

Energy UK Response to Technical Consultation: Draft CBAM Secondary Legislation

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About Energy UK

Energy UK is the trade association for the energy industry, representing companies investing billions of pounds to secure our country's current and future energy needs.

From growing start-ups to major electricity generators, grid and infrastructure developers, and energy suppliers, our members are driving change across power, heat, transport, and flexibility.

We provide a collective voice for the sector working with governments, regulators, charities and other organisations to provide crucial insight that shapes policy, offers solutions and promotes best practice.

Our broad view across the whole system supports evidence-based positions which are not tied to particular technologies, and are focused on delivering strategic benefits for people, businesses and the economy.

We champion initiatives such as our Vulnerability Commitment, which pushes suppliers to go beyond regulation to support customers with additional needs, and TIDE, the industry's drive for greater inclusion and diversity. Through our Young Energy Professionals Forum, we support the development of future leaders. We are equally committed to our team and are proud to be recognised as a 'Gold' Investors in People employer.

Response

Introduction

Energy UK welcomes the opportunity to comment on the draft secondary legislation for the UK Carbon Border Adjustment Mechanism (CBAM). As the trade association for the GB energy industry, our members are key stakeholders in the transition to net zero and are directly impacted by the carbon pricing of precursors and materials necessary for energy infrastructure, as well as the broader implications for UK-EU energy trade.

While we support the policy objective of preventing carbon leakage, our members have identified some gaps in the current draft regulations and the broader implementation

timeline that, if unaddressed, could threaten commercial stability and the long-term effectiveness of the mechanism.

1. Commercial Uncertainty and Impact on Long-Term Contracting

Our members are reporting notable commercial uncertainty as they enter contract negotiations for goods arriving after 1 January 2027. The current absence of key secondary legislation and data makes it difficult to accurately model or estimate future CBAM-related costs.

- **Absence of Default Values and Rates:** The draft Calculation of CBAM Rate and Determination of Carbon Price Relief Regulations provides the framework but lacks the actual default emission values and the specific methodology for determining CBAM rates.
- **Contractual Risk:** Without these essential elements, companies cannot realistically factor CBAM costs into supply contracts being finalised now for deliveries in 2027 and beyond. This inhibits the ability to set commercially viable terms, allocate risks appropriately between buyers and sellers, and communicate transparently with international suppliers.
- **Recommendation:** We urge HMRC to publish the outstanding default values and the methodology for determining CBAM rates as a matter of urgency. We also request clear interim guidance or a published timeline for any remaining secondary legislation (due in Spring 2026) will be finalised to assist companies in their long-term commercial planning.

2. Concerns Regarding Methodological Over-Simplification

Energy UK is concerned that in an effort to reduce administrative burden, the UK design has over-simplified the determination of embedded emissions to the point of reducing the mechanism's effectiveness.

- **Differential for Low-Carbon Goods:** In sectors such as steel, the current draft appears to move toward a single carbon factor. This fails to differentiate between "green" steel (e.g., Electric Arc Furnace) and standard steel (e.g., Blast Furnace). If the UK CBAM does not allow for this differentiation, it removes the incentive for importers to source lower-carbon materials, undermining the very purpose of the tax.
- **Chemical Sector Complexity:** From communications with stakeholders in the manufacturing sector, the chemicals sector is facing particular difficulties with

respect to the UK CBAM. The chemicals sector is highly diverse; a one-size-fits-all approach to emission factors will lead to significant market distortions and may unfairly penalise certain imports while under-taxing others.

- **Recommendation:** The regulations should be amended to ensure that the methodology allows for (and encourages) the reporting of actual verified emissions, rather than relying on overly broad default values that flatten the difference between high- and low-carbon production.

3. Alignment with the EU CBAM

A primary concern for our members is the divergence between the UK and EU CBAM designs.

- **Risk of Non-Recognition:** The EU CBAM includes a more granular methodology and broader scope (including indirect emissions in certain sectors). While ongoing negotiations to link the UK and EU ETS schemes should prevent any risk of UK firms being exposed to the EU CBAM, there is a significant risk that if the UK design diverges too significantly, specifically by over-simplifying emission calculations, the EU may decide it will not recognise the UK regime as equivalent for various products. This is especially a risk if the implementation of ETS linkage is delayed or if political relations with the Commission sour.
- **Recommendation:** We encourage the Government to replicating the granularity of the EU CBAM where relevant. This includes aligning on the treatment of "actual" vs "default" values to ensure that UK-produced goods are clear on their liabilities and that the UK regime remains robust enough to satisfy any potential challenge from the EU.

4. Default values for carbon price paid in a third country

- **Streamlining reporting:** When information about carbon pricing paid in a third country is difficult to verify, it may be practical to allow more streamlined approaches.
- **Recommendation:** This could include using default values in cases where detailed data cannot reasonably be obtained, as well as permitting the use of existing documentation generated for other regulatory systems, such as materials already produced for the EU CBAM, when this is workable.

5. Treatment of Article 6 units and international credits

- **Need for clarity:** While the draft framework already touches on how certain crediting instruments, such as 'greenhouse gas removal credits or similar', may

be recognised, the rules allowing for this and the price of such credits or similar must be publicly available.

- **Treatment of international offsets in carbon price already paid:** Looking ahead, clearer direction would be useful on whether recognition of CO2e prices already paid could also extend to Article 6 units (Internationally Transferable Mitigation Outcome Credits under Article 6 of the Paris Climate Agreement) or other international credits that are used for compliance within approved carbon pricing systems. As global carbon markets mature and Article 6 becomes operational, questions around how these international instruments fit into the CBAM will only become more significant.
- **Recommendation:** To stay resilient as markets evolve, the UK CBAM should be designed with enough flexibility to integrate both domestic and international credits as they become more prominent in compliance markets.

6. Technical Comments on Draft Regulations

- **Administrative Provisions (Registration):** We note the £50,000 threshold. For the energy sector, where individual shipments of infrastructure components often exceed this value, almost all members will be captured. We request that the registration process be streamlined with existing customs (EORI) systems to avoid duplicative reporting.
- **Transitory Provisions:** We welcome the 2026 "pre-commencement" period but suggest that this period should be used not just for registration, but for "shadow reporting" to allow firms to test their data collection systems against HMRC's expected standards before financial liability begins in 2027.

Conclusion

The UK CBAM is a vital tool for the transition, but its success depends on provide clarity and granularity. We ask that HMRC addresses the "information vacuum" currently hindering 2027 contract negotiations and reconsider the over-simplified approach to emission factors to ensure the mechanism truly rewards decarbonisation.

We remain available to discuss these points further.

Yours sincerely,

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