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Regulatory Update

UK CBAM: Classification, Thresholds and Divergence From the EU

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The UK Carbon Border Adjustment Mechanism (UK CBAM) takes effect on 1 January 2027, with the first return and payment due by 31 May 2028. The final piece of secondary legislation was made on 8 September 2026 and the legislative framework is now complete. The last instrument sets out how emissions are calculated and proved.

Four features of the regime merit close attention: what remains unresolved, the commodity codes used to scope products in, the divergent thresholds as between the UK and EU, and the approach taken by the EU to bring downstream goods into scope.

For companies importing covered products, the priority before year-end is to ensure accuracy of the classifications used, readiness of data provided by suppliers and clear contractual allocation of cost and information risk.

The Legislative Framework

UK CBAM applies to imports of aluminium, cement, fertiliser, hydrogen, and iron and steel products, indirectly affects downstream producers that use these goods in their supply chains and is implemented under Part 5 of the Finance Act 2026. The operating package comprises:

- The Carbon Border Adjustment Mechanism (Administrative Provisions) Regulations 2026 (S.I. 2026/802), which establish the regulatory framework for the administration of CBAM;

- The Carbon Border Adjustment Mechanism (Calculation of CBAM Rate and Determination of Carbon Price Relief) Regulations 2026 (S.I. 2026/809), which set out the steps for calculating the CBAM rate and provide for carbon price relief where a qualifying overseas carbon price has already been paid on the same emissions;

- The Carbon Border Adjustment Mechanism (Transitory Provision) Regulations 2026 (S.I. 2026/830), which modify the dates for payment, registration, accounting periods and related penalties for the transitional period from 1 January 2027 to 30 June 2028; and

- The Carbon Border Adjustment Mechanism (Emissions and Verification) Regulations 2026 (S.I. 2026/995) (the Emissions and Verification Regulations), which govern the calculation of embodied emissions, the monitoring and verification of emissions data, and the records an importer must hold.

HMRC has published a collection of detailed guidance covering registration, record-keeping and claiming carbon price relief (HMRC: Prepare for the Carbon Border Adjustment Mechanism).

A commencement order also made on 8 September 2026 applies the Finance Act 2009 interest regime to CBAM from 1 January 2027. Late payment interest will run on sums due to HMRC and repayment interest on sums to be paid by HMRC, including on any penalties assessed in relation to the tax.

The second allocation period of the UK Emissions Trading Scheme (UK ETS) has been delayed to run from 2027 to 2030, aligning with the launch of the UK CBAM. Free allocation of UK ETS allowances to installations in the five CBAM sectors is being phased out gradually from 2027, over an indicative nine-year trajectory, which will progressively increase the CBAM rate as the free allocation reduces.

How Emissions Are Calculated and Proved

UK CBAM is charged on the importation of a CBAM good, with the amount of tax calculated by reference to the greenhouse gas emissions embodied in its production. The Emissions and Verification Regulations set out how those emissions are worked out and how they are proved. They cover the calculation itself, the monitoring and verification of the underlying data, and the records that must be kept.

There are two routes to a figure. The first is to use a default value, a standard emissions figure per tonne that HM Treasury will publish for each CBAM good. The calculation is then simply the weight of the good multiplied by that value, and nothing needs to be verified. The second is to use the actual emissions of the installation that made the good, meaning the industrial unit where it was manufactured or processed. That route takes more work and requires independent verification, but it will usually produce a lower figure for a cleaner producer and runs through eight steps: In outline, the installation's total verified emissions for a type of good over a calendar year are expressed in carbon dioxide equivalent, aggregated with the emissions embodied in any precursor goods and divided by the weight of that good produced to give an emissions intensity, which is then multiplied by the weight imported.

A verifier must be independent of the importer, the installation and its operator and accredited by a full member of the Global Accreditation Cooperation Incorporated for the type of CBAM good concerned. Importers using actual emissions must keep the verification report or a good-specific verification summary for six years.

What Remains Unresolved

Two components remain outstanding. HMRC has confirmed that it will publish guidance on monitoring, reporting and verifying embodied emissions and guidance on rates and default emissions values for the aluminium, cement, fertiliser, hydrogen, and iron and steel sectors.

Importers within scope should monitor the level of those default values closely. The EU applies country-specific values with a mark-up. The UK will set a single value per CBAM good, to be published in a notice by HM Treasury before commencement.

The Government's Written Ministerial Statement of 14 July 2026 set out the approach. The guiding principle, in line with Schedule 17 to the Finance Act 2026, is that in-scope businesses should gain no advantage from using a default value over determining actual emissions. Default values will therefore be based on a trade-weighted average rather than a simple global average, excluding data from jurisdictions with robust mandatory monitoring, reporting and verification systems such as the EU, with additional mark-ups considered where appropriate. Specific values are to follow in the autumn.

On the EU side, the Commission has published draft implementing rules on converting the carbon price paid in a third country into a reduction in CBAM certificates, establishing default country-level carbon prices and a certification framework for operators. This gives EU importers an increasingly detailed framework for cross-border cost offsets, although the UK has already legislated for carbon price relief in S.I. 2026/809.

