

First CBAM reports due in January 2024

I. First provisions on the CBAM system are in effect

The CBAM system was designed in accordance with the rules of the World Trade Organization (WTO) and other international obligations of the EU, and will operate in the following manner: EU importers will buy carbon dioxide certificates at a price corresponding to the carbon price that would have been paid had the imported goods been manufactured in accordance with the EU's regulations on carbon pricing. Whereas if a producer from outside the EU can show that they have already paid a price for the carbon used in the production of the imported goods in a third country, then the corresponding cost can be fully deducted for the EU importer. The CBAM will help lower the risk of carbon leakage by encouraging producers from third countries to green their production processes.

II. First reporting period

17 May 2023 was the effective date of the CBAM Implementing Regulation on the obligation to report emissions in the transitional phase. Under the regulation, the CBAM transitional phase begins on 1 October 2023 and will last until 31 December 2025. After that (i.e. from 1 January 2026) CBAM will be fully phased in. During the transitional phase importers of goods covered by CBAM will be required to determine the emissions "embedded" in the goods they import and to file quarterly CBAM reports. Goods covered by the mechanism as of 1 October 2023 are listed in the regulation according to the Combined Nomenclature (CN) and include: iron, steel, aluminum, fertilizers, cement, electricity, hydrogen (the regulation does, however, provide for some exclusions, e.g. due to value or origin). Importers will have to file their first quarterly reports by the end of January 2024. Importantly, in the transitional phase they will have to report emissions embedded in their goods without the need to pay a financial adjustment, which will leave time for the final system to be put in place. Registration of importers as authorized declarants in the CBAM system will begin on 31 December 2024.

1 October 2023 is the effective date of the first obligations for importers under CBAM (the Carbon Border Adjustment Mechanism), i.e. an EU mechanism for adjusting the prices of imported goods for the CO₂ emissions associated with their production. This means a need to monitor import transactions, calculate emissions in the price of the goods covered by the mechanism, and perform reporting obligations.



III. Producers will need to provide information on embedded emissions

The information on embedded emissions for goods subject to CBAM should be communicated to importers registered in the EU by their non-EU producers. In cases where this information is not available as the goods are being imported, EU importers will be able to use default values (even once the definitive system is fully operational) on CO₂ emissions for each product to determine the number of certificates they need to purchase. Importers will nevertheless be able to demonstrate actual emissions during a reconciliation procedure and surrender the appropriate number of CBAM certificates accordingly.

IV. Importers to submit reports quarterly

The requirement to submit quarterly CBAM reports to the European Commission (through the CBAM Transitional Registry), which goes into effect as of 1 October 2023 applies to every entity that imports goods subject to CBAM, or to the indirect customs representatives of such entities (if the importers have no EU registered office). Reports will need to be filed a month after the end of each quarter. The first such quarter begins on 1 October 2023, and the first report will have to be submitted by 31 January 2024. The report will have to include information on the total: embedded direct emissions, embedded indirect emissions, the price due for embedded emissions in the country of origin, the quantity of each type of good per installation. This of course for the quarter covered by the report.



V. Emissions calculation methodology to be used in transitional phase

The regulations define the method for the calculation of the actual direct and indirect greenhouse gas emissions of imported goods. The declared emissions will have to be verified by an independent accredited verifier. Until 31 December 2024, embedded emissions of goods may be determined using one of the following monitoring and reporting methods: a carbon pricing scheme where the installation is located; a compulsory emission monitoring scheme where the installation is located; an emission monitoring scheme at the installation which can include verification by an accredited verifier. Until 31 July 2024, reporting declarants who are unable to obtain the information on embedded emissions specified in the CBAM regulations using either the provided baseline methodology or simplified methods, will be able to use other emission determination methods, including default values.

VI. Emissions classified as direct and indirect

In accordance with EU regulations, “direct emissions” are emissions originating from production processes, including from the generation of heating and cooling used in production processes, irrespective of where the heating or cooling is generated. Whereas “indirect emissions” are emissions from the generation of electricity used in production processes, irrespective of where the electricity is generated. “Embedded emissions” are direct emissions released during the production process, as well as indirect emissions from the generation of electricity used in production processes, the level of which is calculated using the methods specified in an annex to the CBAM regulation.



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VII. CBAM to eventually cover a wide range of businesses

Importers will ultimately be required to obtain the status of authorized declarant in CBAM in a separate procedure, purchase CBAM certificates, as well as submit annual declarations containing the quantity of embedded direct and indirect emissions. The effects of introducing the CBAM will first be felt by importers of the goods covered by the mechanism (i.e. cement, iron and steel, aluminum, fertilizers, electricity). Later they will also affect other businesses, e.g. imported goods recipients (those buying them from the importers); producers of the goods covered by CBAM in third countries; businesses that serve as intermediaries in the purchase of certificates (a new group of businesses or broadened competences of existing businesses).

The information presented herein does not constitute comprehensive information or opinion. Consult your adviser before making any decisions.

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