

**RE-GLOBE SEMINARS**

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# **CBAM**

**Carbon Border Adjustment Mechanism**

# THE EU CARBON BORDER ADJUSTMENT MECHANISM

background, functioning and impact



# Structure of the presentation

## ▶ OVERVIEW AND BACKDROP

- What is the CBAM?
- What are the foreseen effects of this measure?
- The regulatory framework
- The general functioning of CBAM

## ▶ EXAM OF THE LEGAL TEST AND CONDITIONS FOR OPERATIONS

- Conditions of operations
- Stages of implementation

## ▶ IMPLICATIONS, INTERNALLY AND EXTERNALLY

- The impact on European industries
- The impact on third countries



# 1. OVERVIEW AND BACKDROP

## WHAT IS CBAM?

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**CARBON BORDER  
ADJUSTMENT MECHANISM**



# WHAT IS CBAM?

## ► Definition:

- CBAM (Carbon Border Adjustment Mechanism) is a **carbon tax** introduced by the EU to combat climate change and **reduce greenhouse gas emissions globally**
- It entered into force on October 2023 - **Regulation (EU) 2023/956**
- Inspired by the principle of 'the polluters pay', targeting **carbon-intensive goods imported into the EU**

## ► Carbon-Intensive Goods Covered:

- ***Cement, electricity, mineral and chemical fertilisers, iron and steel, aluminium and hydrogen***
- goods that contribute the most, along their production process, to the increase of greenhouse gases in the atmosphere



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## ▶ Mechanism of CBAM:

- ▶ Imposes a **price for emissions embedded in products** from specific industries, **similar to that borne by EU producers.**
- ▶ Implementation involves assessing emissions intensity of products and applying corresponding carbon price adjustments

## ▶ Objectives:

- ▶ Aims to **prevent 'carbon leakage'**, i.e. the shift of carbon-intensive production outside the EU due to lower environmental standards or importation of similar products with lower emissions standards.
- ▶ Prevent undermining of EU's efforts to reduce emissions caused by a simultaneous increase in emissions outside its borders
- ▶ Ensure imported goods meet equivalent carbon pricing to domestic production, aligning with EU climate objectives.

## ▶ Conclusion:

- ▶ CBAM serves as a crucial environmental policy tool to maintain the integrity of EU's climate efforts and reduce global greenhouse gas emissions.

# 1. OVERVIEW AND BACKDROP

WHAT ARE THE FORESEEN EFFECTS OF  
THIS MEASURE?

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# WHAT ARE THE FORESEEN EFFECTS OF THIS MEASURE?

- ▶ the CBAM will create **incentives for non-EU industries to reduce their carbon footprint as well as to invest in cleaner technologies** to avoid or minimize the CBAM costs, fostering innovation and sustainability at a global level.
- ▶ Domestic industries will also benefit from a **more level playing field** if the CBAM ensures that imported products adhere to similar environmental standards.
- ▶ On the other hand, the establishment of CBAM may potentially lead to **tensions with third country trading partners**, entailing a risk of trade retaliation if such countries perceive the CBAM as discriminatory or unfair.



# 1. OVERVIEW AND BACKDROP

## THE REGULATORY FRAMEWORK OF CBAM



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# THE REGULATORY FRAMEWORK OF CBAM

- ▶ **The Paris Agreement**, adopted on 12 December 2015 under the United Nations Framework Convention on Climate Change (UNFCCC), entered into force on 4 November 2016
- ▶ **European Green Deal** - communication of 11 December 2019 concerning the Growth Strategy of the EU
- ▶ **Pathway to a Healthy Planet for All, EU Action Plan: Towards Zero Pollution for Air, Water and Soil** - Communication of the EU of 12 May 2021
- ▶ Regulation (EU) 2021/1119 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law')
- ▶ **THE EU EMISSIONS TRADING SYSTEM (ETS)**
- ▶ **Glasgow Pact** - 13 november 2021

# The Paris Agreement

- ▶ The EU and all its member states have signed and ratified the Paris Agreement
- ▶ The agreement is based upon the assumption that *'climate change poses an urgent and potentially irreversible threat to human societies and the planet'* and calls for *'the maximum cooperation of all countries'* in order to *'accelerate the reduction of greenhouse gas emissions'*.
- ▶ In line with this commitment, EU countries have agreed to set the EU on course to **becoming the first climate-neutral economy and society by 2050**
- ▶ the EU submitted its long-term emission reduction strategy, pledging to **reduce EU emissions by at least 55% by 2030, compared to 1990 levels.**
- ▶ The objectives of the Agreement are three: **mitigation, adaptation and financing.**
- ▶ All Parties contribute to the fight against climate change by voluntarily defining their own commitments at the national level, called **'intended nationally determined contributions' (INDCs).**
- ▶ The Parties have agreed to **hold the increase in the global average temperature well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1,5 °C above pre-industrial levels.**

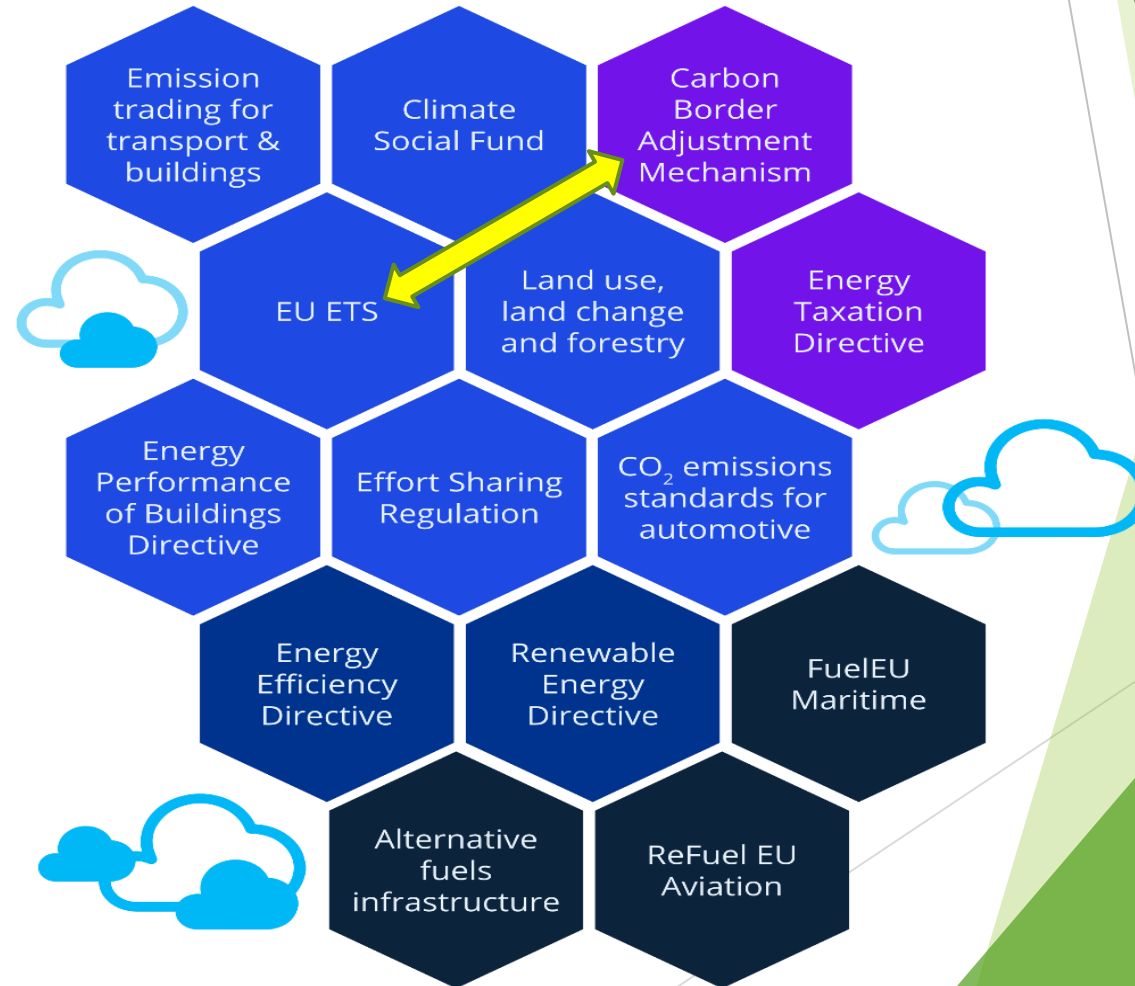
# The European Green Deal

- ▶ Tackling climate and other environment-related challenges and reaching the objectives of the **Paris Agreement** are at the core of the **European Green Deal**.
- ▶ The European Green Deal is a roadmap of **tax and non-tax policy initiatives** designed to achieve ambitious climate-related targets. The EU's milestone target is to **reduce EU greenhouse gas (GHG) emissions by 55 per cent, when compared to 1990 levels, by 2030.**
- ▶ The **first set of legislative proposals**, which were designed to facilitate the necessary acceleration of GHG emissions reduction by 2030 and align the EU's climate, transport, land use, energy and taxation policies with this milestone target, was adopted by the European Commission in July 2021 under the “**Fit for 55 package**” banner.



