

Introduction

A significant number of EU and non-EU companies are currently struggling to understand and comply with the new Carbon Border Adjustment Mechanism (CBAM), established by Regulation (EU) 2023/956.

In summary, companies importing carbon-intensive goods into the EU are required to report greenhouse gas emissions (GHG) information quarterly (and later annually) that are linked to production of relevant goods.

This alert aims to clarify some of the more complex aspects of the CBAM for the industries affected, specifically by identifying the obligated parties and their roles with a focus on reporting obligations. It examines the rules and requirements for emissions reporting under CBAM, as detailed in Implementing Regulation (EU) 2023/1773 (the “Implementing Regulation” and its annexures), which outline the reporting rules for the transitional period and sets out some of the key challenges arising in connection with CBAM.

CBAM’s Requirements

The aim of CBAM is to assign a cost to the emissions produced during the manufacture of goods outside the EU that are then imported into the EU, to help progress towards net zero carbon emissions.

The mechanism introduced by the CBAM Regulation mirrors the EU Emissions Trading System (ETS) and aims to assign a cost to the emissions produced during the manufacture of goods outside the EU that are then imported into the EU.

CBAM is being phased in gradually, via transitional and definitive periods. It initially applies only to a selected number of goods in sectors at high risk of carbon leakage: iron/steel, cement, fertilisers, aluminium, hydrogen and electricity. And noncompliance can give rise to penalties between €10 and €50 per ton of GHG emissions not reported. For general information on the CBAM mechanism, we refer to our [previous client alert on this topic](#).

Timetable

CBAM began its transitional phase on October 1, 2023 and will continue through to the end of 2025, with the definitive period beginning on January 1, 2026.

During this time, importers are required to declare the embedded emissions in imported goods within scope, without having to pay for these emissions.

The transitional period of CBAM is further detailed in our recent client alerts: one on the [general introduced transitional framework](#), and the other dedicated to the [default values](#).

From the full entry into force of CBAM in 2026, EU importers will need to purchase CBAM certificates corresponding to the carbon price that would have been paid had the imported goods been produced under the EU’s carbon pricing rules, provided a non-EU producer has not already paid a carbon price in a third country on the embedded emissions.

CBAM Reporting Obligation

As a first step, importers must identify if the goods they import (including their components), fall under the scope of the regulation. The CBAM Regulation generally applies to all goods imported into the EU and released for free circulation in the EU single market, as listed in Annex I to the CBAM Regulation, which provides “Combined Nomenclature” (CN) codes for goods whose embedded emissions must be reported. These are known as “CBAM goods”.

Importers will need to obtain information on the embedded emissions from the non-EU producers of the goods produced outside the EU. However, as this information may be difficult to obtain initially, EU importers can use default values published by the European Commission. These default values allow importers to report emissions now and determine the number of certificates they need to purchase in the future if the required information is unavailable at the time of import.

During the transitional period, declarants may rely on default values for each CN code under the CBAM scope. The use of default values for reporting during the transitional period is possible for the first three reporting periods without quantitative limits. After July 31, 2024, estimated values (including default values) can only be used for input materials or subprocesses with a relatively minor contribution (i.e. <20%) to the total embedded emissions of complex goods.

Obligated Entities

The entity responsible for the reporting obligation is called the reporting declarant, which can be (i) the importers, when they lodge a customs declaration for the release for free circulation of goods in their own name and on their own behalf, or (ii) the person holding an authorisation to lodge a customs declaration. The reporting declarant can also be indirect customs representatives within the meaning of Article 18 of the Union Customs Code (Regulation No 952/2013).

For importers established outside the EU, the indirect customs representative will be responsible for both the customs declaration and the CBAM declaration. EU importers can transfer the responsibility for the CBAM declaration to an indirect customs representative, provided the latter formally agrees to assume these obligations (see Article 32 of Regulation (EU) 2023/956 for the transitional period). Otherwise, the responsibility for the CBAM declaration remains with the EU importer.

For Company Groups

CBAM goods are attributed to a CBAM reporting declarant through the Economic Operators Registration and Identification (EORI) number provided to the customs authorities. This means that, by default, CBAM reports for different subsidiaries of a given company (with different EORI numbers) will be done separately. However, multiple group entities of the same multinational corporation can appoint a single indirect customs representative to handle customs obligations and related CBAM obligations centrally for all group entities. It is also possible for one group entity to act as an indirect customs representative for CBAM goods imported by all other group entities.

The general rule remains that indirect customs representatives acting as reporting declarants must also carry out the customs obligations related to the goods covered by the CBAM report. Furthermore, one group entity can submit CBAM reports as a service provider for other group entities of the same multinational corporation. While this is possible, (i) the other group entities remain the reporting declarants for the goods they imported and, therefore, remain legally liable for the CBAM report, and (ii) the group entity acting as a service provider must submit a separate CBAM report for the goods imported by each group entity, including the goods it has imported itself.

Information Required From Producers for Quarterly CBAM Reports

The CBAM declarant must submit the information contained in Annex I to the Implementing Regulation in the CBAM report.

To ensure they possess all the required information, the reporting declarant should request from the producer the information contained in Annex IV of the Implementing Regulation.

The European Commission services have compiled this information into an [optional communication template](#) (in Excel format) to facilitate the communication of information between operators and importers. This template is available on the European Commission's webpage.

Key Challenges and Next Steps

EU importers impacted by CBAM must submit verified information (with reasonable assurance) on the embedded emissions declared in their CBAM declarations.

This implies obtaining the required data from their non-EU suppliers, which raises a variety of legal and practical challenges:

- Gathering accurate and complete data entails having appropriate provisions in supply chain contracts in relation to CBAM data collection, also addressing potential confidentiality issues.
- Companies are experiencing difficulties with data calculations, given the complex calculation methodology provided by the Commission for total embedded emissions.
- There is some lack of alignment of CBAM and other emissions-related data collation and reporting requirements.
- There can be some inconsistency of the timing of the reporting requirements across a production year.

As a result, after having mapped their exposure to CBAM requirements, companies must take steps to understand their obligations, ensure appropriate contractual obligations are in place, and develop CBAM data collection and reporting practices that meet the requirements of the CBAM Regulation.

How We Can Help

Our experienced regulatory lawyers are well positioned to assist both EU and non-EU importers in navigating these regulations and ensuring preparedness for when the CBAM mechanism becomes fully operational. Our support includes providing guidance to non-EU producers, where necessary, to help them supply the correct data. Starting in January 2026, the CBAM mechanism will not only involve compliance with reporting requirements – noncompliance with which already incurs penalties – but also financial obligations related to the payment for embedded emissions.

Useful Links

- [Carbon Border Adjustment Mechanism – European Commission \(europa.eu\)](#)

Contacts

Thomas Delille

Partner, Brussels

T +32 2 627 1104

E thomas.delille@squirepb.com

Valerio Giovannini

Associate and Public Policy Advisor, Brussels

T +32 2 627 1108

E valerio.giovannini@squirepb.com

Georgie Messent

Partner, London

M +44 787 059 8098

E georgie.messent@squirepb.com