

ENVIRONMENT

THE FIT FOR 55 PACKAGE AND THE
REGULATION ESTABLISHING A CARBON
BORDER ADJUSTMENT MECHANISM

VdA EXPERTISE



May 2023

On the 17th of May 2023 the Regulation establishing a carbon border adjustment mechanism entered into force – a key element of the Fit for 55 legislative package.

The Fit for 55 legislative package, an essential part of the European Green Deal, consists of a set of legislative proposals, in different stages of adoption, aimed at strengthening the EU's Framework for climate transition in order to ensure the compliance with the 2030 climate target.

Since March 2023, several of the legislative proposals that integrate the Fit for 55 package have been adopted, such as:

- Regulation on CO₂ emissions for new cars, of the 19th of April 2023;
- Decision on market stability reserve, of the 19th of April 2023;
- Regulation on effort sharing on annual reduction of emissions of greenhouse gases ("GHGs"), of the 19th of April 2023;
- Amendment of the Regulation on the inclusion of emissions and removal of GHGs resulting from activities linked to land use, land alteration and forestry sector, of the 19th of April 2023
- Amendment of the EU Trading System ("EU ETS") Directive¹, of the 10th of May 2023;
- Amendment of the Regulation on monitoring, reporting and verification of CO₂ in maritime transport (to include it in the EU ETS), of the 10th May 2023;
- Amendment of the EU ETS Aviation Directive, of the 10th of May 2023;
- Regulation establishing a Social Climate Fund, of the 10th of May 2023
- Lastly, the Regulation establishing the carbon border adjustment mechanism (hereinafter referred as CBAM Regulation) , of the 10th of May 2023

The CBAM Regulation

The CBAM Regulation corresponds to a key element to meet the EU's emission reduction targets until 2030, as well as EU's objective of a climate-neutrality until 2050.

The aims of the CBAM Regulation are to simultaneously encourage other countries to decarbonize their production process and to avoid carbon leakage – a consequence of the import of goods produced in places with lenient environmental and climate policies, that do not provide for the payment of a levy associated to goods that emit GHGs in their production process.

Moreover, the measures provided for by the CBAM Regulation intend to place on an equal footing companies that adhere to the EU Climate Framework and targets and those who delocalize business operations to non-EU countries, not effectively committed to carbon targets.

The mechanism is founded on the introduction of CBAM certificates, which function as GHGs (carbon, nitrous oxide and perfluorocarbons) levies.

1. Scope

The CBAM certificates will, in its first phase, apply to the goods considered more at risk of carbon leakage:

- Cement
- Iron and steel
- Aluminium
- Fertiliser
- Hydrogen
- Electricity

The list of the goods subject to CBAM certificates will be increased by 2030, aiming to cover all the relevant sectors already covered by the EU ETS and susceptible to carbon leakage.

¹ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community



From the 1st of October 2023 onwards, importers of relevant goods under the CBAM Regulation to the EU market will be obliged to provide yearly information concerning the quantity of goods imported and the quantity of embedded emissions in those goods.

2. Functioning of the CBAM

The CBAM Regulation introduces a mechanism determining that the import of the relevant goods will be subject to the issuance of CBAM certificates.

According to this mechanism only authorized CBAM declarants will be able to import relevant goods to the EU territory and will be subject to the payment of carbon levies corresponding to the amount that would have been paid if the goods had been produced in the EU.

As such, yearly, CBAM declarants will need to:

- Buy CBAM certificates, at the beginning of the year;
- Report, until the 31st of May on the quantity of relevant goods imported into the EU in the proceeding year, on the number of CBAM certificates purchased and on its correspondence with the amounts of GHGs emissions embedded in the products. Embedded emissions include both direct and indirect GHGs emissions;
- Submit proof that CBAM certificates were bought for the calendar year at stake until the 31st of May;

CBAM certificates are issued in an electronic format, correspond to one ton of embedded emissions and are registered in an electronic database.

The price of CBAM certificates is directly linked with the price of EU ETS allowances, expressed in €/ton of CO₂ emitted, and calculated weekly, depending on the average auction price of the allowances. The revenues of CBAM are considered part of the EU's own resources and will therefore contribute to its budget.

CBAM will be run by the European Commission in coordination with the relevant authorities of each Member-State. Reports on embedded emissions will need to be confirmed by accredited verifiers.

3. Implementation stages

The implementation of the CBAM Regulation is divided into the following stages:

- **Transitional period** (from the 1st of October 2023 till 31st of December 2025) – reporting period, when importers must provide information concerning embedded emissions in goods imported;
- **Application period** (starting on the 1st of January 2025) – EU importers of relevant goods shall apply to become authorized CBAM declarants;
- **Full implementation period** (starting on the 1st of January 2026) – CBAM declarants will be obliged to declare the goods imported into the EU, their embedded GHG emissions and the quantity of corresponding CBAM certificates bought.



The carbon border adjustment mechanism is foreseen to become fully operational on the 1st of January 2026.

4. Exemptions

The import of certain relevant goods are exempt from the purchase of the corresponding CBAM certificates, if:

- i. These goods come from non-EU countries that have implemented the EU ETS system (for example in the case of EEA countries);
- ii. These goods come from countries with a domestic ETS fully linked to EU ETS (the case of Switzerland)
- iii. These goods have an associated carbon price, which has already been paid and CBAM declarants can duly prove this price is included;
- iv. These goods are considered goods of negligible value – do not exceed 150€; Or
- v. These goods are used for military activities

5. Enforcement measures

Under CBAM, penalties may be applied in case of non-submission of the required amount of CBAM certificates and in the case of introduction of goods in the EU that non-compliant with CBAM obligations. During the transitional period penalties may be applied for the non-compliance with reporting obligations.

Additionally the Commission may supervise potential circumvention practices, seen as “*changes in the pattern of trade of goods*”. These practices include, namely, i) alterations to the goods in aiming to categorize them in non-obliged custom classification codes ii) manufactured splitting of shipments to maintain them under the exemption value.

6. Next steps

The Commission shall adopt delegated and implementation acts that determine rules on accreditation of the verification authorities, increase the list of goods subject to the mechanism, determine rules for the report of embedded emissions and determine rules for the sale and re-purchase of CBAM certificates.

An electronic platform for the registry of imports and of all reported information by companies under the mechanism will be created.

Contacts



ASSUNÇÃO CRISTAS
ACR@VDA.PT



CAROLINA VAZA
CVS@VDA.PT



MARIANA CATALÃO
MNC@VDA.PT