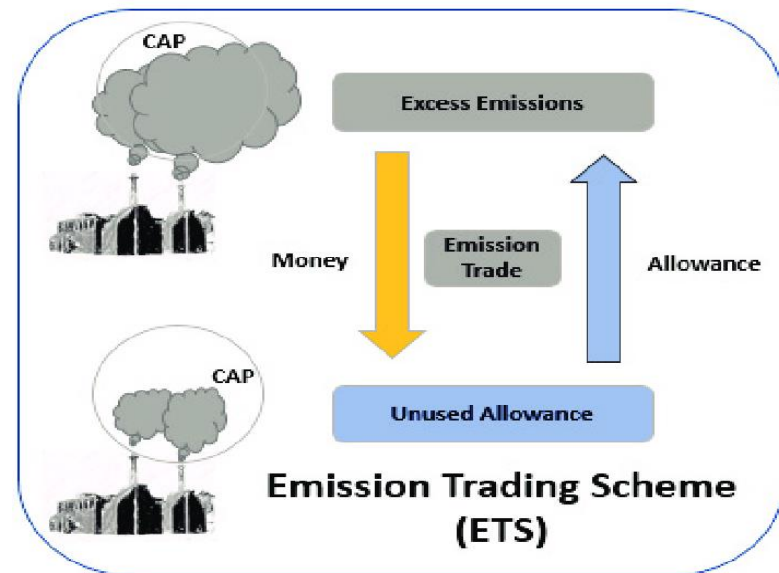
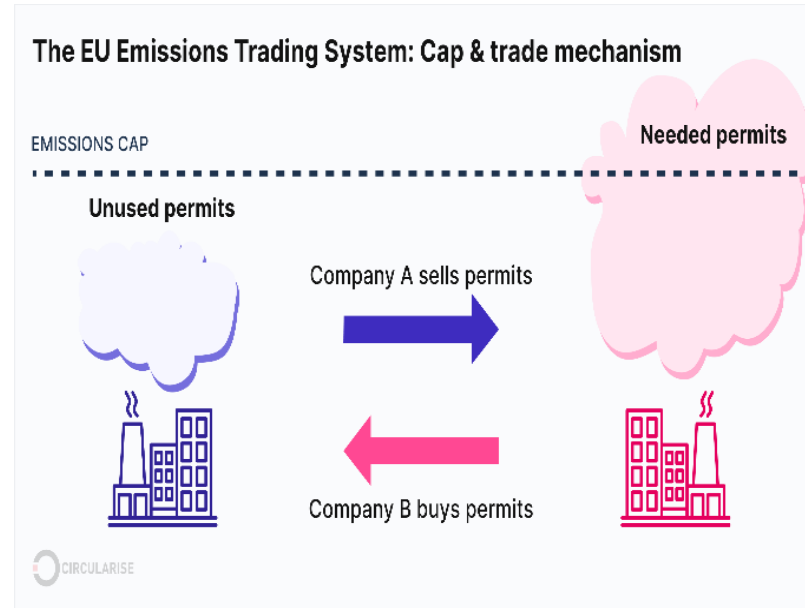
# Fit for 55 package

- ▶ CBAM was first proposed in 2019 within the EU Green Deal and is an **essential element to the Fit for 55 package**.
- ▶ One component of the Fit for 55 package is the **revision of the EU's current ETS**, which, amongst other proposed changes, includes expanding the scope to include new sectors, reducing the overall quantity of allowances (annual cap) and phasing out the annual allocation of free allowances. While encouraging industrial decarbonization, this revision simultaneously drives carbon prices upwards. Such an increase in emissions pricing risks carbon leakage, making necessary to implement the CBAM



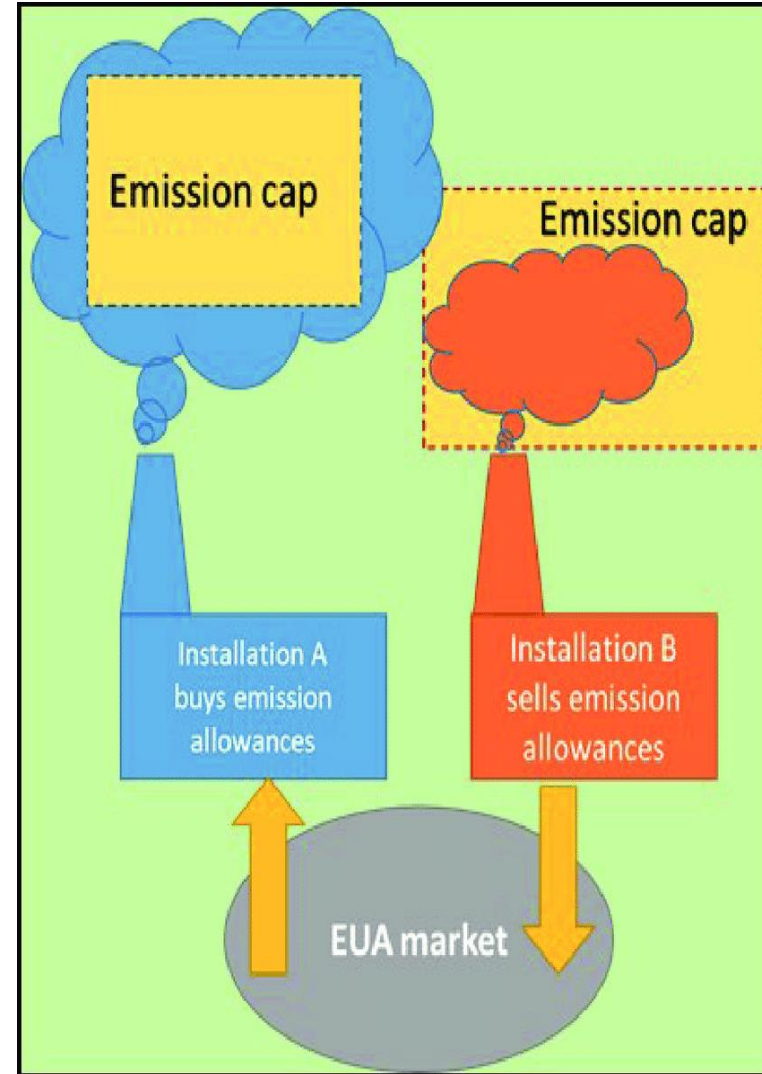
# The functioning of the EU Emissions Trading System (EU ETS)

- ▶ The EU ETS is a carbon market based on the principle of “cap and trade” which has operated since 2005. The maximum volume of GHG emissions that can be emitted by the power plants, industry factories, and the aviation sector covered by the EU ETS is yearly defined with a cap of **emissions allowances**. Each emission allowance gives participants the right to emit 1 tonne of carbon dioxide (CO<sub>2</sub>e) equivalent.
- ▶ Companies participating in the EU ETS can **trade their emissions allowances** in an auction if they have an excess or a deficit of allowances to cover the GHG emissions resulting from their installations.



# The functioning of the EU Emissions Trading System (EU ETS)

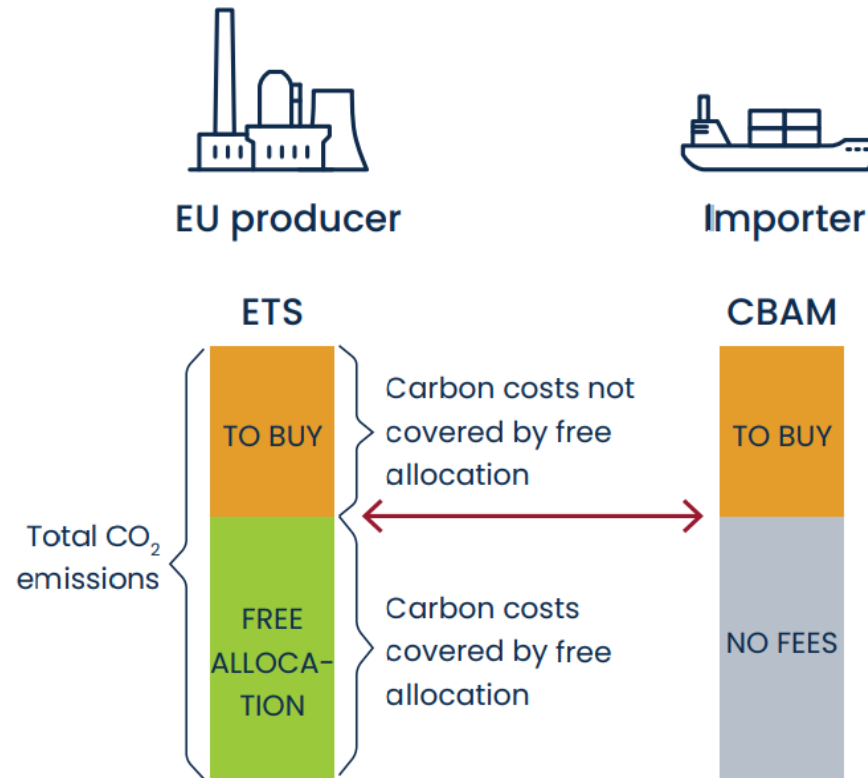
- ▶ Emissions allowances are **freely allocated** to certain sectors which are considered at high risk of being relocated outside the European Union. The purpose is to decrease the overall GHG emissions of the EU over time by reducing the cap
- ▶ The fact that some of the allowances are freely allocated does not give an incentive to companies to reduce their carbon emissions. In order to cope with this issue, the EU ETS has been structured in **different phases to gradually replace the free allocation of emissions allowances by the auction system of trading carbon permits.**



# The connection between the EU ETS and the CBAM

- ▶ As the free emissions allowances are phased out in the EU ETS, there is a risk of **production being relocated outside the EU**, creating an incentive to import products from countries with lighter environmental regulations
- ▶ The **CBAM** is meant to address this issue (carbon leakage)
- ▶ In the first stage, the CBAM applies to goods whose production is at a higher risk of being relocated. However, it is expected that the scope of the CBAM will be **broadened to cover other products related to activities subject to the EU ETS.**

