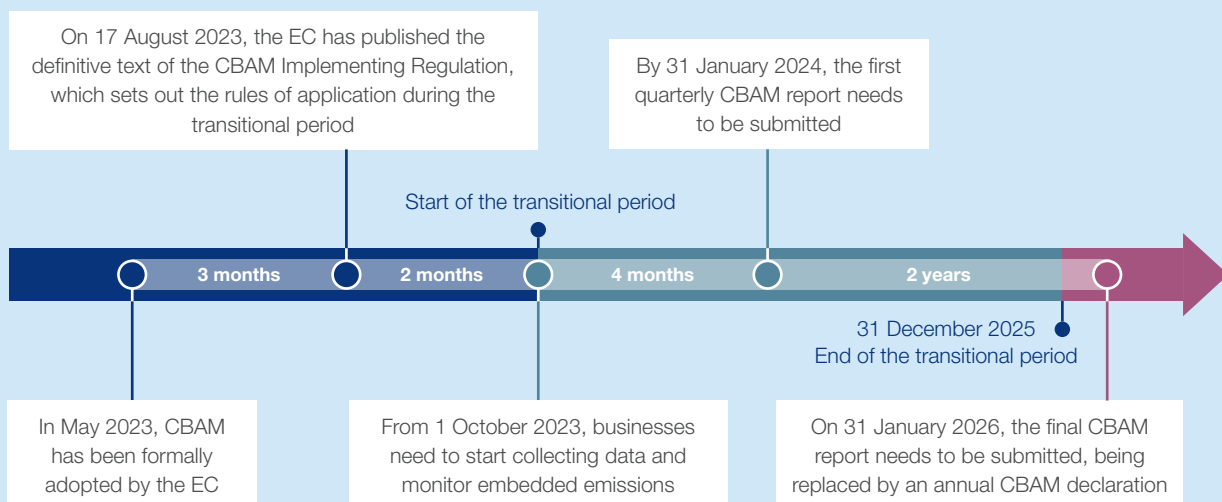




Are you ready for the reporting obligations under CBAM?

The start of the transitional period of the Carbon Border Adjustment Mechanism (“CBAM”) is rapidly approaching as it will come into effect on 1 October 2023. Given the short time to prepare for the transitional period, it is vital that you assess whether your business falls in scope of CBAM and, if so, start preparing for the reporting obligations. Our five-part approach may help you navigate through the CBAM landscape



1. The road to CBAM

On 17 August 2023, the European Commission published the CBAM Implementing Regulation laying down the rules of application of CBAM during the transitional period, which can be found [here](#). During the transitional period, the European Commission aims to ensure a smooth introduction of the reporting obligations in order to reduce the risk of disruptive effects on trade, whilst at the same time collecting the necessary information to further specify the definitive methodology for the calculation of the embedded emissions after the transitional period, which ends on 31 December 2025.

More information on CBAM can be found [here](#).

2. Reporting obligations during the transitional period

During the transitional period of CBAM, importers of certain goods (see hereafter in Chapter 5) or their indirect customs representatives, have to comply with the following reporting obligations:

1. The reporting declarant (see below for who this is) is responsible for submitting quarterly CBAM reports. The CBAM report should include information such as the total quantity of each product type, the total embedded emissions, the indirect emissions and the carbon price due in the country of origin for imported products. The CBAM report structure includes 226 data fields for each imported product type.
2. The reporting declarant should submit the quarterly CBAM report within one month of the end of the previous quarter. The first CBAM report should be submitted by 31 January 2024 for products imported in the fourth quarter of 2023.
3. In general, reporting declarants are required to report the actual embedded emissions of imported products in the CBAM report based on the methods published by the European Commission. Until 31 December 2024, alternative methods for determining the actual embedded emissions may be used. By way of derogation however, until 31 July 2024, default reference values may be reported if the reporting declarant does not have all the information necessary to report the actual embedded emissions.

Who is the reporting declarant?

1. The reporting declarant is usually the importer lodging a customs declaration for release for free circulation of products in the EU in its own name and on its own behalf.
2. If the importer is established in the customs territory of the EU and has appointed an indirect customs representative, he may delegate the reporting obligations to this indirect customs representative acting on behalf of the importer. In this case, the indirect customs representative is considered to be the reporting declarant.
3. If the importer is established outside the customs territory of the EU, his indirect customs representative established in the customs territory of the EU shall be the reporting declarant.

What products are in scope of CBAM?

CBAM applies to imported materials, semi-finished products and a limited number of finished products that can be placed in the following categories:

- Iron and steel
- Cement
- Fertiliser
- Aluminium
- Electricity
- Hydrogen

In the near future, it is expected that the scope of CBAM will be further expanded to include:

- All products currently covered by the EU ETS
- (organic) Polymers

As only certain products are covered by CBAM, it is important for declarants to correctly identify the Combined Nomenclature (“**CN**”) code of goods imported into the EU. See Chapter 5 for more details on the scope of products covered by CBAM.

3. What actions do you have to take?

To prepare for the transitional period of CBAM, businesses should take the following steps:

1. Assess whether its imports fall in scope of CBAM.
2. Identify how CBAM affects their business. In practice, this means creating a supply chain overview laying out all aspects of the production process (e.g. processing activities, production plants, input materials). Businesses can then identify the aspects of the production process that are relevant for CBAM.

