

REFORMS TO EU CARBON BORDER ADJUSTMENT MECHANISM PASSED

A Regulation stripping back elements of the EU CBAM Regulation has been adopted as part of the European Commission's Omnibus 1 package of sustainability legislation reforms (Regulation (EU) 2025/2083, the Amending Regulation). While many criticisms of the CBAM have been levelled at its impact on developing countries, the changes made by the Amending Regulation aim primarily at reducing the complexity of CBAM obligations that heavily impact small companies, offering exemptions for importers of small quantities and streamlining compliance for others. Other changes have been made to simplify some of the administrative aspects of the regime, and also reflect the fact that these changes have been proposed not long before the full regime comes into effect in 2026. In this briefing we take a look at how the CBAM will be changed by the Amending Regulation, and the impact on CBAM participants.

Key elements agreed in the final Amending Regulation which differ from the original reform proposal

- The annual deadline for submission of CBAM Declarations and surrenders of CBAM Certificates moved back from 31 August to 30 September.
- The annual deadline for submission of CBAM Certificate Repurchase requests has been moved forward from 30 November to 31 October.
- Additional clarificatory CBAM exemptions for electricity or hydrogen produced on the continental shelf or exclusive economic zone of Member States.
- Transitional provisions allowing importers / indirect customers who apply for authorisation by 31 March 2026 to continue to import while the authorisation is considered.
- A framework to allow CBAM Declarants to pay fees to fund the digital platform supporting the CBAM Registry after an initial period (amount to be set at a later date by the Commission).
- In a calendar year, where a CBAM Declarant makes advance CBAM Certificate purchases but fails to exceed the Single Mass-based Threshold, it can seek repurchase of all such CBAM Certificates.

New Threshold Exemption

A new threshold is included to exempt importers of 50 tonnes net mass of CBAM goods or less per calendar year from CBAM obligations (Single Mass-Based Threshold). It would apply to imports of iron & steel, aluminium, fertilisers and cement, but not hydrogen and electricity. This new threshold would replace the previous threshold of €150 per consignment, or negligible value, which was found insufficient to ensure SMEs and individuals were exempted from CBAM and also could encourage changes in behaviour to circumvent the rules. It is considered that this new threshold will exempt 90% of importers from CBAM obligations while keeping 99% of embedded emissions within the regime. The Commission would be able to amend this threshold as emission patterns change to ensure the 99% of embedded emissions are always captured.

Once an importer has exceeded the threshold in any year, it will need to purchase CBAM Certificates for all of its imports, not just those above the threshold (subject to any credit for third country carbon prices paid, see below). Failure to register as an Authorised CBAM Declarant before the importer passes the new threshold of imports, would put it in breach of the Regulation and incur a penalty (subject to transitional provisions mentioned below).

A number of associated changes have been made: all exempted importers will need to self-identify in customs documentation as occasional CBAM importers. Building on current rules regarding monitoring of CBAM circumvention practices, national customs authorities would be directed specifically to monitor importers to determine whether the above thresholds have been exceeded. In particular, the amendments allow national authorities to ignore avoidance arrangements which seek to frustrate the threshold by artificially reducing importers' liabilities below the threshold (e.g., by splitting imports). New penalties are created for such practices when identified.

Exemptions would only apply to importers themselves: indirect customs representatives would always need to be Authorised CBAM Declarants even if those they represent benefit from an exemption.

Additional exemptions are included by way of clarification that cover electricity or hydrogen produced on the continental shelf or exclusive economic zone of Member States.

CBAM Authorisations

One element of the CBAM authorisation phase, whereby national authorities consult other Member State authorities on applications for authorisation, will become optional. It is hoped that this, along with the reduction in numbers of applicants due to the new threshold, will speed up the authorisation process.

The proposal provides a new possibility for third party representatives to make annual CBAM Declarations and submit certificates on behalf of importers, although the importer will always remain liable for the contents of the declaration and for performing their other CBAM obligations. Representatives would be given access to the CBAM Registry. This will mean that importers will no longer have to rely on indirect customs representatives, whose capacity tends to be limited.

Transitional provisions have been included allowing importers / indirect customers who apply for authorisation by 31 March 2026 to continue importing while the authorisation is considered.

Verification of emissions

Verifiers will be given access to the CBAM Registry which will resolve an anomaly which prevented them from easily being able to verify emissions data. There is a new obligation for emissions verifiers to be registered in the Member State of the national accreditation body established in the CBAM Registry.

The amendments also helpfully clarify that verification of emissions only applies where an importer has used actual observed emission values (rather than the default values produced by the Commission).

Revised timeline

1 January 2026:

- Beginning of first Full CBAM year
- CBAM authorisation required before first import into EU

1 February 2027: Sale of CBAM Certificates open

31 March 2027: First quarterly deadline for advance purchases of CBAM Certificates representing 50% of emissions in year to date (2027+ imports only)

30 September 2027: Deadline for first CBAM Declaration and surrender of CBAM Certificates (in respect of 2026 calendar year embedded emissions) via CBAM Registry

31 October 2027: Deadline for CBAM Certificate repurchase request

CBAM Declarations, Surrender of CBAM Certificates and Advance Purchasing

The deadline for submitting CBAM Declarations, and surrendering associated CBAM Certificates, will be moved from 31 May to 30 September each year to allow more time for information to be gathered, verification of emissions and purchasing certificates. The first deadline would therefore be 30 September 2027 (for the 2026 calendar year of imports).

