record of initializing the mechanism for WTO dispute resolution, domestic public opinion on climate change, and national innovation capacity.

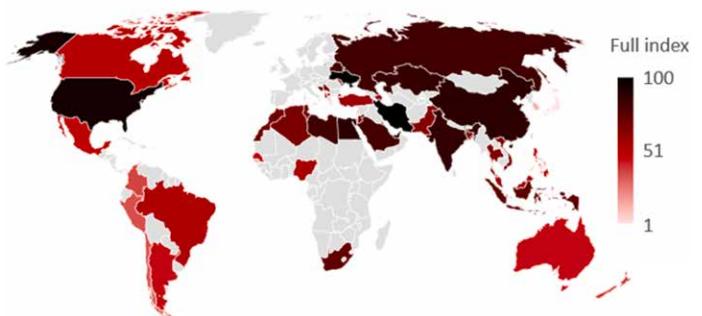
Figure 1. CBAM Confrontation Index, All Statistical Aspects Included



The mentioned authors converted the graph into a world map (**Figure 2**), where it shows countries in darker colors with a higher probability to oppose to CBAM in the future.

Figure 1 shows the highest probable is Iran and the lowest is Japan. The top ten countries most likely to protest are Iran, Ukraine, the U.S., Saudi Arabia, Egypt, China, India, Kazakhstan, Russia, and Belarus. Of the 48 countries included in the rankings, many are still experiencing challenges to their current economies.

Figure 2. World Map of CBAM Opposition Index



Below, we will look at the opposing voices of a few key countries.



■ China

By far the most vocal in the media, China could face a rise of 4% to 6% in the export cost of its steel products due to CBAM. China Iron and Steel Association (CISA) called CBAM a new trade barrier to Chinese exports, "If other countries adopt reciprocal and similar trade protection measures to protect their interests, it will lead to higher trade costs and an increased risk of trade friction. We hope the EU will take into account the cost and operational challenges for downstream steel consumers resulting from changes in the import structure".

As of July 2023, China was gathering momentum against CBAM and hoped that its proposals for multilateral discussions at the WTO's Committee on Trade and Environment (CTE) would lay the groundwork for resistance to a future cross-border carbon tax mechanism. The loopholes cited by China include mirroring emission reduction under EU ETS in the emission reduction of another country, the lack of global carbon intensity standards, and disagreements over carbon pricing mechanisms between different jurisdictions.

In response to China's reaction, Gerassimos Thomas, Director General for Taxation and Customs Union Affairs of the European Commission, contributed an opinion piece to South China Morning Post in Hong Kong on November 15, 2023, titled "EU carbon border tax: China's cooperation will send right climate signal". In his article, he mentioned high-level talks between the EU and China:

“ Given China's status as our second-largest trade partner, we understand China's strong interest in the new measure and its roll-out. That's why we welcome China's invitation to set up an EU-China High-Level Dialogue on CBAM. When designing the mechanism, it's important that we do so in the fullest transparency.

For my part, it is a pleasure to travel to Beijing this week to meet my interlocutors in the Chinese authorities. Our goal is to increase mutual understanding, look for synergies and simplifications between our systems, see how we can lower any reporting burdens for the Chinese companies concerned...Feedback from Chinese business and civil society is also important for us. ...Part of our active and transparent outreach to Chinese authorities and businesses, including EU businesses active in China, is to better understand the country's carbon pricing reporting system and methodologies, so we can most effectively take them into consideration after the end of the CBAM transitional period.

For our part, we encourage China's plans to further strengthen its ETS, and we note plans to further strengthen carbon pricing in the country. ...Given its global influence and pivotal position as the world's largest greenhouse gas emitter, the level of China's climate ambition sends a very important message to the rest of the world. And, we can only encourage China to grow that ambition, particularly in the run-up to the COP28 climate change conference at the end of this month (editor's note: Nov., 2023).

Source URL (shortened): <https://shorturl.at/hiiHM>

From Thomas' response, it can be observed that China as the world's largest carbon emitter may have a key influence in the adjustment process leading up to the official launch of CBAM in 2026.

