

## CONSULTATION RESPONSE

### Energy Traders Europe response to the consultation of the French Ministry of Energy Transition on a decree proposal for the CBAM transitional period

Brussels, 27 March 2024

#### Key messages:

- Energy Traders Europe appreciates the Ministry's transparency in its preparation for the application of procedures related to the Carbon Border Adjustment Mechanism (CBAM). We insist on the need for clarity in reporting obligations and related procedures as CBAM implementation will significantly impact electricity trading at the GB-FR border.
- Onerous requirements and fines could pose a risk towards a harmonised CBAM implementation within the European Union. Penalties during the transitional period should be reasonable and applied only following a proper notification process, allowing market participant to update their reporting where necessary.
- The technical implementation rules for electricity imports should reflect the special features of cross-border electricity trading compared to other CBAM goods.
- On a more general note, we encourage French authorities to support negotiations towards EU-UK ETS linkage. Failure to secure an exemption from CBAM by the UK would negatively affect GB-FR cross-border flows, resulting in higher costs for French consumers – especially in scarcity situations on the French market – and greater carbon emissions at French and EU levels.

#### Comments on individual articles of the draft decree:

*Article R. 229-131:* No comment.

*Article R. 229-132:* We recognise that the first paragraph details the first report modification possibilities for the entire duration of the transitional period, while the second paragraph is more time specific. However, we request clarification about who can qualify for a reporting derogation and how they can initiate that process.

*Article R. 229-133:* The article presents another means of modification or creation of reports under the condition of national authority approval. We request additional information on the procedure and criteria for valid justification.

*Article R. 229-134:* We note that France adapted the CBAM implementation regulation to its national context by defining its deadlines to follow up on the European Commission's transmitted information. We have no comment on the defined action period.

*Article R. 229-135:* No comment.

*Article R. 229-136:* We seek clarification on how the formal notice establishing a breach report is linked to the correction procedure. We require further specifications on the difference between procedures and to which cases they apply.

*Article R. 229-137:* We welcome France's integration of CBAM regulation concerning fines in the decree. We have further questions concerning the caps and the total amount of the fine. The total amount of the fine has been set to not exceed 50€ per tonne of undeclared emissions. Does it imply that when applying the minimum amount, only a maximum of four increases of a maximum of 10€ per tonne of undeclared emissions can be added? We also request clarification on the fine amounts for more grave breach cases. For instance, will there be a limit for grave and repeated breach cases? We encourage France to consider non-excessive financial penalties that could be too burdensome and to recognise difficulties in applying CBAM reporting obligations when establishing fines.

*Article R. 229-138:* No comment.

## **Contact**

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