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## Practice Insights

# EU Omnibus: Adjustments to the Carbon Border Adjustment Mechanism — What Do They Mean for Businesses?

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European Central Bank President Mario Draghi's report *The Future of European Competitiveness* highlights the need for a regulatory environment that enhances Europe's competitiveness and resilience. Similarly, the Budapest Declaration on the New European Competitiveness Deal, endorsed by EU leaders, calls for a "simplification revolution" to create a clear, streamlined regulatory framework, significantly reducing administrative, regulatory and reporting burdens, particularly for small and medium-sized enterprises (SMEs).

Many businesses and stakeholders have expressed concerns over the administrative complexity of various EU regulations, including the Carbon Border Adjustment Mechanism (CBAM) Regulation (EU 2023/956).

The first Omnibus packages, introduced on February 26, 2025, consolidate proposals across multiple legislative areas, focusing on simplifying regulations in corporate sustainability reporting, sustainability due diligence, the EU Taxonomy Regulation, the CBAM and transition planning.

## What Is CBAM?

CBAM introduces a price or duty on greenhouse gases emitted during the production of carbon intensive goods imported into the EU. CBAM's goal is to level the playing field for EU producers of the same goods that are subject to extensive EU greenhouse gas regulation that may not exist outside the EU. CBAM's scope covers cement, aluminium, fertilizers, iron and steel, hydrogen and electricity.

As part of these reforms, the European Commission (EC) has proposed changes to streamline CBAM and enhance its effectiveness<sup>1</sup> (the Proposed Amending Regulation):

### 1) De Minimis Exemption for Small Importers

CBAM's transitional period has highlighted the administrative burden faced by EU importers. Compliance requires importers to obtain authorization to become CBAM declarants, submit declarations of annual emissions, and purchase and surrender CBAM certificates commensurate with the volume of emissions not covered by existing compliance regimes. This burden is particularly significant for occasional importers of small quantities of CBAM goods, as confirmed through exchanges with Member States, industry stakeholders, international partners and NGOs. The issue mainly affects four CBAM sectors: iron and steel, aluminium, fertilisers, and cement.

Customs data from the first year of the CBAM transitional period (Q4 2023 – Q3 2024) shows:

- 80% of importers contribute just 0.1% of imported emissions, while
- 10% of importers account for over 99% of emissions.

The monetary value of in-scope goods handled by importers handling less than 50 tonnes per year is approximately €1,600 annually, yet those importers' compliance costs range from €5,440 to €6,900 per year, making the burden disproportionate.

By contrast, the electricity and hydrogen sectors are not affected in the same way. Electricity imports involve high volumes managed by a few large importers, while the hydrogen sector has only 64 importers across the EU-27, accounting for 92% of total hydrogen imports.

According to the EC's review, the current CBAM de minimis threshold has several design issues:

1. Threshold too low: The European Commission initially estimated around 20,000 CBAM importers per year, but customs data suggests the actual number is 10 times higher, including many SMEs. This significantly increases administrative burdens, especially for occasional importers of small volumes of CBAM goods.
2. The monetary-based threshold is ineffective: The current threshold is based on monetary value rather than embedded emissions, which is CBAM's core focus. The EC's analysis suggests mass<sup>2</sup> (imported quantity of goods) is a better indicator of emissions than value, particularly if CBAM expands to downstream products.
3. The consignment-based application is problematic: Applying the threshold per consignment creates circumvention risks, similar to issues with past VAT and customs duty thresholds. Large importers can exploit it, while many occasional importers of small amounts may still fall under CBAM requirements due to a few high-value consignments. Annual embedded emissions would be a more relevant metric.
4. Monitoring system is inefficient: Additionally, the high number of importers increases the burden on national authorities, diverting enforcement resources away from high-emission imports. A more effective monitoring system is needed to prioritize compliance efforts in respect of significant emissions.