■ India

India has claimed that CBAM will harm its exports, pointing out that CBAM fails to allocate different credits to different stages of production in different countries. India has even threatened to take the issue of carbon tax to the WTO. The Hindu BusinessLine published an editorial suggesting that the Indian government should strategically resist CBAM, and published another news article on November 19, 2023 describing how the government is exploring alternatives to CBAM's impact on exports.

One alternative, for example, is that if a product is exported to the EU after paying an US\$100 tax for each ton of carbon, price negotiations would have to be conducted to add another US\$100 tax for

each ton on other products coming from the EU. Government officials said this is not a countervailing duty on the EU, but a price negotiation to ensure that the duty levied on Indian companies is returned to India. The second alternative is for the EU to return the carbon tax to India, with the returned revenue being used to fund India's climate goals.

On November 2, 2023, Commerce and Industry Minister of India Piyush Goyal said that the government would find a solution, most likely a domestic tax equivalent to the European tax, and that the new revenue will be used for green energy transition. The solution would indirectly help Indian exporters reduce their carbon footprints as they shift to cleaner energy production. Eventually, CBAM will no longer be needed.

■ Poland

In addition to the countries listed in Figure 1, there are a number of countries not included in the list that have already protested to the officials. Poland is a clear example. Poland gets about 70% of its electricity from coal, and CBAM would threaten Poland's energy security.

On August 8, 2023, Poland filed a complaint at the Court of Justice of the European Union (CJEU) to repeal the CBAM regulation, arguing



that CBAM provisions are primarily fiscal in nature and therefore require a unanimous vote of all 27 EU member states, which could take two years or more to reach a determination. Although not immediate, this could have a significant impact on CBAM and the European Green Deal in the medium term. Full or partial withdrawal of the CBAM regulation could jeopardize the plans of the EU Commissioners for the competitiveness of the industry under EU-ETS.

■ Brazil

The Brazilian National Confederation of Industry (CNI) is the main representative of Brazilian industrial sector and the highest body of the industrial trade union system. This organization made a submission to the EU in which it proposed amendments and questioned many aspects of CBAM:

“ The EU should provide adequate technical assistance, capacity building, and training to third countries and foreign producers/exporters to help them adjust to, and comply with, the obligations imposed by CBAM. To this effect, when does the EU Commission intend to launch information campaigns and technical support for third country partners? ...

CNI considers that penalties during the transitional period should not be mandatory and that the obligation during this period is limited to reporting and competent authorities may initiate the procedure to correct incomplete or incorrect CBAM reports as well as failure to submit CBAM reports. Instead, such situations should trigger notifications and detailed instructions for correction of missing information. The transitional period should serve as an instructive opportunity for all players to get informed and adjust to the reporting requirements. ”

■ South Korea

The South Korean government advised in its submission on the risks of leaking secrets and default values:

“ CBAM Implementing Act requires foreign operators to submit sector-specific information (e.g. in case of iron and steel products, a mix of alloy elements such as the percentages of Mn, Cr and Ni present is required to be included in the report). Given the possibility that a foreign operator may be in competition with an EU importer which first receives the report, **it is worrisome that confidential information may be unnecessarily exposed to EU importers that are business competitors of the foreign reporting declarant.** In this context, the Government of S. Korea requests the EU to reconsider or permit foreign operators to make direct reports and allow their EU subsidiaries to be a reporting declarant.

Article 5 states that the EU Commission will publish the default values for the transitional period and that the same default values may be applied to all other countries outside the EU. **Considering that each country has differing national default values, the Government of S. Korea requests the EU to recognize each country's national default values provided that such default values are credible under their respective carbon pricing schemes. ”**

■ Taiwan

Taiwan advised on the applicability of domestic laws to CBAM, the rights of domestic suppliers, and the risk of confidentiality leakage:

“ To ensure compliance with the WTO national treatment principle and minimize the impact on small and medium-sized enterprises, the EU is recommended to simplify the certification requirements and administrative procedures such that all manufacturers can afford their administrative costs (including verification costs); if not, this may otherwise hinder downstream manufacturers from requesting for reductions in the number of required CBAM certificates in accordance with regulations. ...In accordance with Taiwan's Climate Change Response Act, Taiwan will only levy carbon fees on emission sources designated by the central competent authority. Numerous manufacturers of CBAM-regulated products (e.g., screws) are not liable to pay the carbon fees. However, their upstream suppliers (e.g., manufacturers of semi-finished steel) are required to pay for the fees. ...Given that such products are complex products and that their embedded emissions include the emissions of their input materials, the carbon prices paid by their upstream suppliers should be recognized for a request to reduce the number of CBAM certificates to be submitted.

