

CARBON BORDER ADJUSTMENT MECHANISM [CBAM]

In December 2022, the Council of the European Union and the European Parliament reached a provisional agreement on the Carbon Border Adjustment Mechanism (CBAM). The agreement still must be confirmed by the EU Member States' ambassadors and the European Parliament, and then adopted by both institutions before it becomes final. CBAM is one of the EU's climate actions, designed to prevent the offset of the EU's efforts to reduce greenhouse gas (GHG) emissions by increased emissions beyond its borders due to the relocation of production outside the EU or by increased imports of carbon-intensive products (so-called 'carbon leakage').



CBAM deals with the importing of products produced in carbon-intensive industries; it is designed to work alongside the EU ETS, by complementing the latter's functioning for imported goods.

The scope

CBAM will deal with specific products, which will initially include: iron and steel, cement, fertilisers, aluminium, electricity, organic chemicals, hydrogen, ammonia, and plastics. The regulation will also apply to indirect emissions from the generation of electricity consumed during the production of goods.

Goods will only be allowed to be imported into the EU's customs territory by a customs declarant (as defined in the Union Customs Code) lodging a customs declaration who the CBAM authority has authorised.

Reporting obligations

By 31 May of each year, authorised declarants will be required to submit a CBAM declaration for the previous year stating:

- » the total quantity of each type of good imported in the previous year expressed in tonnes (and for electricity, in megawatt hours);
- » the total embedded emissions (i.e. direct emissions released during the production of the goods), expressed in tonnes of CO₂e (CO₂, nitrous oxide and perfluorocarbons) emissions;
- » the total number of CBAM certificates to be surrendered, corresponding to the total embedded emissions;
- » a copy of the verification report issued by an accredited verifier.

The process

Authorised declarants will be required to purchase CBAM certificates for surrendering. The CBAM authority will sell the CBAM certificates at a price calculated on a weekly basis reflecting the average price of EU ETS allowances determined through auction.

Penalties

Penalties will be imposed on authorised declarants who fail to surrender, by 31 May of

each year, the number of CBAM certificates corresponding to the emissions embedded in goods imported during the previous year or who submit to the CBAM authority false information related to actual emissions to obtain a favourable individual treatment; these will be equivalent to three times the average price of CBAM certificates in the previous year for each CBAM certificate that the authorised declarant did not surrender.

In addition, a payment of the penalty will not release the authorised declarant from the obligation to surrender the remaining number of CBAM certificates to the CBAM authority.

Entry into force

According to the current timetable, CBAM will start operating from October 2023, but in the initial phase it will only cover reporting obligations. Starting from 1 January 2027, it will apply in full. However, that date is subject to the regulation's final adoption.

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