Current carbon leakage framework must be ensured for CBAM sectors until 2030

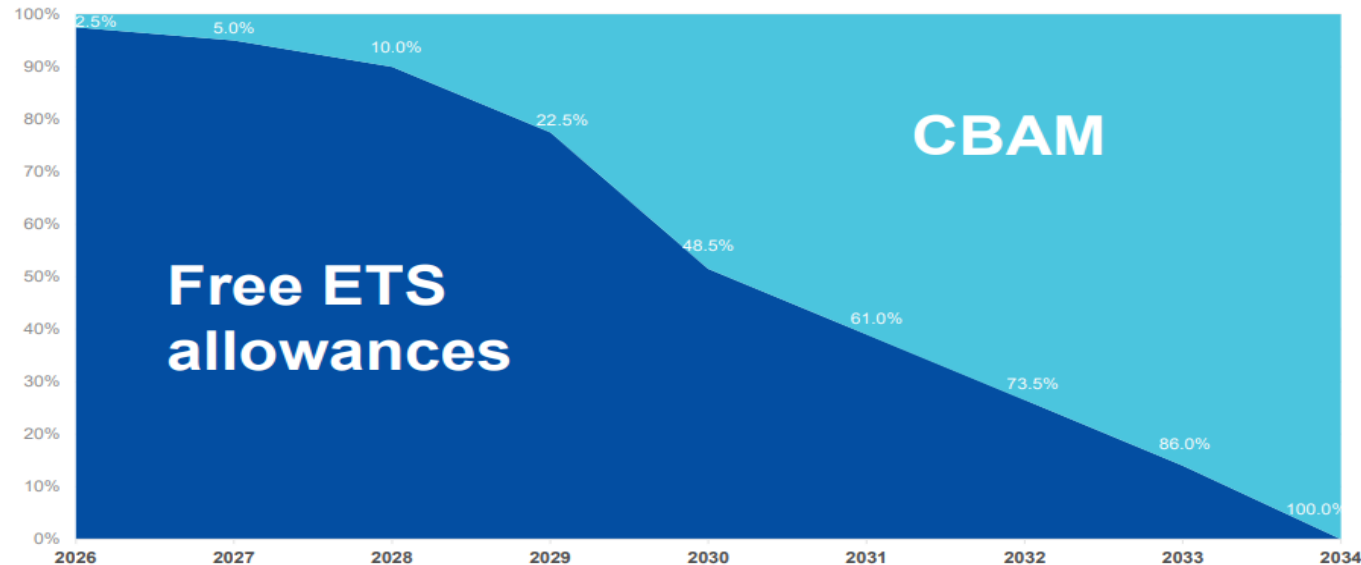




# The connection between the EU ETS and the CBAM

- ▶ As from 2026, when CBAM provisions will fully enter into force, there will be a gradual phasing out of free ETS allowances simultaneously with a gradual phasing in of CBAM

## Phasing-out of free allocation / Phasing-in of CBAM



# The connection between the EU ETS and the CBAM

- ▶ The CBAM will **complement** the EU ETS. Both mechanism share a **common objective of pricing greenhouse gas** emissions embedded in the same sectors and goods through the **use of specific allowances or certificates**.
- ▶ While the EU ETS sets the total number of allowances issued (the ‘cap’) on the greenhouse gas emissions from activities within its scope and allows trading of allowances, the CBAM should not establish quantitative limits on imports, so that trade flows are not restricted.
- ▶ While the EU ETS applies to installations in the Union, the CBAM should apply to certain goods imported into the customs territory of the Union.

# 1. OVERVIEW AND BACKDROP

## THE GENERAL FUNCTIONING OF CBAM

#CBAM

**CARBON BORDER  
ADJUSTMENT MECHANISM**

# How Cbam works?

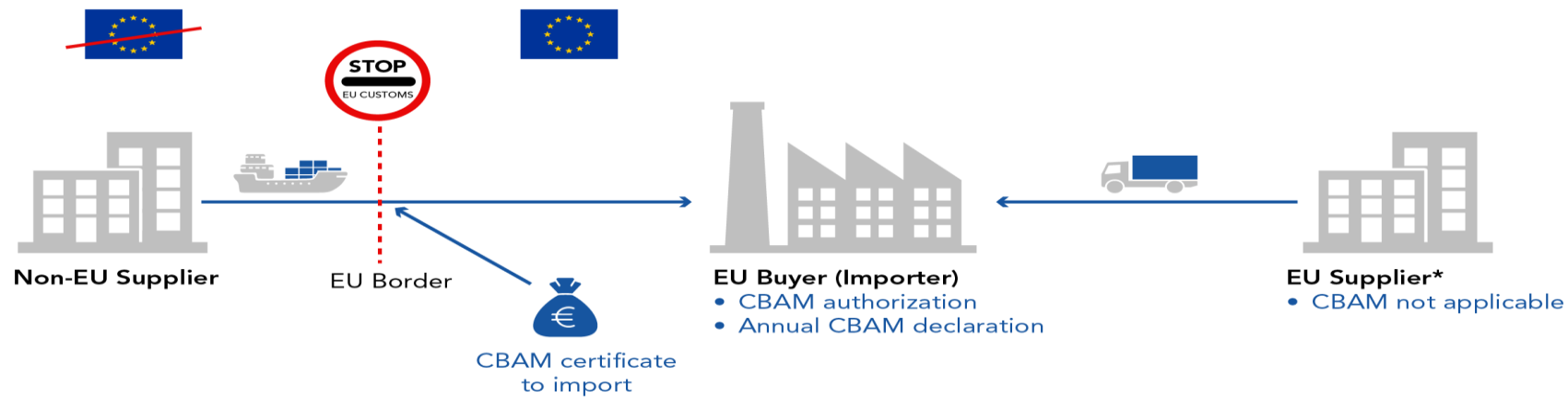
- The **CBAM** is integrated into the EU ETS through a mechanism of fee-based certificates (CBAM CERTIFICATES)
- Importers of goods covered by the Cbam are required to **purchase, after registration on the EU Commission platform** (following which they become Authorised Cbam Declarants), **CBAM certificates** representative of greenhouse gas emissions realized in a given calendar year and to report import transactions to the said EU institution
- The **authorised CBAM declarant** declares the emissions embedded in its imports and surrenders the corresponding number of certificates
- By 31 May of each year, the authorised cbam declarant submit, via the **cbam registry**, a **CBAM declaration** for the preceding calendar year. The declaration contains the following **information**:
  - a) *the total quantity of each type of goods imported during the preceding calendar year*
  - b) *the total embedded emissions in the goods imported*
  - c) *the total number of CBAM certificates to be surrendered, corresponding to the total embedded emissions*
  - d) *The quantity of embedded emissions, calculated according to established EU methodologies, must be independently verified.*



# How Cbam works?

- ▶ If importers can prove that a carbon price has already been paid during the production of the imported goods, the corresponding amount can be deducted
- ▶ authorised cbam declarants, buy cbam certificates from the National competent authority (MASE) on a common central platform established in that Member State. In Italy, Mase is also competent for the EU ETS
- ▶ The price of CBAM certificates is calculated by the Commission as the average of the closing prices of EU ETS allowances on the auction platform for each calendar week.

EU Carbon Border Adjustment Mechanism simplified illustration



\* Including goods originating from Iceland, Liechtenstein, Norway, and Switzerland  
Source: The Conference Board, 2022

# What is the Combined Nomenclature?

- While the EU ETS applies to certain production processes and activities, the CBAM should target the corresponding imports of goods. That requires clearly identifying imported goods by means of their classification in the **Combined Nomenclature** set out in Council Regulation (EEC) No 2658/87(9) and linking them to embedded emissions
- The Combined Nomenclature (CN) is a **tool for classifying goods**, set up to meet the requirements both of the Common Customs Tariff and of the EU's external trade statistics. The CN is also used in intra-EU trade statistics.
- It is a further development (with special EU-specific subdivisions) of the **World Customs Organization's Harmonized System nomenclature**. This is a systematic list of commodities applied by most trading nations (and also used for international trade negotiations).
- It is used to classify most goods when they are declared to customs in the EU. The CN subheading stated in declarations for imported and exported goods determines:
  - which rate of customs duty applies*
  - how the goods are treated for statistical purposes or for other European Union policies*

## Example of product classification

HS chapter	2 digits	18 Cocoa and Cocoa preparations
HS heading	4 digits	1806 Chocolate and other food preparations containing cocoa
HS subheading	6 digits	1806 10 Cocoa powder, containing added sugar or sweetening matter
CN subheading	8 digits	1806 10 15 Containing no sucrose or containing less than 5% by weight of sucrose (including invert sugar expressed as sucrose) or isoglucose expressed as sucrose

Harmonised  
System

Combined  
Nomenclature

## 2. EXAM OF THE LEGAL TEST AND CONDITIONS FOR OPERATIONS

### FIELD OF APPLICATION

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**CARBON BORDER  
ADJUSTMENT MECHANISM**



# REGULATION (EU) 2023/956

CHAPTER 1  
subject matter,  
scope and  
definitions

CHAPTER 2  
obligations and  
rights of authorised  
cbam declarants

CHAPTER 3  
competent  
authorities

CHAPTER 4  
cbam certificates

CHAPTER 5  
rules applicable to  
the importation of  
goods

CHAPTER 6  
enforcement

CHAPTER 7  
exercise of the  
delegation and  
committee  
procedure

CHAPTER 8  
reporting and review

CHAPTER 9  
coordination with  
free allocation of  
allowances under  
the eu ets

CHAPTER 10  
transitional  
provisions

CHAPTER 11  
final provisions

# REGULATORY PRECONDITIONS

**objective** (goods covered)

**territorial** (imports excluded)

**subjective** (rights and obligations  
of CBAM declarants)

# OBJECTIVE CONDITION - LIST OF GOODS IMPORTED (ANNEX I)

- ▶ the goods or processed products covered by the CBAM should **reflect the activities covered by the EU ETS**
- ▶ The legislator decided to **start with a selected number of sectors** with relatively homogeneous goods where there is a risk of carbon leakage.
- ▶ **The list of CBAM goods will then gradually increase until 2034**, covering the entire range of products imported into the EU. At the same time, the free allowances of the ETS will be gradually phased out
- ▶ In the current set-up, the goods have been chosen according to **3 criteria**:
  - relevance of sectors in terms of emissions
  - the sector's exposure to significant risk of carbon leakage
  - the need to **balance broad product coverage** in terms of greenhouse gas emissions, while limiting complexity and administrative burden



Pursuant to such criteria, these are the goods selected, for which the regulation the regulation has established to take into account both **direct and indirect emissions** :

- ▶ **CEMENT** (NC 2507 00 80, 2523 10 00, 2523 21 00, 2523 29 00, 2523 30 00 e 2523 90 00)
- ▶ **ELECTRICITY** (NC 2716 00 00)
- ▶ **FERTILISERS** (NC 2808 00 00, 2814, 2834 21 00, 3102, 3105)
- ▶ **IRON AND STEEL** (NC 72, 2601 12 00, 7301, 7302, 7303 00, 7304, 7305, 7306, 7307, 7308, 7309 00, 7310, 7311 00, 7318, 7326)
- ▶ **ALUMINIUM** (NC 7601, 7603, 7604, 7605, 7606, 7607, 7608, 7609 00 00, 7610, 7611 00 00, 7612, 7613 00 00, 7614, 7616)
- ▶ **CHEMICALS** (NC 2804 10 00)



