

CBAM Regulation in a Nutshell for Fastener Business Owners



For those who struggle with the daunting length of CBAM regulation in full text, Fastener World editors have gone through all 53 pages of the regulation, and extracted the essential parts into a brief article for fastener business owners. This article will get you familiar with at least 80% of the core context of CBAM, and help you get into the swing of it.

The editors have slightly simplified abstruse statements in the regulation and cut out repetitive and redundant words and phrases to make it easier to read. Without further ado, here are the key CBAM excerpts.

Regulation (EU) 2023/956 of The European Parliament and of the Council (10 May 2023)

▲ Critical Definitions

1. '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. For 7318 – screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, carbon dioxide washers (including spring washers) and similar articles of iron or steel, only direct emissions are to be taken into account.
2. 'Indirect emissions' means emissions from the production of electricity which is consumed during the production processes of goods, irrespective of the location of the production of the consumed electricity.
3. 'Embedded emissions' means direct emissions released during the production of goods and indirect emissions from the production of electricity that is consumed during the production processes. The authorized CBAM declarant shall keep records of the information required to calculate the embedded emissions until the end of the fourth year after the year in which the CBAM declaration has been or should have been submitted.
4. 'Actual emissions' means the emissions calculated based on primary data from the production processes of goods and from the production of electricity consumed during those processes.
5. 'Ton of CO₂e' means one metric ton of CO₂.
6. 'CBAM certificate' means a certificate in electronic format corresponding to one ton of CO₂e of embedded emissions in goods.
7. 'Surrender' means offsetting of CBAM certificates against the declared embedded emissions in imported goods or against the embedded emissions in imported goods that should have been declared.



8. 'Default value' means a value calculated or drawn from secondary data, which represents the embedded emissions in goods. When actual emissions cannot be adequately determined by the authorized CBAM declarant, default values shall be used. When reliable data for the exporting country cannot be applied for a type of goods, the default values shall be based on the average emission intensity of the X % worst performing EU ETS installations for that type of goods.
9. 'Carbon price' means the monetary amount paid in a third country, under a carbon emissions reduction scheme, in the form of a tax, levy or fee or in the form of emission allowances under a greenhouse gas emissions trading system, calculated on greenhouse gases covered by such a measure, and released during the production of goods.
10. 'Installation' means a stationary technical unit where a production process is carried out.
11. 'Operator' means any person who operates or controls an installation in a third country.
12. 'National accreditation body' is appointed by each Member State.

▲ Obligations and Rights of Authorized CBAM Declarants

1. Goods shall be imported into the customs territory of the Union only by an authorized CBAM declarant.
2. Any importer established in a Member State shall, prior to importing goods into the customs territory of the Union, apply for the status of authorized CBAM declarant.
3. Where an importer is not established in a Member State, the indirect customs representative shall submit the application for an authorization.
4. The application for an authorization shall include the following information about the applicant:
 - (a) Name, address and contact information
 - (b) EORI number
 - (c) Main economic activity carried out in the Union
 - (d) Certification by the tax authority in the Member State where the applicant is established that the applicant is not subject to an outstanding recovery order for national tax debts
 - (e) Declaration that the applicant was not involved in any serious infringements or repeated infringements of customs legislation, taxation rules or market abuse rules during the five years preceding the year of the application, including that it has no record of serious criminal offences relating to its economic activity
 - (f) Information necessary to demonstrate the applicant's financial and operational capacity to fulfil its obligations
 - (g) Estimated monetary value and volume of imports of goods into the customs territory of the Union by type of goods, for the calendar year during which the application is submitted, and for the following calendar year

- (h) Names and contact information of the persons on behalf of whom the applicant is acting, if applicable
5. The applicant may withdraw its application at any time.

