

Alert | Energy & Natural Resources



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EU Proposal for the Carbon Border Adjustment Mechanism

The European Union is considering implementation of a new carbon policy, the Carbon Border Adjustment Mechanism (CBAM), that could profoundly impact the global import/export market. A carbon-pricing system for imports into the EU, the CBAM is aimed at adjusting the price of certain imported products to the amount of CO₂ emissions incorporated in them, in order to equalize the cost of carbon between EU products and these imports.

The CBAM, which is proposed to be applicable as of Jan. 1, 2023, would initially only cover products from the following sectors:

- (i) cement;
- (ii) iron and steel;
- (iii) aluminum;
- (iv) fertilizers; and
- (v) electricity.

The measure is designed to reduce the risk that European companies move their carbon emission-producing activities outside the EU in order to take advantage of lower environmental standards (so-called carbon leakage) or that European products suffer competition from foreign production subject to lower carbon compliance costs.

In short, the mechanism would require that importers purchase specific emission-related certificates for a price equal to that which they would have paid had the goods been produced within the EU. If, however, the importer could prove that the carbon price was already paid in the country of production, the corresponding cost could be deducted.

Subject importers, individually or through a representative, would have to register with the competent national authority in order to purchase CBAM certificates. By May 31 of each year, they would have to declare the quantity of products imported into the EU in the previous year and the corresponding quantity of emissions. At the same time, they would have to deposit the CBAM certificates previously purchased.

In the first transitional phase (2023 - 2026) the obligations would be exclusively of a declaratory nature, while the payment of allowances would be effective only from 2026.

At the end of the transition period, the European Commission would assess the possible extension of the system to other products and services, including upstream and downstream production, and to so-called indirect emissions, i.e., those deriving from electricity used in the production of goods and services.

The CBAM would not be applied to countries that are part of the EU Customs Union (Iceland, Norway, Liechtenstein and Switzerland) or to European overseas territories.

Current Status

The concept of a CBAM was included in the framework of the European Green Deal and had been anticipated by the European Commission in the [Communication of Dec. 11, 2019](#). On July 14, 2021, the European Commission presented a [Proposal for a Regulation of the European Parliament and of the Council to establish the CBAM](#). The CBAM Regulation is part of a broad reform package proposed by the Commission, so-called “Fit for 55,” aimed at ensuring the achievement of the EU’s environmental targets of greenhouse gas emissions in 2030 of 55% of 1990 levels and full climate neutrality by 2050.

The Proposal follows the ordinary EU legislative procedure and is currently in the comitology phase, which consists in closed-door consultations between delegates of the European Parliament, the Council and the Commission discussing possible amendments to the Commission’s proposal. The final draft requires approval by both the EU Parliament and the Council.

To date, there are no indications regarding the likely timing of approval. An impasse in the formation of the new German government could lead to a slowdown in the work of the Council, especially in relation to the legislative proposals with a greater impact on the environment. However, since the CBAM has been [qualified](#) as a measure of “*extreme importance*” by the EU Commission, EU member states may be less likely to slow down its adoption. In addition, the EU Parliament already has expressed its support for the CBAM, at least on the main points, having approved on March 10, 2021, a specific [Resolution on the CBAM](#) by a large majority, urging its adoption in order to protect European companies from the increasing costs of the ecological transition.

If implemented and applicable starting January 2023, a little more than a year from now, the CBAM could have a transformative impact globally. Therefore, companies in the five relevant sectors should follow its development closely.

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