**CEMENT**



**IRON & STEEL**



**ALUMINIUM**



**FERTILISER**



**ELECTRICITY**



**HYDROGEN**

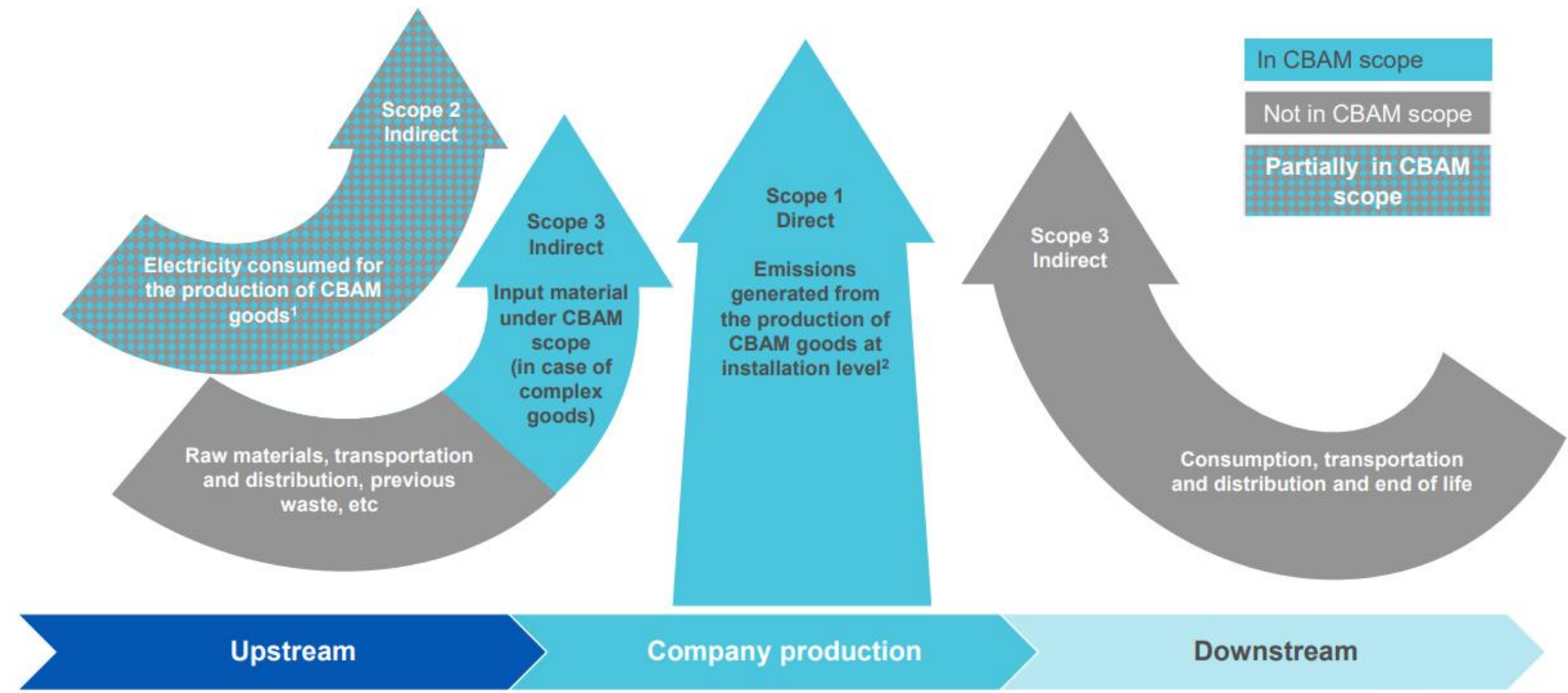
# OBJECTIVE CONDITION - LIST OF GOODS IMPORTED (ANNEX II)

For goods listed in Annex II, only direct emissions are to be taken into account

- ▶ **IRON AND STEEL** (NC 7202 2, 7202 30 00, 7207 50 00, 7202 70 00, 7202 80 00, 7202 91 00, 7202 92 00, 7202 93 00, 7202 99, 7202 99 10, 7202 99 30, 7202 99 80, 7204, 7301, 7302, 7303 00, 7304, 7305, 7306, 7307, 7308, 7309 00, 7310, 7311 00, 7318, 7326)
- ▶ **ALUMINIUM** (NC 7601, 7603, 7604, 7605, 7606, 7607, 7608, 7609 00 00, 7610, 7611 00 00, 7612, 7613 00 00, 7614, 7616)
- ▶ **CHEMICALS** (NC 2804 10 00 - hydrogen)

The concept of **EMBEDDED EMISSIONS** includes direct and indirect emissions.

- ▶ **DIRECT EMISSIONS** → means emissions from the production processes of goods, including emissions from the production of heating and cooling that is consumed during the production processes, irrespective of the location of the production of the heating or cooling.
- ▶ **INDIRECT EMISSIONS** → means emissions from the production of electricity that is consumed during the production processes



(1) During the transitional CBAM period, indirect emissions need to be reported for all CBAM sectors.

(2) Direct emissions include emissions from the production of heating and cooling, even if that production takes place outside the installation.

# OBJECTIVE CONDITION - Art. 2

- ▶ CBAM Regulation also applies to **processed products** from goods listed in annex I, resulting from the **inward processing procedure** referred to in Article 256 of Regulation (EU) No 952/2013
- ▶ CBAM regulation also applies to goods listed in Annex I or processed products from those goods resulting from the inward processing procedure, where those goods are brought to an artificial island, a fixed or floating structure, or any other structure on the continental shelf or in the exclusive economic zone of a Member State that is adjacent to the customs territory of the Union.

# OBJECTIVE CONDITION - Exceptions

CBAM regulation shall not apply to:

- ▶ Goods whose **intrinsic value** does not exceed, per consignment, the value specified for goods of negligible value as referred to in Article 23 of Council Regulation (EC) No 1186/2009 (150 € per consignment) → *de minimis provision*;
- ▶ **goods contained in the personal luggage of travellers** coming from a third country provided that the intrinsic value of such goods does not exceed the value specified for goods of negligible value as referred to in Article 23 of Regulation (EC) No 1186/2009 (150 €);
- ▶ goods to be moved or used in the context of **military activities** pursuant to Article 1, point (49), of Commission Delegated Regulation (EU) 2015/2446.

# TERRITORIAL CONDITION - Third countries and territories outside the scope of CBAM Regulation listed in Annex III

CBAM regulation does not apply to goods originating from the following countries and territories:

- ▶ *Iceland*
- ▶ *Liechtenstein*
- ▶ *Norway*
- ▶ *Switzerland*
- ▶ *Büdingen*
- ▶ *Heligoland*
- ▶ *Livigno*
- ▶ *Ceuta*
- ▶ *Melilla*

whereas:

- ▶ The EU ETS applies to that third country or territory;
- ▶ An agreement has been concluded between that third country or territory and the Union fully linking the EU ETS and the emission trading system of that third country or territory;
- ▶ the carbon price paid in the country in which the goods originate is effectively charged on the greenhouse gas emissions embedded in those goods without any rebates beyond those also applied in accordance with the EU ETS.
- ▶ In other terms, carbon emissions embedded in territories originating from this countries or territories already have a carbon pricing system, or they are linked to the EU ETS, so there is no need to impose a tax on such goods



# TERRITORIAL CONDITION- Origin (art. 5)

- ▶ Imported goods shall be considered as originating in third countries in accordance with **the rules for non-preferential origin** as referred to in Article 59 of Regulation (EU) No 952/2013.

How to determinate the origin of a product?

- ▶ **Non-preferential rules of origin** are used to determine the country of origin of goods for the application of the **most-favoured nation treatment (MFN)** but also for the implementation of a number of **commercial policy measures**
- ▶ The EU applies its own set of **non-preferential rules of origin** provisions, which may be different from those of any other third country.
- ▶ There are two basic concepts to determine the origin of goods, namely **wholly obtained** products and products having undergone a **last substantial transformation**. If only one country is involved in producing a good the **wholly obtained** concept will be applied.
- ▶ In practice this will mostly be restricted to products obtained in their natural state and products derived from wholly obtained products. If two or more countries are involved in the production of goods, the concept of **last, substantial transformation** determines the origin of the goods.

# SUBJECTIVE CONDITION

To whom the regulation applies?

Art. 4 and 5 tell us that:

- ▶ goods covered by the regulation can be imported only by an authorised CBAM declarant;
- ▶ Any importer established in a member State or its indirect customs representative (if the importer is not established in the EU) shall, prior to importing goods into the customs territory of the EU, **apply for the status of CBAM declarant**.
- ▶ The application must be submitted **to the national competent authority** (Ministry of the Environment in Italy), via the **CBAM registry** established by the EU commission.

# SUBJECTIVE CONDITION - the application for authorization

The elements to be declared in the application for authorisation are set out in Article 5(5), among which the most important are:

- ▶ - a Certification of fiscal regularity issued by the tax authority of the MS in which it is established;
- ▶ - a declaration of honour of the absence of serious or repeated infringements or repeated infringements of customs legislation, taxation rules or market abuse rules during the five years preceding the year of the application;
- ▶ - information proving the applicant's financial and operational capacity to fulfil its obligations.
- ▶ - estimated monetary value and volume of imports of goods into the customs territory of the Union by type of goods for the precedent calendar year

Other relevant features:

- ▶ The application may be withdrawn at any time.
- ▶ The status of authorised CBAM registrant is recognised in all Member States.