3. Gather all your information (e.g. information on the production process and embedded emissions from third party suppliers) and evaluate how you should report, such as with regard to the calculation method.
4. Set up an internal process to submit the quarterly CBAM report. If a reporting declarant hasn't taken the necessary steps to correct an incorrectly submitted CBAM report (e.g. regarding emissions), or doesn't submit a CBAM report at all, EU Member States may impose a penalty on that reporting declarant. The amount of the penalty, for each tonne of unreported embedded emissions may range between EUR 10 and EUR 50.

4. We are there to help you!

Loyens & Loeff has a team of international and multidisciplinary professionals, with experience in customs law, international trade and energy law, who understand the complexities of CBAM and are ready to guide you through the process of understanding and implementing these new rules.

To help you meet your reporting obligations and achieve compliance, we can help you prepare for the transitional period of CBAM on the following five areas:

Part 1: Understanding the impact of CBAM on your business

We keep you informed and up to date on all CBAM developments, with tailor-made updates on CBAM developments and the future extension of the product scope to other product groups that are relevant to your business.

Part 2: Evaluating the impact of CBAM on your business

We assess the impact of CBAM on your business before, during and after the transitional period through a Quick CBAM Scan. This includes identifying which of your products and precursors will be subject to CBAM. More specifically, this entails a preliminary review of the country of origin of the products and precursors and the tariff classification of these products and precursors to assess the potential impact of CBAM on your business operations. We can report our findings in a number of formats (e.g. report, memorandum or a visual).

Part 3: Getting ready to prepare for the transitional period

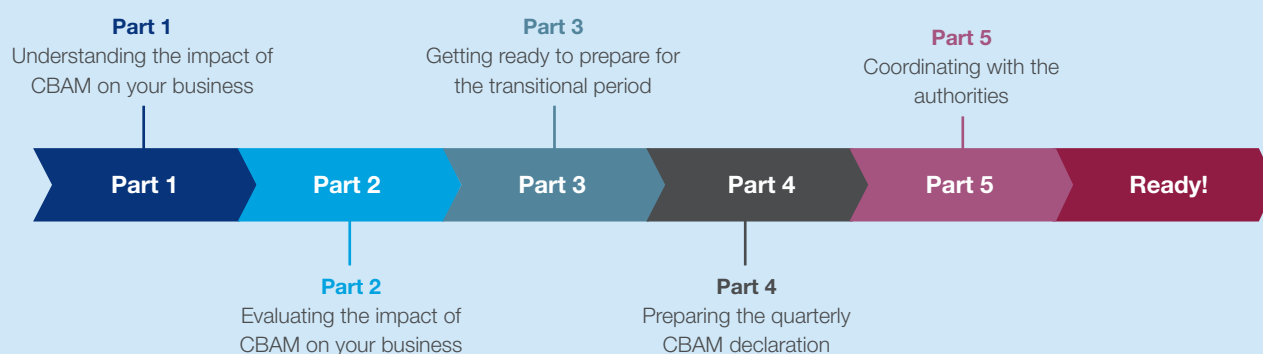
We help you to identify, collect and monitor the data required to submit the CBAM declaration. We also assist with the setup of an information exchange structure to obtain the emissions data required to meet the reporting obligations.

Part 4: Preparing the quarterly CBAM report

We assist in identifying the impact on your actual supply chains (e.g. if these deviate from the original plan in Step 2), including tariff classification and country of origin.

Part 5: Coordinating with the authorities

We coordinate with the competent CBAM authorities and customs authorities on the specific obligations of your business resulting in more certainty in achieving compliance.



5. Specific relevance for products in scope of CBAM

Under the EU Emissions Trading System (“EU ETS”), businesses must surrender a quantity of emission allowances equal to their greenhouse gas emissions in tonnes. With the increasing cost of EU ETS emission allowances, there is a growing risk of price distortions between products produced within the EU customs territory and products produced in third countries. To create a level playing field, prevent carbon leakage and to encourage producers outside the EU customs territory to decarbonise their production processes, the European Commission has introduced CBAM.

The products covered by the CBAM Regulation include materials, semi-finished products and a limited number of finished products. These materials and products can be categorised under iron and steel, cement, fertiliser, aluminium, electricity and chemicals. The European Commission has announced that the scope of CBAM will be gradually expanded to all sectors covered by the EU ETS by 2030. In the chemical sector, this includes e.g. adipic acid and glyoxal.

Although not covered by the EU ETS, e.g. electricity generated from the combustion of fuels in countries that have integrated their electricity grids with electricity grids in the EU, will be covered by CBAM. The European Commission has identified a growing risk of market distortions in the electricity market as a result of the EU's decarbonisation efforts, combined with the increasing integration of power grids of non-EU countries to the EU power grid and the increase in imported electricity.

In the near future, it is expected that the scope of CBAM will be further expanded to other product groups including (organic) polymers.

Below, we have set out the sectors covered by CBAM and some examples of products covered from 1 October 2023. Products included under CBAM include the following:

Cement sector

- Kaolinic clays
- Cement clinker
- Portland cement
- Aluminous cement and hydraulic cements

Aluminium sector

- Unwrought aluminium
- Aluminium wire
- Aluminium plates and foil
- Aluminium structures and reservoirs

Iron & Steel sector

- Iron and steel
- Screws and bolts
- Structures
- Tubes and pipes

Fertiliser sector

- Nitric acid and sulphonitric acids
- Ammonia
- Nitrates of potassium
- Certain mineral or chemical fertilisers

Chemical sector

- Hydrogen

Electrical sector

- Electricity

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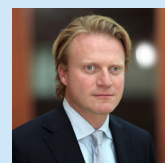
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