...the Implementing Regulation requires CBAM declarants to provide information on production routes and parameters...Some information may involve the disclosure of trade secrets.

...for products exported to Europe from Taiwan, such as screws and bolts, the input material accounts for more than 50% of the total embedded emissions, and the input material may come from a foreign manufacturer without an verification system. An inability to apply default values may result in problems with the import declaration, or even fines. **We thus suggest relaxing restrictions on the use of default values.**

...if a Taiwanese fastener manufacturer is unable to obtain information about product embedded emissions from foreign input material suppliers and is prohibited from using default values per the Regulation, it may unavoidably violate the declaration requirements. In such cases, **there should be a reasonable appeal channel for manufacturers to seek fair adjudication. ”**

■ Thailand

Thai Ministry of Commerce is also concerned about the leakage of confidential information:

“ Certain information which may be sensitive and have commercial value—such as those relating to production processes—the disclosure of



which could impair the interests of our economic operators. ... Rather than communicating such sensitive information to their EU peers, **a more reasonable approach would be, for instance, to provide for our economic operators to disclose them to accredited verifiers.** ”

■ South Africa

Department of Trade, Industry and Competition (DTIC) of South Africa is concerned about the unequal treatment to developing economies as a result of CBAM:

“ CBAM has the effect of transferring the burden of climate action onto developing economies and places undue and unjust burdens on our country and industries. ... Around US\$ 1.5 billion exports of South Africa to the EU are at risk...our overall exports could decline by 4%, with the steel and aluminum sectors being particularly at risk. **CBAM will not only affect the competitiveness of SA exports to the EU but could also result in increased imports by countries looking for alternate markets, resulting in dumping into SA and other developing countries.** ...The African continent will lose at least US\$26 billion per annum to the EU through carbon border taxes.

...those countries that are economically more developed and have already made progress in transitioning to low-carbon economies may benefit more from CBAM than developing countries or less developed countries, especially due to factors such as subsidies. Moreover, **the EU's CBAM policy design ... will create a direct impact on South Africa's disadvantaged communities – exacerbating inequality, poverty and unemployment.** ”

Minister Ebrahim Patel said the EU's plan to unilaterally impose a tariff on carbon-intensive imports is extremely unhelpful. Calling EU CBAM a 'green trade barrier', he said: "We are particularly concerned about things like border adjustment taxes, and regulatory requirements that are imposed unilaterally," Ebrahim Patel, South Africa's trade minister, told the Financial Times. "If it gets to be an enormous defining thing between north and south, you're going to have a lot of political resistance."

In addition to the aforementioned governments, European and Japanese fastener associations have also made submissions to the EU.

■ European Fastener Distributors Association (EFDA)

EFDA pointed out that CBAM creates unequal treatment between importers and manufacturers:

“ The system boundaries for determining CO2 emissions are significantly broader for **the import of iron and steel**

products, which include fasteners, than for the ETS. Thus, for the import of fasteners, the CBAM declarant must provide information on direct embedded emissions ...the regulations have the effect of putting importers of fasteners at a disadvantage compared to domestic manufacturers, which is initially reflected in ... higher costs due to the acquisition of certificates by importers. We consider this unjustified disadvantage of importers compared to domestic manufacturers to be incompatible with WTO law. This unequal treatment must be eliminated before the Implementing Regulation applies.

