

# Carbon Border Adjustment Mechanism

2021/0214(COD) - 18/04/2023 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 487 votes to 81, with 75 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council establishing a carbon border adjustment mechanism.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

## Subject

This Regulation establishes a **carbon border adjustment mechanism** (CBAM) to address greenhouse gas emissions embedded in the goods listed in Annex I on their importation into the customs territory of the Union in order to prevent the risk of carbon leakage, thereby reducing global carbon emissions and supporting the goals of the Paris Agreement, also by creating incentives for the reduction of emissions by operators in third countries.

The CBAM aims to replace the existing mechanisms by addressing the risk of carbon leakage, namely by ensuring equivalent carbon pricing for imports and EU products. To ensure a gradual transition from the current system of free allowances to the CBAM, **the CBAM should be progressively phased in while free allowances in sectors covered by the CBAM are phased out.**

The new Regulation is designed to be fully compliant with World Trade Organisation (WTO) rules. It should apply from 1 October 2023, but with a transition period until 31 December 2025, during which the importer's obligations should be limited to declaration.

## *Enlarged scope of CBAM*

CBAM should cover iron and steel, cement, aluminium, fertilisers and electricity, as proposed by the Commission, and extended to hydrogen, indirect emissions under certain conditions, certain precursors as well as to some downstream products such as screws and bolts and similar articles of iron or steel.

The Regulation should also apply to goods listed in Annex I to this Regulation originating in a third country, where those goods, or processed products from those goods resulting from the inward processing procedure referred to in Regulation (EU) No 952/2013, are brought to an artificial island, a fixed or floating structure, or any other structure on the continental shelf or in the exclusive economic zone of a Member State that is adjacent to the customs territory of the Union.

## *Importation of goods*

Goods should be imported into the customs territory of the Union only by an **authorised CBAM declarant**. Any importer established in a Member State should, prior to importing goods into the customs territory of the Union, apply for the status of authorised CBAM declarant. Where an importer is not established in a Member State, the indirect customs representative shall submit the application for an authorisation.

The application for an authorisation should be submitted via the CBAM registry. The competent authority of the Member State in which the customs declaration has been lodged should register the person in the CBAM registry.

### ***CBAM declaration***

By 31 May of each year, and for the first time in 2027 for the year 2026, each authorised CBAM declarant should use the CBAM registry to submit a CBAM declaration for the preceding calendar year. The Commission should establish a CBAM registry of authorised CBAM declarants in the form of a standardised electronic database containing the data regarding the CBAM certificates of those authorised CBAM declarants.

### ***Carbon price paid in a third country***

An authorised CBAM declarant may claim in the CBAM declaration a reduction in the number of CBAM certificates to be surrendered in order to take into account the carbon price paid in the country of origin for the declared embedded emissions. The reduction may be claimed only if the carbon price has been effectively paid in the country of origin. In such a case, any rebate or other form of compensation available in that country that would have resulted in a reduction of that carbon price shall be taken into account.

### ***Sale of CBAM certificates***

A Member State should sell CBAM certificates on a **common central platform** to authorised CBAM declarants established in that Member State. The Commission should establish and manage the common central platform following a joint procurement procedure between the Commission and the Member States. The Commission and the competent authorities should have access to the information in the common central platform.

### ***Penalties***

Member States should impose **penalties** for infringements of this Regulation and ensure that such penalties are enforced. More specifically, the penalty amount for the failure of an authorised CBAM declarant to surrender CBAM certificates should be identical to the amount pursuant to Article 16(3) and (4) of Directive 2003/87/EC. However, where the goods have been introduced into the Union by a person other than an authorised CBAM declarant without complying with the obligations under this Regulation, the amount of those penalties should be **higher** in order to be effective, proportionate and dissuasive, also taking into account the fact that such person is not obliged to surrender CBAM certificates.

### ***Role of the European Commission***

The governance of the CBAM should be more centralised, with the Commission being responsible for most tasks. In particular, the Commission should:

- address practices of circumvention to reduce the risk of carbon leakage;
- assist competent authorities in carrying out their functions and duties under the Regulation;
- ensure coordination, issuing guidelines and supporting the exchange of best practice;
- manage the CBAM registry containing data on the authorised CBAM declarants, operators and installations in third countries;
- facilitate the exchange of information and cooperation between competent authorities, and between these authorities and the Commission;
- carry out risk-based controls and review the content of CBAM declarations accordingly;

- make available to the competent authorities its own calculations regarding the CBAM certificates to be surrendered, on the basis of its review of the CBAM declarations.

### ***Review and report by the Commission***

The Commission should, in consultation with relevant stakeholders, gather the necessary information to extend the scope of the Regulation and develop methods for calculating embedded emissions based on environmental footprint methods.

**By the end of 2027**, the Commission should assess whether the scope can be extended to other goods with a risk of carbon leakage, including organic chemicals, polymers, with the aim of including all goods covered by the ETS by 2030. It should also assess: (i) the methodology for indirect emissions and the possibility of including more downstream products; (ii) the progress made in international discussions regarding climate action; (iii) the governance system, including the administrative costs; (iv) the impact of this Regulation on goods listed in Annex I imported from developing countries with special interest to the least developed countries as identified by the United Nations (LDCs).

The Commission should monitor the functioning of the CBAM with a view to evaluating the impacts and possible adjustments in its application. Before 1 January 2028, as well as every two years thereafter, the Commission should report on the application of this Regulation and functioning of the CBAM.