▲ CBAM Declaration

1. By 31 May of each year, and for the first time in 2027, each authorized CBAM declarant shall use the CBAM registry to submit a CBAM declaration for the preceding calendar year.
2. The CBAM declaration shall contain the following information:
 - (a) Total quantity of each type of goods imported during the preceding calendar year, expressed in megawatt-hours for electricity and in tons for other goods
 - (b) Total embedded emissions in the goods, expressed in tons of CO₂e emissions per megawatt-hour of electricity or, for other goods, in tons of CO₂e emissions per ton of each type of goods
 - (c) Total number of CBAM certificates to be surrendered
 - (d) Copies of verification reports, issued by accredited verifiers



▲ Carbon Price Paid in a Third Country

1. An authorized CBAM declarant may claim in the CBAM declaration a reduction in the number of CBAM certificates to be surrendered in order to take into account the carbon price paid in the country of origin for the declared embedded emissions. The reduction may be claimed only if the carbon price has been effectively paid in the country of origin. In such a case, any rebate or other form of compensation available in that country that would have resulted in a reduction of that carbon price shall be taken into account.



2. The authorized CBAM declarant shall keep records of the documentation required to demonstrate that the declared embedded emissions were subject to a carbon price in the country of origin of the goods that has been effectively paid. The authorized CBAM declarant shall in particular keep evidence related to any rebate or other form of compensation available, in particular the references to the relevant legislation of that country. The information contained in that documentation shall be certified by a person that is independent from the authorized CBAM declarant and from the authorities of the country of origin. The name and contact information of that independent person shall appear on the documentation. The authorized CBAM declarant shall also keep evidence of the actual payment of the carbon price until the end of the fourth year after the year during which the CBAM declaration has been or should have been submitted.

Registration of Operators and of Installations in Third Countries

1. The request for registration shall contain the following information to be included in the CBAM registry upon registration:
 - (a) the name, address and contact information of the operator
 - (b) the location of each installation including the complete address and geographical coordinates expressed in longitude and latitude, including six decimals
 - (c) the main economic activity of the installation
2. The Commission shall notify the operator of the registration in the CBAM registry. The registration shall be valid for a period of five years from the date of its notification to the operator of the installation.
3. The operator may, at any time, ask to be deregistered from the CBAM registry. The Commission shall, upon such request, and after notifying the competent authorities, deregister the operator and delete the information on that operator and on its installation from the CBAM registry.

Professional Secrecy and Disclosure of Information

1. All information acquired by the competent authority or the Commission in the course of performing their duties which is by its nature confidential or which is provided on a confidential basis shall be covered by the obligation of professional secrecy. Such information shall not be disclosed by the competent authority or the Commission without the express prior permission of the person or authority that provided it or by virtue of Union or national law.
2. By way of derogation from paragraph 1, the competent authorities and the Commission may share such information with each other, the customs authorities, the authorities in charge of administrative or criminal penalties, and the European Public Prosecutor's Office, for the purposes of ensuring compliance of persons with their obligations under this Regulation and the application of customs legislation. Such shared information shall be covered by professional secrecy and shall not be disclosed to any other person or authority except by virtue of Union or national law.

Accreditation of Verifiers

A national accreditation body may, on request, accredit a person to be a verifier for the purpose of this Regulation.

Review of CBAM Declarations

1. The Commission may review CBAM declarations, in accordance with a review strategy, including risk factors, within the period ending with the fourth year after the year during which the CBAM declarations should have been submitted.
2. Where the competent authority concludes that the declared number of CBAM certificates to be surrendered is incorrect, it shall determine the number of CBAM certificates which should have been surrendered by the authorized CBAM declarant, taking into account the information submitted by the Commission. The competent authority shall notify the authorized CBAM declarant of its decision on the number of CBAM certificates determined and shall request that the authorized CBAM declarant surrender the additional CBAM certificates within one month.
3. Where the competent authority concludes that the number of CBAM certificates surrendered exceeds the number which should have been surrendered, it shall inform the Commission without delay. The CBAM certificates surrendered in excess shall be repurchased.

