

# Energy taxation and the legal framework for CBTA : the French experience and innovation



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# I. The French fight against carbon pollution





## A. The French experience and innovation

- Household waste collection tax, 1897
- Water pollution fee, 1964
- General tax on polluting activities, 2000
- Energy efficiency certificates, 2005
- Bonus-Malus system, 2008
- Carbon tax, 2014
- Tax incentives for energy renovation, 2020

- The Polluter Pays Principle :
- Recommendation of the OCDE, 1972
- Fundamental principle in European Union (EU) environmental policy
- The polluter = the payer
- Requires businesses to prevent and remedy environmental damage caused by their activities







## B. The french international influence

- European Green Pact, 2019 : carbon neutrality by 2050
- Contribution/negotiation of the French Treasury's Directorate General for the European Commission, 2020
- International event bringing European political leaders, representatives of international organisations and representatives of non EU countries, 2021
- Proposal for a regulation by the European Commission, 14 July 2021
- Compromise between Member States, creation of a carbon tax at the EU's borders, 13 December 2022
- Comes into force in 2026

- Implementation arrangements :
  - A phased approach
  - A differentiated approach
  - An exemption for low-income countries
  - Use of carbon pricing revenues
- France has been a leader in both energy taxation and the legal framework for CBTA



The background of the slide is a photograph of the European Union flag, which is blue with twelve yellow stars arranged in a circle. The flag is waving in the wind. Behind the flag is a modern building with a grid-like facade of windows and balconies.

## II. Carbon Border Adjustment Mechanism (CBAM)



# A) Context of the CBAM

- Article 2(1)(a) of the Paris Agreement : keep the rise in the average temperature of the planet well below 2°C compared to pre-industrial levels
- The European Union's climate objective : "**climate-neutral European Union by 2050**".
- New target of the European Commission : reduce greenhouse gas emissions by at least 55% below 1990 levels by 2030.
- Revision of the Carbon Border Adjustment Mechanism (CBAM)



- What is the CBTA ?

Directive 2003 / 87 / EC of the European Parliament and of the Council of 13 October 2003 :

« The CBTA is an alternative to the measures that address the **risk of carbon leakage** in the EU's **Emissions Trading System** (EU ETS) »

- Emissions Trading Scheme (ETS) : caps the greenhouse gas emissions of European companies and divides them into emission allowances; each allowance allows the emission of one tonne of carbon dioxide (CO<sub>2</sub>).
- Risks of carbon leakage: example of the relocation of production

Without CBTA, carbon leakage could undermine the effectiveness of EU mitigation policies and could also lead to an increase in total global emissions.



## B) Legal basis of the CBTA

- Proposition for a Regulation of the European Parliament and of the Council establishing a Carbon Border Adjustment Mechanism on 14 July 2021 :
- The principle of subsidiarity
- The principle of non-discrimination
- The principle of proportionality





## C) A brief explanation of the provisions of the proposal

### Chapter I Subject matter, scope and definitions

#### *Article 1 Subject matter*

This Regulation establishes a **carbon border adjustment mechanism** (the ‘CBAM’) for addressing greenhouse gas emissions embedded in the goods (...).

#### *Article 2 Scope*

- *Annex I* defines in detail the scope of the proposal, listing the goods and the GHG emissions relating to each of those goods.
- *Annex II* indicates the countries and territories of origin excluded from the application of the measure.

