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Commission Implementing Regulations laying down detailed rules for the application of Regulation (EU) 2023/956 of the European Parliament and of the Council establishing a carbon border adjustment mechanism

Business & Science Poland position

In Regulation (EU) 2023/956 establishing the Carbon Border Adjustment Mechanism (CBAM), the adoption of implementing acts is foreseen in order to specify and harmonise the key technical aspects of the functioning of this mechanism. Pursuant to Articles 7, 9 and 31 of the Regulation, these acts will cover in particular:

- the rules for calculating embedded emissions in products covered by CBAM,
- the reflection of the gradual phasing-out of free EU ETS allowances in the years 2026–2034,
- the adjustment of the CBAM obligation in cases where an actual carbon price has been paid in the country of origin of the goods.

This position paper of Business & Science Poland focuses mainly on the first two areas, which are of key importance for energy-intensive industries: the methodology for calculating embedded emissions and the rules for reflecting the gradual phasing-out of free EU ETS allowances. Both acts will be of fundamental importance for the practical feasibility and proportionality of CBAM, as well as for maintaining the competitiveness of EU industry in global markets.

Business & Science Poland welcomes the European Commission's intention to clarify and harmonise the methodology for calculating embedded emissions under CBAM, while ensuring consistency with the EU ETS (including the rules for the gradual phase-out of free allowances). It is essential to simultaneously limit administrative burdens and ensure environmental integrity and regulatory predictability for companies. We consider the following issues to be of key importance:

1. Actual and verifiable emissions as a priority – default values to be used only as a complement to the reporting of actual emissions.
2. Classification and regulatory consistency – alignment of CN and NACE codes.
3. Caution with regard to indirect emissions.
4. Avoiding cumulative burdens along the value chain.
5. Deferral of the phase-out of free ETS allowances – protection against carbon leakage and asymmetry.
6. Proportionality and administrative feasibility.

For industry, it is crucial that the CBAM is implemented gradually and effectively protects EU producers against the influx of cheaper products with a higher carbon footprint. The segment of chemical and petrochemical products remains particularly vulnerable, as in recent years it has been under pressure from intensive imports from Asian markets – often at prices impossible to achieve under EU emission cost levels and regulatory compliance. We propose the following courses of action:

1. Actual emissions as a priority – default values only as a last resort

CBAM declarations should be based primarily on reliable and verified actual data from the producer. The evidentiary requirements should be proportionate to the capacities of entities, including those in third countries, so that actual data can be effectively used, while the level of default values and the manner of their application should appropriately incentivise this. Only in this way can situations be avoided where imports are accounted for on the basis of simplified or underestimated values, which would distort competition and weaken the position of EU producers. Calculations must remain consistent with ETS benchmarks and be clearly mapped onto CN codes in order to avoid arbitrariness and double counting along the value chain.

2. Classification and regulatory consistency – CN and NACE codes

Fragmented and inconsistent application of rules resulting from discrepancies between CN codes (products) and NACE codes (processes) must be avoided, as such divergences hinder the proper attribution of carbon footprint in complex, international supply chains. Covering only selected products from a single technological process leads to regulatory arbitrariness and creates incentives for trade partners to manipulate product classification. In practice, this may result in artificially splitting production processes across different countries and tariff codes solely to avoid CBAM charges. Lack of consistency between classification systems also increases administrative burdens and hampers the verification of actual emissions, thereby undermining the credibility of the entire mechanism. The methodology should therefore ensure full predictability and regulatory consistency, while at the same time providing a level playing field for both EU and non-EU operators.

3. Caution with regard to indirect emissions

Given the lack of reliable and verifiable data in third countries, the inclusion of broader categories of indirect and value chain emissions in the CBAM methodology should take place only on the basis of clear and workable reporting rules. Otherwise, there is a risk of manipulation of reporting and arbitrary attribution of emissions, which would distort competition and weaken the position of EU producers. This issue is particularly relevant for emissions linked to electricity as well as value chain stages outside the production plant (Scopes 2 and 3), where consistent methods and verification procedures are lacking. Any rigid inclusion of such emissions without adequate safeguards could lead to distorted results and the displacement of EU production by more carbon-intensive imports. It is therefore essential that the regulation of indirect emissions be introduced gradually, based on available tools and data, and in close cooperation with industry.

4. Avoiding cumulative burdens along the value chain

The CBAM methodology must prevent situations where the same emissions are counted multiple times at different stages of production. This is particularly relevant in cases where basic materials already covered by CBAM (e.g. hydrogen, ammonia, urea) are subsequently used to produce downstream products such as processed fertilizers or intermediate chemicals. In such cases, there is a risk of overlapping regulatory charges, which not only leads to excessive cost increases for EU producers using such imported inputs in their operations, but also creates a competitive advantage on the EU market for more processed finished imports.