## 2. EXAM OF THE LEGAL TEST AND CONDITIONS FOR OPERATIONS

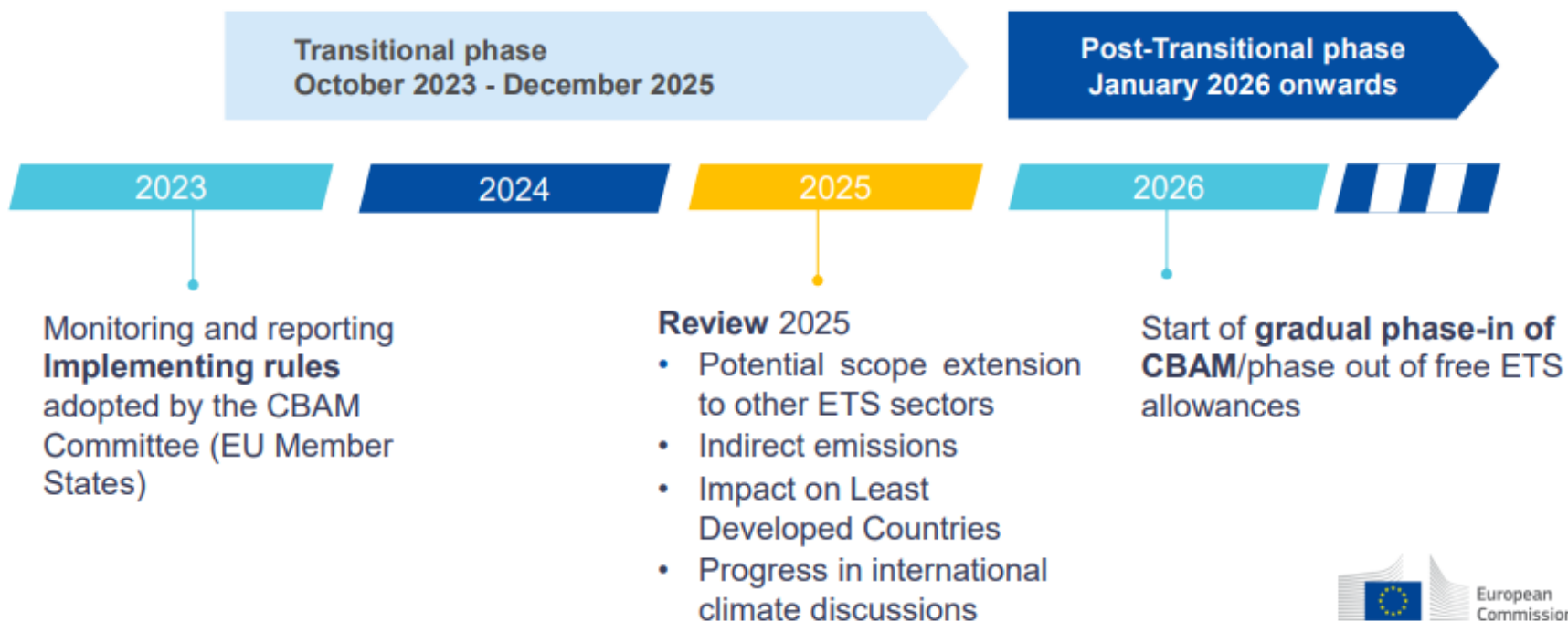
### STAGES OF IMPLEMENTATION

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**CARBON BORDER  
ADJUSTMENT MECHANISM**



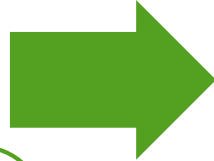
# Gradual implementation of CBAM



# Gradual implementation of CBAM

## TRANSITIONAL PHASE

- from 1 October 2023 to 31 December 2025
- **information obligations** (CBAM report)



## DEFINITIVE PHASE

- from 1 January 2026; first CBAM declaration in 2027
- **obligation to purchase cbam certificates** and to submit the cbam declaration



# THE TRANSITIONAL PHASE

The transitional period is a serves as a **learning phase**, meaning a phase of **control and monitoring of CBAM goods imports**

- ▶ Understanding respective roles and tasks
- ▶ Collection of information
- ▶ Facilitate smooth roll out of the mechanism after the 2025
- ▶ In the transitional period, there are only **information obligations**, with **no payment to be made** when CBAM goods are released for free circulation, nor will certificates have to be purchased → **report obligation**
- ▶ The reporting requirements should be limited to what is necessary to minimise the burden on importers in the transitional period and facilitate the smooth roll-out of the CBAM declaration requirements after the transitional period.
- ▶ The reporting obligations are specified in **IMPLEMENTING REGULATION (EU) 2023/1773 OF 17 AUGUST 2023**

# The cbam report - content

During the transitional period, importers or indirect customs representative of covered goods are mandated to submit, **quarterly**, a **CBAM report** that details:

- ▶ the quantity of goods imported,
- ▶ the type of goods as identified by their CN code, and their country of origin
- ▶ the actual total embedded emissions, direct and indirect, associated with these products, expressed in megawatt-hours for electricity and in tonnes for other goods
- ▶ any carbon price paid in the country of origin
- ▶ Information on third-country installations
- ▶ information on the goods that were placed under the **inward processing procedure** and resulted in the imported processed products, even if the processed products are not listed in Annex I

# the cbam report - timing and penalties

- ▶ The report must cover **imports during the previous quarter** and must be **submitted within one month** after the end of the quarter in question via the **CBAM transitional registry**.
- ▶ The portal will be fully operational as of 1 January 2024, but already as of 4 December 2023 it is possible to apply for access authorisation
- ▶ The **first report** should be submitted by **31 January 2024** in respect of goods imported during the fourth quarter of 2023. The **last report** should be submitted by 31 January 2026
- ▶ Failure to submit quarterly reports during the transitional period will incur a **penalty** of between EUR 10 and EUR 50 per tonne of non-reported emissions.

# The cbam report- calculation of embedded emissions (art. 4 reg 2023/1773)

The specific embedded emissions of goods produced in an installation shall be determined using one of the following methods:

- ▶ a **carbon pricing scheme** where the installation is located
- ▶ a compulsory **emission monitoring scheme** where the installation is located
- ▶ an emission monitoring scheme at the installation which can include **verification by an accredited verifier**

## EXCEPTON:

- Until 31 July 2024, for each import of goods for which the reporting declarant does not have all the information to be listed in the report, the reporting declarant may **use other methods** for determining the emissions, including **default values** made available and published by the Commission for the transitional period

- up to 20 % of the total embedded emissions of complex goods may be based on estimations made available by the operators of the installations.

# The cbam report- modification (art. 9 reg 2023/1773)

- ▶ Generally, a submitted CBAM report may be modified until two months after the end of the relevant reporting quarter.
- ▶ By way of derogation of the general rule, CBAM reports for the first two reporting periods may be modified until the submission deadline for the third CBAM report.
- ▶ Exceptionally, the reporting declarant can submit a justified **request to resubmit a CBAM report or to correct it** after the deadlines and within one year after the end of the relevant reporting quarter. In that case, the competent authority shall assess that request and where appropriate shall allow it. The resubmission shall be made within a month of the approval by the competent authority.

# The cbam report- incomplete and incorrect reports (art. 13 reg 2023/1773)

- ▶ **Incomplete:** the reporting declarant has failed to report data in accordance with annex I
- ▶ **Incorrect:** three hypotheses
  - a) the data or information in the submitted report do not comply with the requirements laid down in Articles 3 to 7 and Annex III (goods covered, embedded emissions ecc.)
  - b) the reporting declarant has submitted wrongful data and information.
  - c) the reporting declarant does not provide an adequate justification for the use of reporting rules other than those listed in Annex III to this Regulation



# The cbam report - the Commission's role (art. 12 reg 2023/1773)

The commission is responsible for an 'indicative assessment' of the CBAM reports

- ▶ communicates to the Member States a list of reporting declarants established in the Member State for which the Commission has reasons to believe they have failed to comply with the obligation to submit a CBAM report.
- ▶ communicates to the competent authority its assessment regarding an incomplete or incorrect cbam report.

**Other tasks** of the Commission during the transitional phase:

- ▶ Analyse the impact of CBAM on exports, downstream products, trade flows, LDCs, etc.;
- ▶ Prepare secondary legislation for the definitive period: authorisation of declarants, accreditation of verifiers, CBAM registry, selling of CBAM allowances, carbon price paid, ETS price and benchmarks, final methodology, risk of circumvention, etc.
- ▶ Set up the Common Central Platform for the sale and repurchasing of CBAM allowances

# The cbam report - the National Competent Authority's role (art. 14 reg 2023/1773)

- ▶ The competent authority receiving an indicative assessment from the EU Commission shall initiate the review within three months.
- ▶ During the transitional period, it may also initiate a correction procedure in the case of either an omitted report or an incomplete or inaccurate report, in which case it shall inform the registrant who shall be obliged to provide additional information if requested

# The cbam report - the Customs Authority's role (art. 14 reg 2023/1773)

- ▶ Obligation to inform the importer of the reporting obligation no later than at the moment of the release of goods for free circulation.
- ▶ Obligation to communicate to the Commission information on imported goods

The Italian Custom Authority (ADM) has already published in its website all the information regarding the transitional period. Local customs office also need to communicate cbam obligation during customs procedures → <https://www.adm.gov.it/portale/cbam-carbon-border-adjustment-mechanism>

# Criticisms about the transitional phase

- ▶ The obligations provided during the transitional period has aroused much **perplexity**, given the complexity of obtaining data from non-EU suppliers
- ▶ In fact, the **data to indicate in the report** will have to be **requested** by the economic operator from the operators of the non-EU installations, also through the possible intermediation of the suppliers, when they are not the same as the plant operators
- ▶ Third country operators may be, at times, **unwilling to provide confidential and commercially sensitive information** on their production: among other things, the Implementing Regulation does not provide for any measures to protect the privacy of such information
- ▶ The Commission, realising the difficulties that importers might encounter in collecting data for the purpose of compiling the CBAM report, has prepared both a **Handbook for installation operators**, to better explain the methods and exact data needed for the preparation of the periodic reports, and an **Excel template for the collection of these data**.
- ▶ To cope with the case in which plant operators are unable or unwilling to provide such data, or are reluctant to make it available to EU economic operators, it then prepared **default values per category of goods** that can be used, until 31 July 2024, for the calculations required to compile the periodic reports.