Importers that fall into the default route by omission rather than by choice may end up overpaying. In addition, as confirmed in the Autumn 2025 Budget, indirect emissions are deferred until 2029 at the earliest. By contrast, the EU CBAM (in its definitive period since 1 January 2026) already captures indirect emissions for certain sectors.

Commodity Codes Define Scope

UK CBAM defines scope by commodity code, not by industry. Contractors, food producers and distributors routinely import aluminium wire and foil, steel structures and reservoirs, fasteners and fixings, components and packaging that may fall within scope. A company may be liable without having considered itself a carbon-intensive business.

Special customs procedures add a further layer. Where a CBAM good is processed in the UK under an inward processing procedure and produces a non-CBAM good that is released into free circulation, only the value of the portion of the original CBAM good that forms part of the processed product counts towards the registration threshold.

Initial screening should begin with customs classifications, not product descriptions, extracting transaction-level data, identifying the person on whose behalf each declaration is made, mapping codes against the in-scope list, testing exclusions and documenting decisions before the regime goes live.

One Trade Flow, Two Thresholds

The UK tests scope by value: £50,000 of CBAM goods imported in the preceding 12 months, tested on the first day of each month, or expected in the next 30 days. The EU tests by mass: 50 tonnes net mass a year, a threshold introduced by Regulation (EU) 2025/2083 replacing the original consignment-based €150 de minimis exemption. The 50-tonne exemption does not apply to imports of hydrogen or electricity, which remain fully in scope regardless of volume. The same shipment can therefore be in scope in one jurisdiction and out in the other: High-value alloy products may trigger UK registration but not EU, and high-volume, low-value goods the reverse.

Companies importing into both markets cannot run a single screening exercise. Value and mass must be monitored separately, each against its own testing period.

ETS Linkage Will Not Cure Structural Divergence

The European Commission's proposal amending Regulation (EU) 2023/956 (COM(2025) 989 final, 2025/0419(COD)) would, if adopted, extend EU CBAM from 1 January 2028 to steel and aluminium-intensive downstream products, including machinery and appliances. The proposal is proceeding through the ordinary legislative procedure. The Council agreed on its general approach on 12 June 2026. Parliament adopted its negotiating position on 15 September 2026, following its environment committee's vote on 6 July 2026. Its position goes further, extending scope to more products, including heat pumps and solar panels, and tightening the anti-circumvention rules. The final list will be settled in trilogue. The UK list remains confined to five sectors (aluminium, cement, fertiliser, hydrogen, iron and steel).

Alongside the scope extension, Parliament on the same date adopted its position on the proposed Temporary Decarbonisation Fund, which would provide financial support in 2027–2029 to EU operators and downstream operators in carbon-intensive sectors facing residual carbon leakage risk on export markets, funded from 25% of CBAM certificate revenues. Companies structuring supply chains across multiple jurisdictions will need to assess the compliance implications of these provisions if adopted.

In addition, the EU CBAM covers six sectors, including electricity, whereas the UK CBAM covers only five and expressly excludes electricity. This means electricity imports into the EU from the UK or third countries face EU CBAM obligations for which there is no UK equivalent.

In practice, the proposed downstream expansion will work against UK manufacturers: A UK exporter of machinery would face EU CBAM cost on the steel and aluminium embedded in the machinery it sells into the EU, while competing imports enter the UK carrying no equivalent charge. UK–EU ETS linkage, on which formal negotiations opened in January 2026 following EU Council authorisation in November 2025, would, if concluded, remove the double charge on bilateral trade but would not align the product lists or reach third-country downstream goods entering the UK. With the second UK–EU summit postponed and no date fixed, companies should plan for full liability and treat exemption as upside.

What to Do Before January

Companies assessing whether they fall within scope of UK CBAM should consider the following:

- **Run a classification-led data review**. Reconcile customs declarations against procurement records, confirm the liable importer, screen commodity codes against the in-scope list and apply the £50,000 test on a backward-looking and forward-looking basis.

- **Engage suppliers early**. Third-country suppliers typically need two or three cycles to produce verification-grade emissions data, so this cannot wait until year-end.

- **Allocate risk contractually**. Pricing provisions should state whether CBAM cost is included, and longer-term contracts warrant change-in-law and termination rights. Contracts should also address which party bears the cost of obtaining verified emissions data; audit and access-to-records rights over supplier emissions reporting; indemnification for HMRC penalties arising from supplier data deficiencies; and the allocation of cost risk where default values are used in lieu of actuals.

- **Secure the verification chain.** Confirm that each relevant installation is already monitoring emissions for the 2026 or 2027 calendar year and that its verifier is independent of your own business and accredited for the type of CBAM good in question. The verification report is given to the operator of the installation rather than to the importer, so supply terms need an express obligation to deliver that report or a good-specific verification summary in time for the return.

More broadly, companies should recognise that CBAM sits within a hardening UK carbon policy framework. From the 2033–2037 budget period, the UK's carbon accounting will include emissions from international aviation and shipping, and the Climate Change Act 2008 (Credit Limit) Order 2026 has set the carbon credit limit for 2028–2032 at zero, eliminating the use of international offsets against domestic targets. The direction of travel reinforces the case for treating CBAM compliance as a structural priority rather than a one-off exercise.

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

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