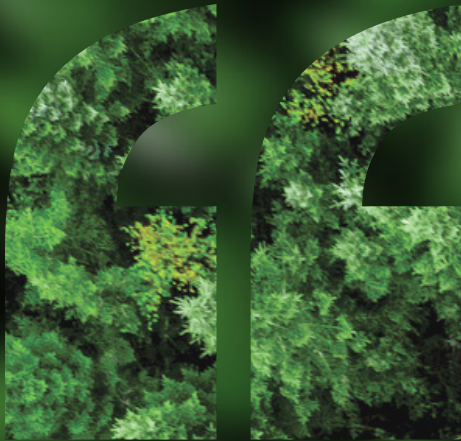
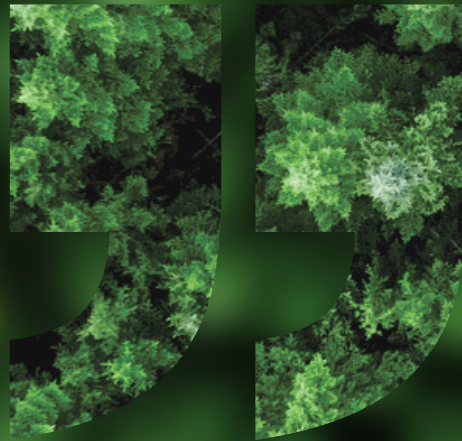


C L I F F O R D

C H A N C E



**THE EU OMNIBUS
PACKAGE –
STREAMLINING
THE EU CARBON
BORDER
ADJUSTMENT
MECHANISM**



– THOUGHT LEADERSHIP

FEBRUARY 2025



THE EU OMNIBUS PACKAGE – STREAMLINING THE EU CARBON BORDER ADJUSTMENT MECHANISM

A proposal for reform of the EU's Carbon Border Adjustment Mechanism (CBAM) has been included as part of the European Commission's Omnibus 1 package of sustainability legislation reforms. While many criticisms of the CBAM have been levelled at its impact on developing countries, these proposals primarily aim 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 proposals 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.

New Threshold Exemption

A new threshold has been proposed to exempt importers of 50 Tonnes net mass of CBAM goods or less per calendar year from CBAM obligations. 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.

A number of associated changes are proposed: 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.

CBAM Authorisations

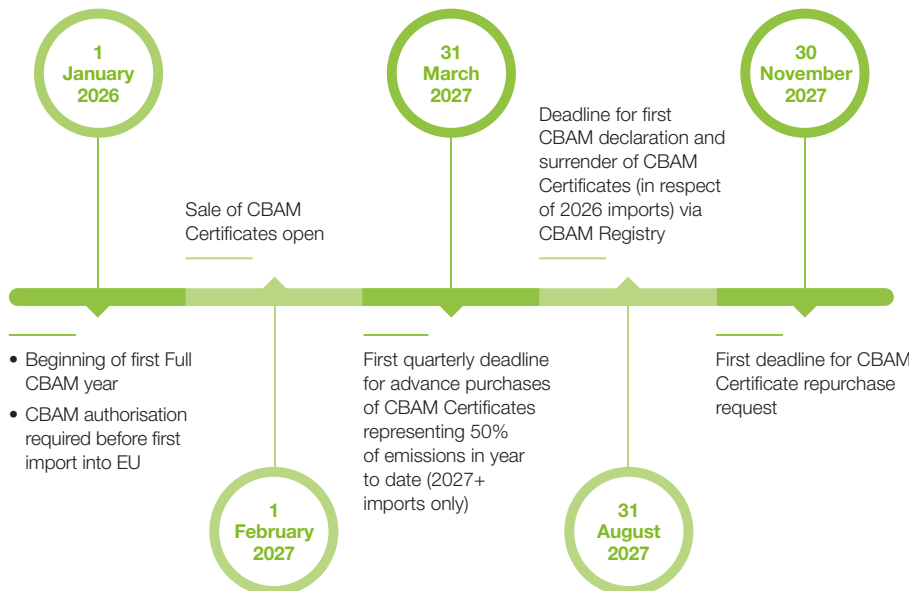
One element of the CBAM authorisation phase, whereby national authorities consult other Member State authorities on applications for authorisation, will become optional. It is hoped that this, along with the reduction in numbers of applicants due to the new threshold, will speed up the authorisation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

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



CBAM Declarations, Surrender of CBAM Certificates and Advance Purchasing

The deadline for submitting CBAM Declarations, and surrendering associated CBAM Certificates, would be moved from 31 May to 31 August each year to allow more time for information to be gathered, verification of emissions and purchasing certificates. The first deadline would therefore be 31 August 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 31 August 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, in order to simplify matters for the 2026 imports year only, figures set at the quarterly average of the closing prices of EU ETS allowances on the auction platform for the relevant goods in the relevant quarter will be used instead for that year.

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:

- **Current limit:** One-third of certificates purchased by the CBAM Declarant in the previous year.
- **Proposed 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.

Repurchase requests must be submitted by 30 November each year, instead of June. CBAM Certificates can still be banked for future use but will be cancelled on 1 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 December 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 proposal would 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 the automatic penalties currently applicable to reflect the level of underreporting, fault, past record or co-operation of the CBAM Declarant.

Future reform

This initiative formed part of the broader Competitiveness Compass introduced earlier in 2025, which announced the Omnibus package. While the Compass focused primarily on regulatory simplification, it also announced a further effort to strengthen efforts to prevent carbon leakage, with a separate review of CBAM to look at potentially extending it to further sectors and downstream products as well as considering some exports of relevant goods. The EU Clean Industrial Deal published alongside the CBAM proposal announces that this review will take place in the second half of 2025, with a legislative proposal to follow in the first half of 2026. We take a look at below some of the key changes made in the present proposal.



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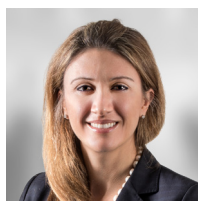
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