To address the above issues, the EC has proposed several measures, including:

1. Annual mass-based threshold: Instead of a monetary or consignment-based threshold, the proposal introduces a 50-tonne annual cumulative mass threshold per importer across the four CBAM industrial sectors identified above. This ensures that over 99% of emissions stay covered.
2. Exemption for small importers: Importers below 50 tonnes will be exempt from CBAM authorisation, declaration and certificate purchases. They must self-identify as "occasional CBAM importers" and monitor their imports.
3. Monitoring and anti-abuse measures: Compliance will be monitored using customs import data, with strong anti-abuse provisions in place. The threshold will be reviewed regularly (2027 and every two years thereafter) to ensure effectiveness.
4. Enhanced enforcement focus: Authorities will concentrate on high-emission importers, as part of efforts to improve CBAM enforcement and strengthen EU industry protection against carbon leakage.

According to the EC, the proposed exemption removes 90% of importers from CBAM obligations while still covering 99% of total emissions within the EU.

## 2) Streamlining Authorisation for Importers

The CBAM authorisation process has been criticised for being complex and resource intensive. To ease the burden, the mandatory consultation procedure will become optional, allowing national competent authorities (NCAs) to consult as needed. A new role of “CBAM representatives” (e.g., private consultants or environmental experts) will be introduced to assist importers, reducing the need for in-house expertise. These changes are expected to cut the number of authorisation requests from 200,000 to 20,000, significantly reducing administrative workload for NCAs and businesses.

## 3) Clarified Emissions Calculation

CBAM takes a targeted approach to emissions coverage, with its scope varying depending on the type of product. Carbon dioxide (CO<sub>2</sub>) emissions are always included, while perfluorocarbons (PFCs) apply specifically to aluminium and nitrous oxides (N<sub>2</sub>O) and are accounted for in most fertilizers.

A key distinction exists between direct and indirect emissions. While direct emissions are universally included, the treatment of indirect emissions is more selective. For instance, emissions from electricity consumption in manufacturing are covered, yet those from raw material extraction, processing and transportation remain outside CBAM's current scope.

### *Looking Ahead*

As CBAM evolves, discussions are already underway about broadening its coverage. By late 2025, reports will evaluate the feasibility of including more indirect emissions, potentially expanding CBAM to account for transport-related emissions, additional input materials (materials used to produce CBAM goods), and other embedded emissions currently excluded.

The EC has also clarified that, for electricity as imported goods, only direct emissions from electricity production need to be reported, removing ambiguity, making compliance clearer and more straightforward.

### *Default Values in CBAM Compliance*

Under the CBAM Regulation, importers can use either actual emissions data or default values<sup>3</sup> (based on most highly emitting installations regulated under the EU Emissions Trading System (EU ETS)) to determine their carbon border adjustment. However, requiring proof that actual emissions cannot be determined and/or identifying an adequate default value under the current rules creates administrative burdens. To simplify this, the Commission proposes removing this requirement, allowing declarants to choose between actual emissions and default values based on the 10 highest-emitting countries for which reliable data are available rather than the worst performing EU ETS installations. Further challenges arise in collecting data from third-country installations, as there are no mandatory reporting obligations and verification mechanisms. Instead of requiring individual data collection, the Commission will rely on the best publicly available sources to determine default values, in order to avoid need for guidance documents.

### *Emissions Calculation for Downstream Processing*

Many aluminium and steel products derive most of their embedded emissions from precursor materials, with finishing processes contributing to a minimal degree.

Emissions from final production steps — which are not covered by EU ETS — will be excluded from CBAM calculations.

### *Exemption of EU-Produced Precursors*

Currently, CBAM goods incorporating EU-produced precursors (CBAM goods used as input materials into the production of other CBAM goods) must report these emissions, even though they are already covered by EU ETS.

The proposed change exempts EU-made precursors from CBAM reporting.

#### *Simplified Emissions Verification*

Currently CBAM declarants must verify all emissions, even when using default values set by the Commission, creating unnecessary costs.

The Commission proposes removing the verification of embedded emissions based on default values provided by the Commission.

