

On August 17, 2023, the European Commission adopted [Commission Implementing Regulation \(EU\) 2023/1773](#) (the implementing regulation), establishing the rules for the CBAM during its transitional phase, spanning from October 1, 2023, to the end of December 2025. The implementing regulation delineates the reporting obligations imposed on EU importers of CBAM goods and the methodology for calculating embedded emissions in their production. Currently, the CBAM regulation is applicable to specified imports within six emissions-intensive sectors, namely:

- Electricity
- Iron and steel
- Cement
- Aluminum
- Fertilizers
- Hydrogen

According to the new provisions, a transitional period for the EU CBAM will be in effect from October 1, 2023, to December 31, 2025, entailing solely quarterly reporting obligations. The inaugural report is due by January 31, 2024, covering goods imported during the fourth quarter of 2023. The final report is to be submitted by January 31, 2026, encompassing goods imported during the fourth quarter of 2025. From 2026 onwards, binding financial obligations will be enforced, and the acquisition of CBAM certificates will be mandatory.

The implementing regulation outlines reporting obligations, including the obligation to report (i) the quantity of goods imported, expressed in megawatt hours for electricity and in metric tons for other goods, and (ii) the type of goods, identified by their CN code. Furthermore, for CBAM goods listed in Annex I to [Regulation \(EU\) 2023/956](#), additional reporting obligations are outlined, such as the country of origin of the imported goods and details about the production process, including the installation and production routes.

The implementing regulation articulates, in Article 4(1), the prescribed methodology for computing the emissions embedded in imported goods. Simultaneously, it stipulates that, until December 31, 2024, importers have the option to employ alternative monitoring and reporting methods for calculating the emissions. However, these alternatives must attain a level of coverage and accuracy of emissions data that is comparable to the methods delineated in the aforementioned Article 4(1).

Furthermore, until July 31, 2024, in cases where the reporting declarant lacks the information specified by Article 3(1) and (2) of the implementing regulation for the imported goods, alternative methods for calculating emissions are allowable. These methods may encompass default values issued by the Commission for the transitional period or any other default values delineated in Annex III of the implementing regulation. In such instances, the reporting declarant is obliged to distinctly indicate and reference the methodology employed in ascertaining these values within the CBAM reports.

In this transitional phase, no financial obligations are mandated, meaning companies are not compelled to remit payment for embedded emissions in imported goods. However, the implementing regulation introduces penalties for reporting declarants who do not adhere to the obligation to submit quarterly CBAM reports or rectify inaccurate or incomplete reports. Penalties vary between €10 and €50 for each metric ton of unreported embedded emissions, with increments in accordance with the European index of consumer prices. Enhanced penalties are applicable in instances where more than two consecutive incomplete or incorrect reports are submitted or if the failure to report persists for over six months.

Concerns for the Industry

All EU importers of initially covered products must prepare for these transitional period reporting obligations. A challenge in this phase is that only a few companies will know in which country the actual emissions related to the development of their goods were generated. Additionally, as highlighted in a recent [study](#) by a Belgian think tank, there may be an issue with the absence of accredited verifiers at the national level.

CBAM carbon accounting compliance requirements may impose a significant burden on exporters of covered goods into the EU to implement systems tracking and recording direct and indirect embedded emission data. Non-EU companies already measuring and reporting on emissions may need to adjust their measurement methodologies to comply with the EU methodology from January 1, 2025.

Moreover, as the financial implications of CBAM, effective from January 1, 2026, may impact the prices of imported covered goods, long-term challenges include companies evaluating their competitiveness based on a new metric – the carbon content of their products. Third-country producers will face increased pressure to lower emissions, as importers will prefer goods with lower carbon content, making them more cost-effective.

How We Can Help

We combine high end legal expertise with industry leading political and business advisory services to help our clients successfully navigate the complexities of EU policymaking. Our team is widely recognized as one of the pre-eminent public policy law teams in Brussels and around the world. Our collective knowledge of “how government works” derives from the skill and experience of our lawyers and policy advisers, many of which joined the firm from senior positions in national governments and industry regulatory agencies.

By combining legal and policy advisory services, we help our clients anticipate and counteract threats, and to create business opportunities – while navigating the EU regulatory and policy landscape.

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