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CBAM – What's new?
Proposal for the reform of the CBAM Regulation

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As part of the Omnibus package (see our briefing <u>here</u>), the EU Commission suggested simplifications and improvements to the CBAM Regulation. The <u>proposal</u> aims to simplify and enhance the cost-efficiency of the CBAM Regulation while ensuring that its environmental objectives and core design principles remain intact. Key measures focus on easing compliance for importers by streamlining reporting requirements, particularly those involving complex calculations and extensive data collection.

Before the EU proposals become legally binding, they must go through the ordinary legislative procedure at the European level. Until this is achieved, every importer of CBAM goods should register as an authorized CBAM declarant in the CBAM registry, which is possible since 31 March 2025. We outline the details.

Proposed simplifications to the CBAM system

- Most importantly, the Commission proposes a **new CBAM de minimis threshold exemption of 50 tonnes mass**. According to the Commission, this would exempt 90% of the importers from the CBAM, while ensuring that 99% of emissions are still captured. If you are an importer close to this threshold, you must closely monitor the imports as CBAM will be applied in full if the threshold is reached or exceeded. Please note that the exemption does not apply to imports of electricity and hydrogen. In contrast, the proposal excludes non-calcined kaolinic clays from the scope of the CBAM Regulation.

- Importers of covered goods below the quantitative threshold must self-identify as "occasional CBAM importers" when submitting their customs declaration and ensure that they do not exceed the threshold throughout the year.

- For those importers who expect to remain in the CBAM scope, the proposed changes will also **facilitate compliance with CBAM obligations**:

  - The submission of CBAM declarations would be extended to 31 August of each year instead of 31 May. This would also impact other deadlines associated with this date. Specifically, the authorized CBAM declarant would need to submit a request to repurchase excess certificates by 30 September (instead of the previous deadline of 30 June), and the Commission would be required to cancel unused certificates on 1 October, rather than 1 July. Also, declarations could be delegated to third parties.

- The handling of **default values** will be restructured:

    - The CBAM Regulation includes two default values: (1) the average emission intensity of the exporting country, plus a markup, or, if this information is unavailable, (2) an alternative default value based on the average of the least efficient EU installations. While the proposal does not address the first default value, the Commission suggests replacing the second default value with the average emission intensity of the 10 exporting countries with the highest emissions, for which reliable data is available. Additionally, declarants will have the option to choose between reporting actual emissions or using default values. Importers relying on default values will not be required to have their emissions verified by accredited auditors.

    - The Commission also proposes introducing default values for the carbon prices paid in third countries for the same goods. Currently, importers are required to provide documentary proof of the carbon price paid, demonstrate that it applies to the imported CBAM goods, and show that it has been independently verified. In some cases, proving the payment of the carbon price can be burdensome. To address this, the Commission plans to establish default carbon price values for each country. At the same time, importers will have the option to use these default values or adjust them based on evidence of the actual carbon price paid.

- Furthermore, the proposal introduces simplifications for the **purchase and sale of certificates**.

    - Previously, companies had to deposit 80% of their estimated emissions in CBAM certificates each quarter, tying up significant liquidity. This requirement is now reduced to 50%.

    - For the first financial adjustment year, certificates for 2026 imports will likely only be available from February 2027, with pricing based on the average EU ETS price of the relevant import quarter.

    - The rules for reselling CBAM certificates are also being relaxed. Instead of a strict one-third limit, companies will be allowed to resell certificates up to the amount they are required to surrender under the regulation.

    - This is accompanied by rules to simplify the authorisation of declarants, the calculation of emissions, and the management of CBAM financial liability.

- Finally, this will be coupled with measures making CBAM more effective, by strengthening anti-abuse provisions and developing a joint anti-circumvention strategy together with national authorities.

CBAM Declarant Authorisation

As of 31 March 2025, importers and indirect customs representatives can now apply in the CBAM Registry for the status of authorised CBAM declarant using the Authorisation Management Module. This is based on the Implementing Regulation adopted by the Commission on 17 March 2025. In Germany, you can access the admission module in the CBAM Registry via the customs portal. In the application, companies must demonstrate an administrative organisation and internal controls to manage CBAM certificates, ensure accurate declarations, and prevent irregularities.

Impact for companies

If you are an importer of iron and steel, aluminium, fertilizers, and cement below the threshold of 50 tonnes per year, follow the legislative process closely, as you might get exempted. Up until then and for all other importers, you should prepare for CBAM to be applied in full as of 1 January 2026. For that, you can as of 31 March 2025 register as an authorized CBAM declarant.

BLOMSTEIN will continue to closely monitor the developments surrounding CBAM. If you have any questions on this topic Leonard von Rummel and the entire ESG Team are ready to assist you

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