An illustrative example is melamine, whose production is based on inputs already covered by CBAM (urea, ammonia), yet the product itself does not benefit from equivalent border protection. This regulatory gap means that EU producers bear the full cost of emissions, while their foreign competitors can place melamine on the EU market without additional charges, resulting in the displacement of EU production by more carbon-intensive imports.

Therefore, the methodology for calculating embedded emissions should be designed in a way that eliminates the risk of double or multiple charges for the same emissions, and the mechanism itself should be extended to downstream products derived from raw materials already covered by CBAM, in order to avoid protection gaps and competitive asymmetries. The impact of any CBAM extension must be thoroughly assessed in consultation with the relevant sector, and such an extension should be carried out through a full legislative process rather than by means of a Commission implementing act.

5. Deferral of the phase-out of free ETS allowances – protection against carbon leakage and asymmetry

The withdrawal of free allowances in CBAM-covered sectors should take place only after a thorough assessment of the functioning of the mechanism, at least until 2030, taking into account the impact on exports, value chains and the risk of carbon leakage. This stems from identified risks:

- CBAM covers imports but not exports, creating a cost asymmetry – EU exporters lose protection and compete globally with entities not subject to comparable charges; the loss of free allowances without a compensatory mechanism reduces profitability, limits production, and may accelerate relocation outside the EU (carbon leakage).
- It is technically impossible at present to cover the full range of products in exposed sectors with CBAM; in many areas, the reduction of free allocation will therefore not be offset by a border charge, which threatens significant loss of competitiveness in segments remaining outside the scope of the mechanism.

The solutions being designed in the methodology must not result in cost asymmetry between EU producers and operators from third countries. The gradual phase-out of free allowances in the EU ETS means that EU companies will bear increasing climate policy costs, while competitors outside the EU are not subject to equivalent regulations. The absence of a compensatory mechanism for exports further exacerbates this imbalance – EU producers lose protection in external markets, and their products are displaced by cheaper, often more carbon-intensive imports.

This risk is particularly acute for industries operating in global commodity markets as price takers (e.g. copper), where passing on emission costs to customers is impossible. In such cases, the loss of free allowances without adequate safeguard mechanisms leads to declining profitability, reduced production and job losses. It is therefore essential that CBAM and its methodology not only support climate objectives, but also safeguard the competitiveness of European industry by ensuring a level playing field on both the internal and international markets.

6. Proportionality and administrative feasibility

Reporting requirements must not unduly increase the burden on companies, particularly those operating in complex value chains and in energy-intensive sectors. CBAM already generates significant organisational and staffing costs related to data collection and verification. The introduction of additional, complex reporting obligations risks creating an administrative deadlock, especially for small and medium-sized enterprises and companies operating within international structures. Reporting requirements must therefore be proportionate to the resources and technical capacities of companies, while the methodology should be standardised and transparent so as to minimise the risk of arbitrary interpretation by administrative authorities.

Summary

The methodology should be based first and foremost on verified actual data from producers, with default values permitted only as a subsidiary tool, so as to avoid underestimating the carbon footprint of imports and the resulting distortions of competition. To ensure reliable and comparable calculations, full consistency between CN and NACE classifications is necessary, as well as the closure of gaps in value chains, including the elimination of double or multiple counting of the same emissions when CBAM-covered precursors are incorporated into downstream products. At the same time, the treatment of indirect emissions — in particular those related to electricity and off-site stages (Scopes 2 and 3) — should proceed cautiously and gradually, based on clear and verifiable reporting rules. Reporting requirements must remain proportionate and administratively feasible in order to limit costs for companies and the risk of arbitrary enforcement. In the same spirit, decisions on the phase-out of free allowances in CBAM-covered sectors should be conditional on a sound, sector-specific assessment of the mechanism's effectiveness — not before 2030 — taking into account impacts on exports, entire value chains and the real risk of carbon leakage. This is due to the persistent asymmetry between imports covered by border protection and exports lacking comparable instruments, as well as the incomplete coverage of CBAM, which, combined with the characteristics of “price-taking” sectors, may lead to a loss of competitiveness and the displacement of EU production. The objective of the implementing regulations should therefore be to provide a methodology that is transparent, consistent with the EU ETS and proportionate, effectively limiting carbon leakage while maintaining a level playing field on both the internal and international markets.

About BSP

Business & Science Poland (BSP) combines the experience of leading Polish enterprises with the European Union's agenda. We represent the knowledge and interests of Polish companies employing over 180,000 people in Poland, the EU, and worldwide. Our goal is to support the EU Single Market, taking into account the need for its responsible and effective transformation.