#### *Article 3 Definitions*

### Chapter II Obligations and rights of authorised declarants of goods

#### *Article 4 Importation of goods*

#### *Article 5 Application for an authorisation*

#### *Article 6 CBAM declaration*

#### *Article 7 Calculation of embedded emissions*

#### *Article 8 Verification of embedded emissions*

#### *Article 9 Carbon price paid in a country of origin*

#### *Article 10 Registration of operators and installations in third countries*

### **Chapter III** **Competent authorities**

*Article 11*  
*Competent authorities*

*Article 12*  
*Commission*

*Article 13*  
*Professional secrecy and disclosure of information*

*Article 14*  
*National registries and central database*

*Article 15*  
*Central administrator*

*Article 16*  
*Accounts in the national registries*

*Article 17*  
*Authorisation of declarants*

*Article 18*  
*Accreditation of verifiers*

*Article 19*  
*Review of CBAM declarations*

### **Chapter IV** **CBAM certificates**

*Article 20*  
*Sale of CBAM certificates*

*Article 21*  
*Price of CBAM certificates*

*Article 22*  
*Surrender of CBAM certificates*

*Article 23*  
*Re-purchase of CBAM certificates*

*Article 24*  
*Cancellation of CBAM certificates*

### **Chapter V** **Border administration of goods**

*Article 25*  
*Procedures at the border when goods are imported*



## **Chapter VI Enforcement**

*Article 26  
Penalties*

*Article 27  
Circumvention*

## **Chapter VII Exercise of delegation and committee procedure**

*Article 28  
Exercise of the delegation*

*Article 29  
Exercise of implementing powers by the Commission*

## **Chapter VIII Reporting and review**

*Article 30  
Review and reporting by the Commission*

## **Chapter IX Coordination with free allocation of allowances under the EU ETS**

*Article 31  
Free allocation of allowances under the EU ETS and obligation to surrender  
CBAM certificates*

## **Chapter X Transitional provisions**

*Article 32  
Scope*

*Article 33  
Importation of goods*

*Article 34  
Reporting obligation for certain customs procedures*

*Article 35  
Reporting obligation*

## **Chapter XI Final provisions**

*Article 36  
Entry into force*

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- On 13 December 2022, the European Parliament and the Council reached an agreement of a **provisional and conditional nature** on the border carbon adjustment mechanism (BCM).

- *Comment of Jozef Síkela, Minister of Industry and Trade of the Czech Republic :*

« I am very pleased that we have reached this agreement today. The Border Carbon Adjustment Mechanism is a key element of our climate action. **This mechanism encourages the import of goods into the EU by companies from third countries that meet the high climate standards applicable in the 27 EU Member States.** This will ensure a balanced treatment of these imports and is intended to encourage our partners in the world to join the EU's climate efforts. »



### III. Functioning of the Carbon Border Adjustment Mechanism (CBAM)



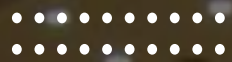


# Course of action

- Transitional period (From the 1st of October 2023)
- Permanent system (From the 1st of January 2026)







# Transitional period (2023)

- The transitional period will go through a gradual phasing in
- Only a few sectors will be taken into consideration as a first step: Iron and steel, cement, fertilizer, aluminium, and electricity generation
- Goals:
  - To facilitate a smooth implementation
  - To facilitate dialogue with third countries
  - To serve as a pilot and learning period for all stakeholders





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# Transitional period

- During the transitional period, importers of goods in the scope of the new rules will only have to report greenhouse gas emissions linked to the products imported (direct and indirect emissions), **without making any financial payments or adjustments**
- Importers will start paying a financial adjustment in 2026.



## Transitional Period

- A review of the CBAM's functioning during its transitional phase will be concluded before the entry into force of the definitive system in 2026.
- At the same time, the product scope will be reviewed to assess the feasibility of including other goods in the scope of the CBAM mechanism. The report will include a timetable setting out their inclusion by 2030.
- This mechanism is bound to expand rapidly and integrate organic chemicals, polymers, with the goal of including all goods covered by the emissions trading system by 2030



# Permanent system Competent authority

- Each State will have to designate a competent authority.
- Two roles:
- Delivering the title of authorized declarant
- Controlling importations



# Permanent system (2026)

## Declarative obligations

- Obligation to declare the quantity of goods imported in the EU in the last year and the greenhouse gas emissions linked to those goods.
- Obligation to buy certificates corresponding to the price they would have paid according to the EU taxation.







# CBAM Certificates


- 31<sup>st</sup> May of each year: submission of the CBAM declaration
- Price: Calculated on the weekly average auction price of EU Emission Trading System allowances (Euro/Tonne of CO<sub>2</sub> emitted).
- National authorities re-purchase the excess of certificates bought.



## Possible deduction

- If a company has already paid a price for carbon emissions in the third party State, he can partially or fully deduct it from the CBAM certificates that he should buy.



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- Elimination of free allowances
  - The European Union Emissions Trading System, had set up a system of free allocations of greenhouse gas emissions to prevent carbon leakage through companies delocalization
  - This progressive elimination within the initially covered sectors should be over by 2030 (10 % in 2025, 20 % in 2026, 30 % in 2027, 50 % in 2028, 75 % in 2029, 100 % in 2030)

**Thank you  
for your  
attention !**