Sale of CBAM Certificates

1. A Member State shall sell CBAM certificates on a common central platform to authorized CBAM declarants established in that Member State.
2. The Commission shall ensure that each CBAM certificate is assigned a unique identification number upon its creation. The Commission shall register the unique identification number and the price and date of sale of the CBAM certificate in the CBAM registry in the account of the authorized CBAM declarant purchasing that certificate.



Price of CBAM Certificates

1. The Commission shall calculate the price of CBAM certificates as the average of the closing prices of EU ETS allowances on the auction platform, in accordance with the procedures, for each calendar week. For those calendar weeks in which no auctions are scheduled on the auction platform, the price of CBAM certificates shall be the average of the closing prices of EU ETS allowances of the last week in which auctions on the auction platform took place.
2. The Commission shall publish the average price on its website or in any other appropriate manner on the first working day of the following calendar week. That price shall apply from the first working day following that of its publication to the first working day of the following calendar week.

Surrender of CBAM Certificates

1. By 31 May of each year, and for the first time in 2027 for the year 2026, the authorized CBAM declarant shall surrender via the CBAM registry a number of CBAM certificates that corresponds to the embedded emissions declared for the calendar year preceding the surrender. The authorized CBAM declarant shall ensure that the required number of CBAM certificates is available on its account in the CBAM registry.
2. The authorized CBAM declarant shall ensure that the number of CBAM certificates on its account in the CBAM registry at the end of each quarter corresponds to at least 80% of the embedded emissions in all goods it has imported since the beginning of the calendar year.

Repurchase of CBAM Certificates

1. Where an authorized CBAM declarant so requests, the Member State where that authorized 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. The Commission shall repurchase the excess CBAM certificates through the common central platform on behalf of the Member State where the authorized CBAM declarant is established. The authorized CBAM declarant shall submit the repurchase request by 30 June of each year during which CBAM certificates were surrendered.
2. The number of certificates subject to repurchase shall be limited to one third of the total number of CBAM certificates purchased by the authorized CBAM declarant during the previous calendar year.
3. The repurchase price for each CBAM certificate shall be the price paid by the authorized CBAM declarant for that certificate at the time of purchase.

Rules Applicable to the Importation of Goods

1. The customs authorities shall not allow the importation of goods by any person other than an authorized CBAM declarant.
2. The customs authorities may communicate confidential information acquired by the customs authorities in the course of performing their duties, or provided to the customs authorities on a confidential basis, to the Commission and the competent authority of the Member State that has granted the status of the authorized CBAM declarant.

Penalties

1. An authorized CBAM declarant who fails to surrender, by 31 May of each year, the number of CBAM certificates that corresponds to the emissions embedded in goods imported during the preceding calendar year shall be held liable for the payment of a penalty. Such a penalty shall be applicable in the year of importation of the goods.
2. Where a person other than an authorized CBAM declarant introduces goods into the customs territory of the Union without complying with the obligations under this Regulation, that person shall be held liable for the payment of a penalty. Such a penalty shall be an amount from three to five times the penalty referred to in paragraph 1. The payment of the penalty shall not release the authorized CBAM declarant from the obligation to surrender the outstanding number of CBAM certificates in a given year.

Circumvention

Practices of circumvention shall be defined as a change in the pattern of trade in goods, which stems from a practice, process or work which 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, except where the modification alters their essential characteristics
- (b) Artificially splitting shipments into consignments the intrinsic value of which does not exceed the threshold

Scope of the Transitional Period

During the transitional period from 1 October 2023 until 31 December 2025, where the importer is established in a Member State and appoints an indirect customs representative, and where the indirect customs representative so agrees, the reporting obligations shall apply to such indirect customs representative. Where the importer is not established in a Member State, the reporting obligations shall apply to the indirect customs representative.

That's a Wrap

There you go. Fastener World keeps tabs on CBAM and for latest updates, check out www.fastener-world.com and our publications for more updates. ■

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