# Criticisms about the transitional phase

- ▶ The first period of the transitional phase has already raised concerns.
- ▶ Following the **technical problems** encountered in accessing and operating the CBAM Transitional Registry, the Commission has announced that, as of 1 February 2024, a new functionality will be available on the Transitional Registry that will allow registrants, under the terms and conditions set by the Commission, the **possibility of submitting the CBAM report beyond the deadline of 31.01.2024.**
- ▶ [https://taxation-customs.ec.europa.eu/news/technical-issues-related-cbam-transitional-registry-and-import-control-system-2-ics2-2024-01-29\\_en](https://taxation-customs.ec.europa.eu/news/technical-issues-related-cbam-transitional-registry-and-import-control-system-2-ics2-2024-01-29_en)

# The final report of the transitional phase

At the end of 2025, the European Commission will produce a REPORT containing the lessons learned from the transitional period

The report shall contain an assessment of:

- ▶ The possibility to extend the scope of the regulation, both in terms of goods covered and kind of emissions to be considered
- ▶ The technical requirements for calculating embedded emissions for other goods to be included
- ▶ the progress made in international discussions regarding climate action
- ▶ the governance system, including the administrative costs
- ▶ the impact of this Regulation on goods listed in Annex I imported from developing countries with special interest to the least developed countries as identified by the United Nations (LDCs) and on the effects of the technical assistance given
- ▶ the methodology for the calculation of indirect emissions

# The Definitive Phase

As of 1 January 2026, CBAM will enter its 'definitive phase'. Authorised CBAM registrants will have to submit the CBAM report annually (**Cbam declaration**), and no longer quarterly, on the portal, which will change from a Transitional Registry to a (definitive) **CBAM Registry**.

The declaration contains the following **information**:

- ▶ *the total quantity of each type of goods imported during the preceding calendar year*
- ▶ *the total embedded emissions in the goods imported*
- ▶ *the total number of CBAM certificates to be surrendered, corresponding to the total embedded emissions*
- ▶ *The quantity of embedded emissions, calculated according to established EU methodologies, must be independently verified.*



# The Definitive Phase

- ▶ Also starting on 1 January 2026, **certificates** corresponding to the quantities of direct and indirect emissions linked to the production of imported CBAM goods **will have to be purchased**.
- ▶ The certificates will be based on actual emission quantities or, if these continue to be unavailable, on the default values published by the Commission, which are very "disadvantageous": these defaults, in fact, will be based on the highest estimates of emissions related to CBAM goods.
- ▶ The declarant is obliged to keep the information required to calculate emissions until the end of the fourth year following the year in which the declaration was or should have been submitted.

# The Definitive Phase - repurchase of cbam certificates

- ▶ Unlike the EU ETS, there is no secondary buy/sell market for the certificates, but the declarant can apply for a reduction of the certificates to be surrendered to take into account the carbon price actually paid in the country of origin for the declared embodied emissions.
- ▶ Instead of a secondary buy/sell market, a repurchase system is established: where an authorised CBAM declarant so requests, the Member State where that authorised CBAM declarant is established shall repurchase the excess CBAM certificates remaining on the account of the declarant in the CBAM registry after the certificates have been surrendered.
- ▶ However, there is a limit: The number of certificates subject to repurchase shall be limited to one third of the total number of CBAM certificates purchased.

# The Definitive Phase - penalties

- ▶ The authorised cbam declarant that fails to surrender the number of **CBAM certificates** that corresponds to the emissions embedded in goods imported during the preceding calendar is subject to the **payment of a penalty** which is identical to the amount pursuant to art. 16 (3) of the Directive 2003/87, i.e. the EU ETS directive, thereby establishing a **correlation between the infringements of the ETS and CBAM obligations**
- ▶ However, where the goods have been introduced into the Union by a **person other than an authorised CBAM declarant** without complying with the obligations under this Regulation, the **amount of those penalties should be higher** in order to be effective, proportionate and dissuasive, also taking into account the fact that such person is not obliged to surrender CBAM certificates.
- ▶ The **Commission reviews Cbam declarations** to verify that the correct number of cbam certificates have been surrendered. Where it finds that the number of certificates surrendered is incorrect, it establishes a **preliminary calculation**, for an indicative purpose, of the correct number, providing such information to the **national competent authority**. Ultimately, the latter decides the number of certificates to be surrendered, on the basis of the indication of the Commission
- ▶ The imposition of penalties is without prejudice to penalties that may be imposed under Union or national law for the infringement of other relevant obligations, in particular those related to customs rules.

# The Definitive Phase - circumvention

DEFINITION: Practices of **circumvention** shall be defined as a change in the pattern of trade in goods, which stems from a practice, process or work, for which there is insufficient due cause or economic justification other than to avoid, wholly or partially, any of the obligations laid down in this Regulation.

Such practice, process or work may consist of, but is not limited to:

- a) **slightly modifying the goods concerned** to make those goods fall under CN codes which are not listed in Annex I, except where the modification alters their essential characteristics;
- b) **artificially splitting shipments** into consignments the intrinsic value of which does not exceed the *de minimis* threshold (150€)
- ▶ **The Commission takes action to address practices of circumvention**, also by monitoring the situation at Union level by way of market surveillance
- ▶ Interested parties, including environmental organisations and non-governmental organisations that find evidence of circumvention can notify the Commission
- ▶ Where the Commission has sufficient reasons to believe that a circumvention has been occurring, it can **amend the list of goods** covered by the regulation adding the 'slightly modified products' for anti-circumvention purposes

# THE ACTORS CONCERNED

EUROPEAN  
COMMISSION

NATIONAL  
COMPETENT  
AUTHORITY  
(NCA)

CUSTOMS  
AUTHORITY

# THE ACTORS CONCERNED

## EUROPEAN COMMISSION

- Collects transitional reports in the CBAM register;
- Verifies reports;
- Notifies Member States of any discrepancies;
- Ensures the functioning of the CBAM registry;
- Ensures the functioning of the central platform where to buy cbam certificates
- facilitate the exchange of informations with NCAs
- Adopts the business continuity plan in the event of temporary failure of electronic reporting systems.

## NATIONAL COMPETENT AUTHORITY

- answers questions from economic operators on the merits of the quarterly report;
- initiates the correction procedure;
- requests any supplementary documents;
- Reviews cbam declarations
- imposes penalties
- In Italy the NCA is the Ministry for the Environment (MASE)

## CUSTOMS AUTHORITY (AGENZIA DELLE DOGANE E DEI MONOPOLI)

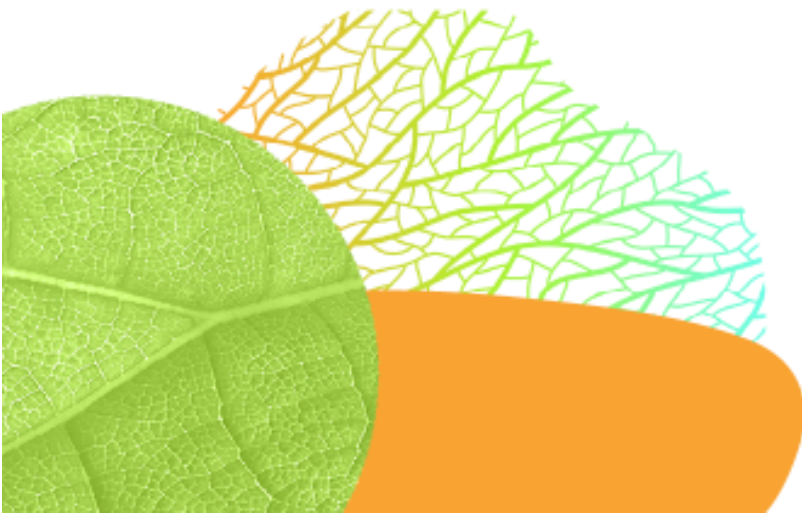
- informs the importer or indirect customs representative of the obligations envisaged for the transitional period;
- connects the IT systems already known to traders, through which the application for authorisation will be submitted, with the EU Commission's CBAM register;
- provides assistance to traders on any critical IT issues.

# 3. IMPACT

## EFFECTS ON EUROPEAN COMPANIES

#EUGreenDeal

**CARBON BORDER  
ADJUSTMENT MECHANISM**





# Impact on eu-based companies

- ▶ CBAM is certain to have a transformational impact on companies engaged in international trade of cbam goods and is expected to **re-shape global trade at large**
- ▶ It will be able to act as a 'market regulator', **without implying protectionist solutions or impassable barriers**: products made without taking into account carbon leakage will end up being penalised on the internal market, regardless of their origin.
- ▶ Some of the **immediate, direct impacts** that EU companies may feel include:
  - potential **higher import prices** of covered goods
  - **increased prices of secondary goods** that include components of covered goods (e.g., vehicle manufacturers buying parts from another EU manufacturer that contain imported higher-priced steel/ aluminium).



# Positive effects

the CBAM will create **incentives** for both EU and non-EU industries

- ▶ **To reduce their carbon footprint**
- ▶ **To invest in cleaner technologies** to avoid or minimize the CBAM costs, fostering innovation and sustainability
- ▶ Domestic industries will also benefit from a **more level playing field if the CBAM** ensures that imported products adhere to similar environmental standards
- ▶ it will thereby improve the **competitiveness** of the most **sustainability-oriented enterprises**

# Why cbam scares the european industry

- ▶ the CBAM will have to overcome considerable resistance from within the EU
- ▶ It is scaring away several European manufacturing companies, who fear that because of the mechanism they will end up paying more for imported raw materials, losing competitiveness.
- ▶ The implementation modalities may result being too time-consuming and too bureaucratically complex
- ▶ According to Assofermet, *'they will inevitably lead to a heavy increase in costs that are difficult to pass on to the product as it is already burdened by multiple increases in energy, overhead and customs costs'*

*"We note," referring to the obligations to communicate the carbon footprint of imported products, "that the activity of data collection to be able to meet this requirement in charge of importers is very complex" because "non-EU producers are not yet able to provide the documentation with the level of detail required by the standard".*

**Paolo Sangoi, president of Assofermet** - *the association of Italian steel and aluminium importing companies*

# Why cbam scares the european industry

## - the **steel industry** case

- ▶ Assofermet reports a **potential 15% increase in import prices for steel** due to CBAM implementation from 2026.
- ▶ Steel and aluminum, crucial raw materials, are extensively used across various industries, suggesting significant **economic and social repercussions**.
- ▶ CBAM applies to **raw materials**, not final goods, potentially disadvantaging European steel manufacturers.
- ▶ European manufacturers may face higher costs compared to those importing finished products directly, impacting competitiveness.
- ▶ Manufacturing within the EU using imported steel and aluminum could lead to higher costs compared to direct importers of finished products.
- ▶ This approach could pose challenges for sectors like household appliances manufacturing within the EU.