It will not be possible for importers to provide concrete emission values, which is why fastener distributors will essentially have to rely on the Commission's default values. Hardly any company has the necessary information on the production plants nor the emission data or will receive them with the expected accuracy from its suppliers. It is also simply not possible even for large companies to obtain necessary data in a given time. Especially in the very fragmented fastener industry with countless articles, suppliers and manufacturers, the determination of the data will be so time-consuming for the companies, even with clear specifications, that they will not be able to report the data by the end of January 2024. In any case, **importers should not be held liable if, despite all efforts, they are unable to provide the necessary data.** ”

■ The Fasteners Institute of Japan (FIJ)

FIJ is concerned about CBAM's impact on price competitiveness and the risk of confidentiality leakage:

“ This new regulation will force companies to create a large volume of an accurate data and information. It is obvious that this imposed extra workload will be an extra cost that should be theoretically passed onto the current export price. **Most of our member companies are small and medium sized and have not enough personnel resources to take care of**



this very detailed and strict data/information creation in English. Our biggest concern related to CBAM is this strict and complicated obligation will make companies lose competitiveness in price and may put them into serious financial situations in case of losing business due to this new regulation.

This new rule insists that imported products should be declared with the contained emissions (both direct and indirect) on a "quarterly basis" while EU products are required to be declared on a "yearly basis" only for direct emissions, not for indirect ones. This is not a fair treatment.

EU-ETS is not requiring to declare contained emission by product for EU products, while imported products, are required to declare "by product", that is another extra workload for exporters.

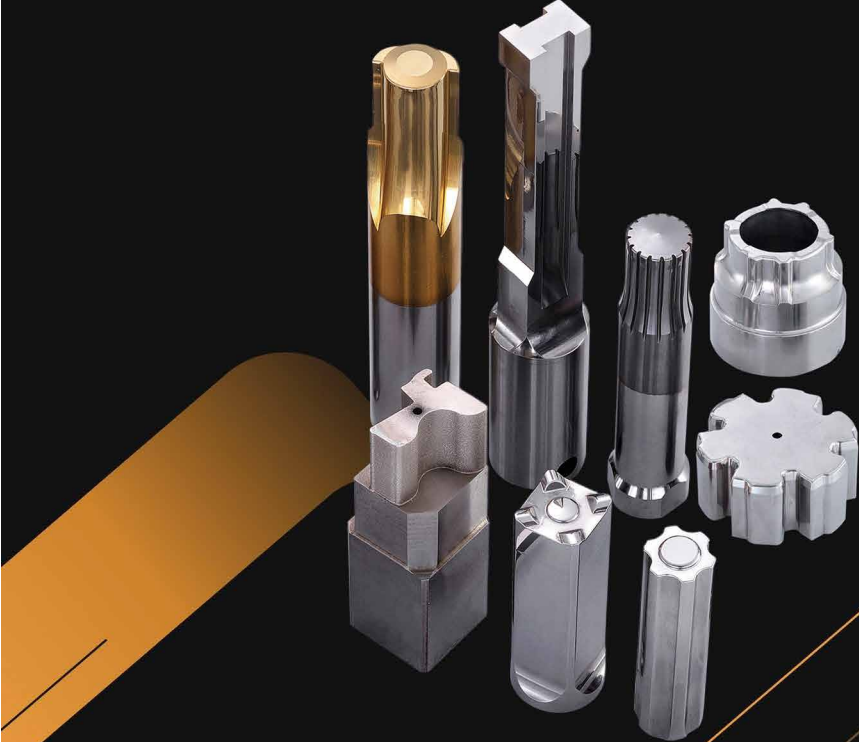
We cannot see any clause and statement that restrict EU importers not to use data and information given from exporters for any other purpose than CBAM report. This is supposed to be a risk for exporters. These confidential data and information should be treated by EU importer carefully. ”

■ CBAM's Confidentiality Security, Fairness and Adaptability Under Critical Scrutiny

From the above opposing voices, we can summarize that many countries are concerned about leaking corporate secrets during the reporting process. CBAM's biggest weakness is the lack of legal transparency and the inability to provide a clear mechanism to safeguard information security. It has also been fiercely criticized for the unfairness it creates between advanced and under-developed nations, as well as between importers and manufacturers. It is too generic to be properly adapted to each country's carbon regulations, meaning that its legitimacy will continue to be challenged. In a future where carbon reduction takes dominance, a major revision of CBAM is imminent, and fastener business owners have no time to wait! ■


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WAN IUAN ENTERPRISE CO., LTD. ▶



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www.w-i.com.tw

TEL : +886-7-697-2188-9

FAX : +886-7-697-2180

sales@w-i.com.tw