The current CBAM Regulation requires CBAM Declarants, by each quarter's end, to have in their account sufficient CBAM Certificates to cover at least 80% of the embedded emissions from their imports for the calendar year so far. This creates a substantial financial burden on importers. To alleviate this, the requirement has been reduced to 50%, with further reductions reflecting any free allocation of allowances to EU operators in the relevant sector. This adjustment is crucial for imports from countries like the UK, which impose similarly high carbon prices, and where the risk of having to purchase surplus CBAM Certificates is greatest. If an importer surpasses the 50-tonne threshold and becomes subject to CBAM, they will have to meet the 50% purchase obligation by the end of that quarter. The first compliance deadline is set for 31 March 2027, applying only to imports from 2027 onwards. This means that CBAM Certificates in respect of 2026 imports only need to be purchased in time for the 30 September 2027 surrender deadline.

Sales of CBAM Certificates and Purchase Price

Sales of CBAM certificates will be open for the first time from 1 February 2027 (rather than 2026 as previously planned).

The price of CBAM Certificates will continue to be based on variable weekly EU ETS allowance closing prices. However, for 2026 imports only, prices will be based on quarterly average EU ETS prices.

Repurchase of Surplus CBAM Certificates by National Authorities

The limit on the obligation for Member States to repurchase surplus CBAM Certificates after a declarant surrenders the necessary certificates has also been revised:

- **Previous limit:** One-third of certificates purchased by the CBAM Declarant in the previous year.
- **New limit:** The number of CBAM certificates required for purchase in the four quarters of the previous year (representing 50% of embedded emissions), except in 2027, when all surplus certificates must be repurchased upon request. However, in a calendar year where a CBAM Declarant makes advance CBAM Certificate purchases but fails to exceed the Single Mass-based Threshold, it can seek repurchase of all such CBAM Certificates.

Repurchase requests must be submitted by 31 October each year, instead of June. CBAM Certificates can still be banked for future use but will be cancelled on 1 November October in the second calendar year after purchase. However, surplus CBAM Certificates bought in 2027 for 2026 emissions cannot be banked and will be cancelled in November 2027 (and requests should therefore be made to repurchase all such surplus CBAM Certificates).

Calculation of Embedded Emissions and Carbon Prices

A welcome change for importers will be a new option to rely on default emission values rather than actual emission values (even where such actual values may be available), since evidencing the lack of available actual values in third countries can be difficult and require significant effort from overseas producers.

Some changes have also been made to how embedded emissions and default values are calculated and to the process boundaries for manufactured goods and to other reportable information.

The CBAM Regulation seeks to credit any carbon price paid in the country of origin of the goods against an importer's CBAM obligation. The amended CBAM will allow a carbon price in any third country to be taken into account, given that a carbon price might not necessarily be paid in the country where the product itself was produced (e.g., if a carbon price was paid in another country where a precursor material was produced or processed). Reflecting the potential difficulty in identifying carbon prices outside of the EU (in particularly in relation to indirect use of electricity), the Commission will publish, where possible, default carbon prices for third countries which can be used by the importer where actual values are not available.

Penalties

National authorities will be allowed to modify the automatic penalties currently applicable where the breach is due to information received from third parties, and penalties should reflect the gravity of the breach, and the fault, past record and co-operation of the CBAM Declarant. Increased penalties should normally be applied where importers failed (where needed) to register as CBAM Declarants.

Future reform

While the changes made by the Amending Regulation focus primarily on regulatory simplification, the Commission consulted recently on changes to incorporate some steel and aluminium downstream products within the CBAM and to introduce additional anti-circumvention measures to better prevent carbon leakage (See Michael Coxall's [LinkedIn article](#)). We now await the outcome of the consultation and associated legislative proposal. With little more than two months before the revised full CBAM regime begins to take effect, participants should ensure that their CBAM compliance frameworks have been updated to deal with these changes.

If you would like to understand how the changes impact your business, please contact Adam Hedley, Kate Mackintosh or one of the lawyers listed in the Contacts section below.

CONTACTS



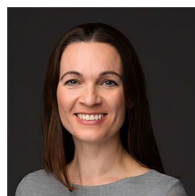
Nigel Howorth
Partner
London

T +44 20 7006 4076
E nigel.howorth@cliffordchance.com



Adam Hedley
Partner
London

T +44 20 7006 3381
E adam.hedley@cliffordchance.com



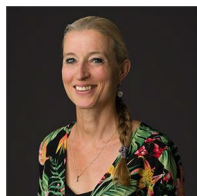
Jessica Gladstone
Partner
London

T +44 20 7006 5953
E jessica.gladstone@cliffordchance.com



Thomas Voland
Partner
Düsseldorf

T +49 211 4355 5642
E thomas.voland@cliffordchance.com



Liesbeth Buiters
Partner
Amsterdam

T +31 20 711 9326
E liesbeth.buiters@cliffordchance.com



Mathias Elspaß
Partner
Düsseldorf

T +49 211 4355 5260
E mathias.elspass@cliffordchance.com



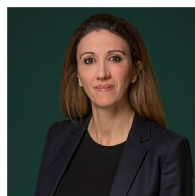
Kate Mackintosh
Senior Associate
London

T +44 207006 1777
E kate.mackintosh@cliffordchance.com



Jeremy Stewart
Senior Associate
London

T +44 20 7006 4502
E jeremy.stewart@cliffordchance.com



Nadia Kalic
Partner
Sydney

T +61 2 8922 8095
E nadia.kalic@cliffordchance.com



Janet Whittaker
Senior Counsel
Washington, D.C.

T +1 202 912 5444
E janet.whittaker@cliffordchance.com



Michael Coxall
Knowledge Director
London

T +44 (0)20 7006 4315
E michael.coxall@cliffordchance.com

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Clifford Chance, 10 Upper Bank Street,
London, E14 5JJ

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