*'manufacturing companies have not yet assimilated the concept that, with the entry into force of the CBAM, they will be forced to bear raw material price increases amounting to millions of euros'*

**Gianclaudio Torlizzi**, raw materials expert and advisor to the Italian Ministry of Defence

# What businesses should do

- ▶ Companies and importers in the EU need to understand the overall impact of CBAM on their business activity
- ▶ Compliance with reporting obligations during the transitional period is crucial for businesses in order to ensure a smooth transition
- ▶ As CBAM expands, more businesses will need to adapt to its implementation.
- ▶ This includes assessing customs data, sourcing, and supply chain implications
- ▶ Businesses must focus on data quality, conduct global supply chain reviews, and assess CBAM's implications on their business models.
- ▶ Remaining competitive necessitates proactive measures despite associated administrative costs.

# The **check-list** to follow for companies subject to Cbam

- ▶ **Verify whether the goods purchased or imported are included in the 'CBAM goods'**, by a thorough check of the Combined Nomenclatures of those goods.
- ▶ Consequently, **review their global supply chain** to minimise the impact of CBAM. They should improve business and contact suppliers to reduce carbon emissions and create a sustainable, environmentally friendly supply chain, analysing the opportunity to restructure the supply chain or to form new partnerships.
- ▶ **Check whether the CBAM goods are purchased on the EU market** (in which case there are no CBAM obligations) or whether they are imported from non-EU countries.
- ▶ **Verify the origin of the imported goods** (in case the goods are imported from countries excluded from the CBAM there will be no special obligations).

# The **check-list** to follow for companies subject to Cbam

- ▶ Develop **ongoing insight into carbon pricing in third countries** (carbon prices paid outside of the EU on imported goods may be credited), verifying whether the origin country have a carbon pricing system in place.
- ▶ In the case of actually importing CBAM goods, **register in the CBAM Transitory Register** according to the procedures dictated by the Italian Customs Agency.
- ▶ Establish, also with the help of experts, **solutions for data retrieval from non-EU suppliers**.
- ▶ **Engage with in-scope vendors**, so as to check: what kind of GHG emissions data has been collected; whether in-scope suppliers provide verification reports on the carbon footprints of the products sold; whether in-scope suppliers have due Monitoring, Reporting and Verification (“MRV”) systems in place for CBAM.
- ▶ **Prepare the CBAM report** by following both the Manual published on the Commission's website and by making use of the many tools that the Commission makes available.



# 3. IMPACT

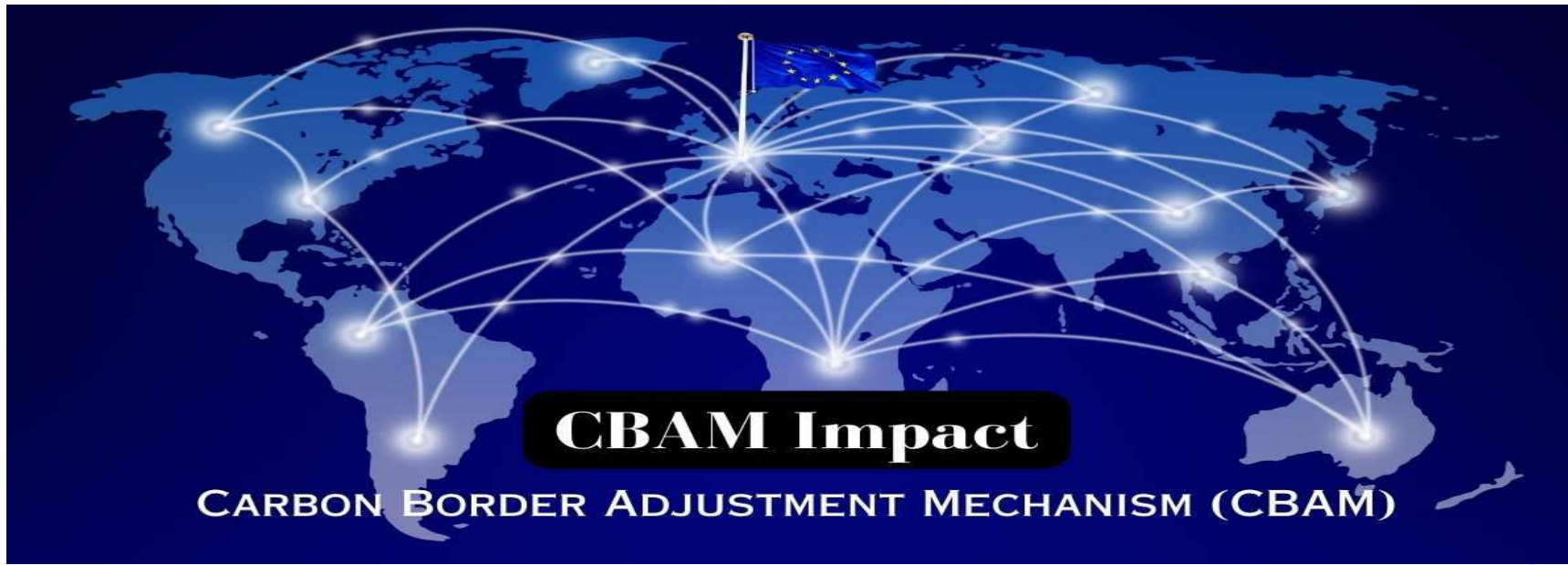
## EFFECTS ON THIRD COUNTRIES

#EUGreenDeal

**CARBON BORDER  
ADJUSTMENT MECHANISM**



- ▶ The economic impact of a higher carbon price combined with CBAM affects non-EU economies differently.
- ▶ The establishment of CBAM may potentially lead to **tensions with third-country trading partners**, entailing a risk of **trade retaliation** if such countries perceive the CBAM as discriminatory or unfair.
- ▶ This is especially true for **developing and emerging economies (EMDEs)**.
- ▶ the transition from environmentally polluting technologies to green alternatives is definitely cumbersome in EMDEs than in Europe. The implementation of the CBAM **could result for these countries in significant socio-economic downsides, notably loss of employment, tax income, and export earnings.**



# Effects on EMDEs

- ▶ The Carbon Border Adjustment Mechanism (CBAM) is set to have significant repercussions, particularly on the least developed countries.
- ▶ At COP28 in Dubai, the Global South criticized the CBAM, emphasizing concerns about discrimination and trade restrictions.
- ▶ The United States, along with BRICS countries (Brazil, Russia, India, China, South Africa), have opposed the CBAM in various COP meetings, viewing it as a unilateral and protectionist measure.
- ▶ Turkey has requested exclusion from the CBAM system, aligning with the concerns of many developing countries.
- ▶ Developing countries fear the CBAM could disproportionately affect them, disrupting their industrialization process and unfairly targeting those who have contributed least to historical greenhouse gas emissions.
- ▶ India faces significant implications, with estimates suggesting duties of 20-35% on exports of steel, aluminum, and cement to the EU, potentially sparking a trade war.
- ▶ By 2034, the CBAM duty alone could equal the average price of steel made in India before the CBAM's implementation.

# Effects on EMDEs - the Mozambique case

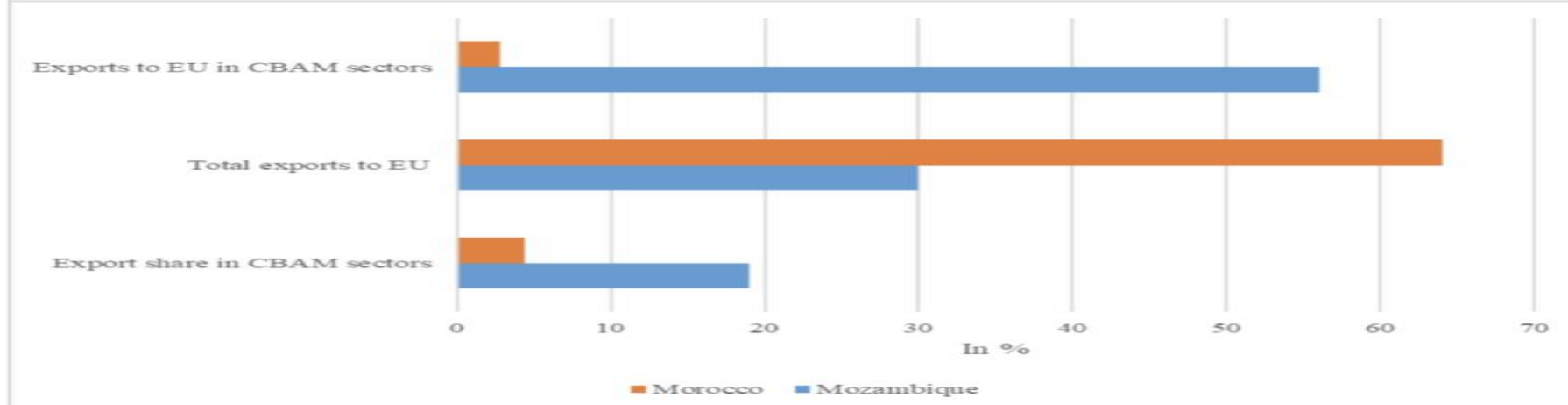
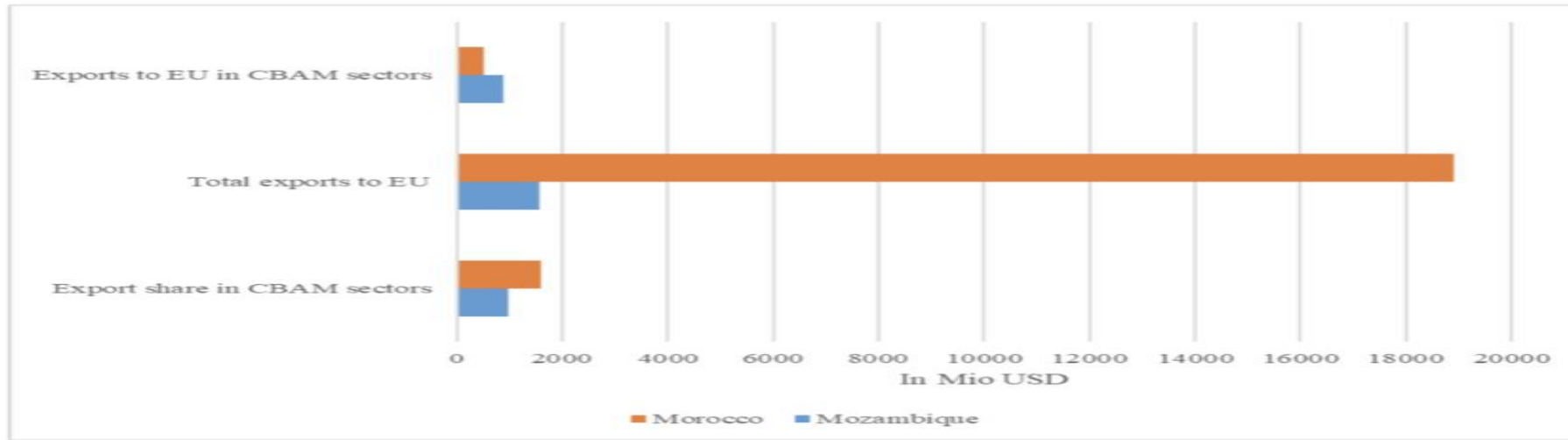
- ▶ The Center for Global Development indicates that Mozambique's GDP could decrease by approximately 1.5% due to tariffs on aluminum exports.
- ▶ Mozambique, among the least developed nations globally, heavily relies on natural resources, notably aluminum exports, which constitute 50% of its total exports to the EU.
- ▶ The introduction of the CBAM poses a significant risk to Mozambique, primarily concerning aluminum production and export flow to the EU.
- ▶ Mozambique's ability to monitor and report product emissions is crucial, considering its carbon intensity is approximately 64% lower than the global average.
- ▶ If Mozambique fails to declare this indicator, goods will be assigned a value based on the average carbon intensity of the 10 EU countries with the highest levels, potentially resulting in significant economic losses.
- ▶ In an extreme scenario where the CBAM extends to all products, Mozambique's total exports to the EU could decrease by 68%, leading to an estimated welfare loss ranging from 1 to 5 billion dollars.