#### **4) Stronger Anti-Abuse Measures**

The EC proposes tightening anti-circumvention rules and collaborating with national authorities to develop a unified enforcement strategy against potential abuses.

#### **5) Deadline Adjustment**

Recognizing the challenges importers face in meeting the 31 May CBAM declaration deadline, the EC proposes a more practical timeline. The revised timeline for the surrender of certificates of **31 August**, repurchase deadline of **30 September** and certificate cancellation date of **1 October** aligns better with the extended **EU ETS deadline (30 September)**, ensuring consistency across reporting frameworks. This adjustment provides importers and non-EU operators with additional time to verify emissions and comply with reporting requirements, reducing administrative strain, particularly in the initial years of CBAM.

The commencement of CBAM certificate sales has been postponed to **1 February 2027**, effectively extending the transition period by an additional 12 months. This adjustment eases the financial burden on importers, as they will not need to make payments for **2026 emissions** until **2027**.

#### **6) Simplification of Financial Liabilities**

The CBAM Regulation requires declarants to purchase certificates covering at least 80% of embedded emissions quarterly. This rule has the potential to result in financial strain and over-purchasing, with many unable to recover unused certificates due to restrictive repurchase limits.

The EC proposes to lower the threshold to 50%. Additionally, declarants will have two calculation methods: relying on public default values with deductions or using previous year's surrendered certificates for similar goods. Further adjustments to repurchase rules are intended to enable declarants to sell back all certificates they were required to buy within the same purchase year.

#### **7) Default Values for Carbon Prices Paid in Third Countries**

The CBAM Regulation allows deductions for carbon prices paid in third countries but requires extensive documentation and independent certification of prices paid. To simplify this, the European Commission is considering the introduction of default carbon prices per country, which would be periodically updated. Declarants could either use the default price or provide certified evidence of actual payments.

#### **8) Information Exchanges Between the CBAM Registry and the Common Central Platform**

Under CBAM Regulation, information on the sale, repurchase and cancellation of CBAM certificates must be transferred from the Common Central Platform (CCP) to the CBAM registry at the end of each working day.

In practice, certificate cancellations would not be included in this exchange because:

- Cancellations would be handled automatically by the EC within the CBAM registry.
- No compensation would be provided to declarants for cancellations.
- The CCP would not process payments for cancellations and therefore would lack relevant data.

The EC proposes to remove cancellations from the CCP-to-CBAM registry data exchange.

### What Happens Next

The Proposed Amending Regulation now needs to go through the ordinary legislative procedure, during which it must be adopted by both the European Parliament and the Council.

Looking ahead:

- A full CBAM review will take place later in 2025, assessing potential expansion to additional ETS sectors, downstream goods and indirect emissions.
- The Commission will explore solutions to support exporters of CBAM-regulated products at risk of carbon leakage.
- A legislative proposal based on these findings is scheduled for early 2026.



*If you have any questions concerning these developing issues, please do not hesitate to contact any of the following Paul Hastings lawyers:*

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<sup>1</sup> Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2023/956 as regards simplifying and strengthening the carbon border adjustment mechanism (COM(2025) 87 final).

<sup>2</sup> The proposal indicates the cumulative mass-based threshold of 50 tonnes per importer per year. Considering the weighted average emission intensity across all four sectors (iron and steel, aluminium, fertilisers and cement), the 50 tonnes mass-based threshold corresponds to approximately 80 tonnes of CO<sub>2</sub> equivalent on average per importer.

<sup>3</sup> Annex IV, Section 4.1 specifies that default values shall be set at the average emission intensity of each exporting country and for each of the goods within scope of CBAM, increased by a proportionately designed markup. When reliable data for the exporting country cannot be obtained for a particular type of goods, Section 4.1 provides for an alternative approach of setting default values, which is based on the average emission intensity of the X% worst performing EU ETS installations for that particular type of goods. However, even though the most relevant processes are covered by the EU ETS, and emissions intensity data are available for those, this is not the case for certain processes and goods.