# Effects on EMDEs - the Morocco case

- ▶ Morocco boasts a diversified economy, exporting machinery, equipment, electric vehicles, chemicals (e.g., fertilizers), manufactured goods, and food products.
- ▶ The EU stands as the primary destination for Moroccan exports, constituting over two-thirds of the total exported products.
- ▶ Only 3% of Moroccan exports are subject to the CBAM, with fertilizers being the most impacted sector.
- ▶ Unlike Mozambique, Morocco exhibits high emissions intensity, surpassing the EU average by over 50%, attributed to primary energy sources, energy efficiency issues, and inadequate legislation in the energy and industrial sectors.
- ▶ Despite this, Morocco has ambitious emission reduction plans, aiming for a 52% share of renewable energy and a 15% reduction in energy consumption.
- ▶ The potential application of the CBAM to all sectors poses a significant risk due to Morocco's close ties and dependency on the European market.
- ▶ Uncertainty exists regarding Moroccan companies' ability to report CO<sub>2</sub> emissions effectively, as the country lacks an operational and sectoral monitoring and reporting system.

# Effects on EMDEs - Mozambique and Morocco

	Quota di esportazioni nei settori CBAM		Esportazioni totali verso l'UE		Esportazioni verso l'UE in tutti i settori CBAM		Esportazioni dei prodotti CBAM verso l'UE espresse come quota del PIL
	Mio USD	%	Mio USD	%	Mio USD	%	%
Mozambico	966	19	1,570	30	879.2	56	5.5
Marocco	1,594	4.4	18,900	64	504	2.8	0.3



# Effects on EMDEs - a few considerations

- ▶ The CBAM widens the gap between developed and developing countries, with developed countries experiencing welfare gains of \$11 billion under the current CBAM and \$141 billion if extended to all sectors. Developing countries face welfare losses of \$9 billion and \$106 billion, respectively
- ▶ **Developing countries**, like Morocco, emphasize the necessity for capacity-building, financial investments, and technology transfers to combat climate change and meet international climate goals.
- ▶ **Least developed countries**, such as Mozambique, encounter significant technical, regulatory, and managerial challenges, especially regarding CO<sub>2</sub> emissions reporting.
- ▶ Achieving industrial sector decarbonization in developing countries requires **substantial resource transfers**
- ▶ Despite noble goals, **several issues remain unresolved** before the full implementation of the CBAM in January 2026
- ▶ It's crucial that **CBAM revenues are reinvested in the green transition process**, both within and outside the EU borders
- ▶ Based on the principle of common but differentiated responsibilities outlined in the UNFCCC Convention, least developed countries should be exempt from the CBAM due to the challenges they face in meeting required standards
- ▶ Climate NGOs are pressuring for CBAM proceeds to assist developing economies and vulnerable populations



# Effects on EMDEs - Cbam regulation's provisions

- ▶ According to the Preamble of the regulation, the Commission will propose legislative amendments to address **unforeseeable, exceptional, and unprovoked circumstances** affecting **third countries** subject to the CBAM, ensuring measures are appropriate and time-limited.
- ▶ The text stresses the importance of **continuing dialogue** with affected third countries, promoting **cooperation** and solutions during CBAM implementation.
- ▶ Striving for **fair engagement** with affected third countries, exploring dialogue and cooperation opportunities, and considering agreements that **acknowledge third countries' carbon pricing mechanisms**.
- ▶ Establishment of a "**Climate Club**" forum for countries with carbon pricing or similar mechanisms to **promote ambitious climate policies globally**, supporting climate monitoring, reporting, and verification among members, and enhancing engagement and transparency between the Union and its trade partners.
- ▶ Union's commitment to providing **financial support** through its budget for climate mitigation and adaptation in **Least Developed Countries**, including support for their **manufacturing industries' decarbonization efforts**.
- ▶ Commitment to working with and supporting **low and middle-income third countries** towards decarbonization of their manufacturing industries, aligning with the European Green Deal and the Paris Agreement, and providing financial support through the Union budget and international climate finance.
- ▶ Intention to introduce a **new own resource** based on revenues generated by the sale of CBAM certificates.

# Impact on China

- ▶ **Chinese exports subject to CBAM** comprise less than 2% of total exports to the EU, valued at around €6.5 billion.
- ▶ Studies indicate that China's aluminum, iron, and steel industries may face annual **carbon taxes of RMB 2-2.8 billion** (€264-343 million) to the EU, potentially leading to higher costs passed on through increased prices.
- ▶ To maintain competitiveness and market share, manufacturers in China may need to reduce the carbon intensity of their products.
- ▶ Despite marginal initial impact, **China criticizes CBAM as unfair to Global South countries with lower historical emissions** and as a protectionist measure, questioning its compatibility with WTO rules
- ▶ The carbon price on imports to the EU is likely to **prompt China to decrease exports of emission-intensive products to Europe.**
- ▶ However, there's a **positive effect for China**: reduced international competitiveness of European companies may allow China to **increase exports** to countries currently purchasing European products.
- ▶ Lower Chinese exports to the EU could potentially be offset by higher exports to third countries.



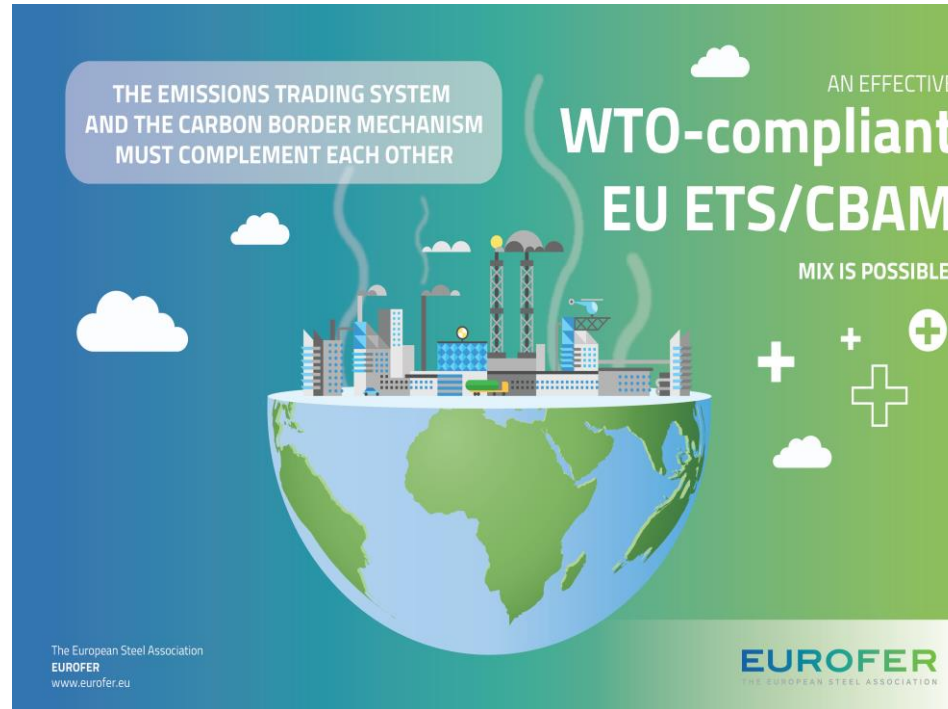
# Impact on the United States

- ▶ There are **concerns in the US** regarding the perceived unfair burden CBAM may impose on US companies, particularly since the US lacks a carbon-pricing system
- ▶ Studies suggest that the effects of a European carbon price with CBAM on **US GDP** are **minimal**, with simulations indicating a loss of only 0.016%
- ▶ **Production declines** in the US for emissions-intensive products like coal, oil, and gas are estimated at only **one to three percent**. This is attributed to high transport costs for these products, leading the EU to import them from countries closer to its borders.
- ▶ The negative economic effects of higher greenhouse gas prices in the EU, including with CBAM, are smaller for countries farther away. Conversely, European neighbor countries are most impacted by both EU climate protection instruments.



# Implications for EU trade policy

- ▶ The EU asserts that CBAM complies with WTO rules, citing Article XX of the General Agreement on Tariffs and Trade, which permits measures necessary to protect life or health
- ▶ However, individual countries outside the EU may disagree and file complaints with the WTO, requiring the EU to prepare for potential conflicts and maintain unity among its members



# Thank you

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