



**Independent
Retail Europe**

**DRAFT COMMISSION IMPLEMENTING REGULATION LAYING
DOWN THE RULES FOR THE APPLICATION OF REGULATION
(EU) 2023/95623/956 OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL AS REGARDS REPORTING OBLIGATIONS
FOR THE PURPOSES OF THE CARBON BORDER ADJUSTMENT
MECHANISM DURING THE TRANSITIONAL PERIOD**

- COMMENTS OF INDEPENDENT RETAIL EUROPE -

JULY 2023



I. INTRODUCTION

Independent Retail Europe is the European trade association for groups of independent retailers. These cooperative structures of independent retailers are characterised by joint purchasing of goods and services to attain efficiencies and economies of scale, and the provision of a support network to the member/shareholder independent SME retail entrepreneurs in full respect of the independent character of the individual retailer. The CBAM Regulation will apply a very wide range of products which' production processes are carbon intensive for example all of those made of, steel and aluminium that are imported by the central organisations of our member groups.

In general, we support the aim of the Regulation that GHG emissions that occur in non-EU countries are treated in the same way as those from European industry. With a global problem like climate change, exporting products with carbon intensive production processes should not bring an economic benefit to the companies who do so. However, the proposal will constitute a much higher burden on importers than it is for EU manufacturers to report on their CO₂ emissions under the ETS, as it is much more complicated to obtain the information from third parties in third countries.

We therefore have the following concerns with regard to the proposal:

- ➔ **A preparation period of at least 18 months is indispensable for concerned companies to comply.**
- ➔ **Geolocation is unnecessary for CO₂ emissions and disproportionate given the work required and the lack of impact on CO₂.**
- ➔ **The reporting requirements should focus on key indicators necessary for CO₂ measurement**
- ➔ **Default values should always be allowed, this should be clarified in the text.**
- ➔ **The Commission needs to rapidly publish the default values.**

II. DETAILED COMMENTS ON THE DRAFT DELEGATED ACT

1) A preparation period of 18 months is indispensable

Given the huge amount of products concerned by this legislation and the fact that the EU companies concerned will be dependent on operators abroad for the information, the preparation period for the companies concerned is far too short. The Regulation was passed on May 10, 2023. The draft delegated act on implementation issues in the transition phase was only published on 13 June 2023 and has not yet been adopted. This means that companies currently have no legal basis for the extensive obligations in detail, which will apply from October 1st 2023. This extremely short deadline cannot be met and does not do justice to the importance of the topic. In comparison, the implementation period for the EU Deforestation Regulation (EUDR), which requires similar data (e.g. spatial data) is much more realistic (18 months).

Companies will not be able to comply within the proposed timescale. Most importing companies have neither the information on the production plants, including geodata, nor the emission data, let alone the staff to obtain the necessary information. In the short time period granted, it is unrealistic to obtain valid and reliable information, especially since many companies operate with a large number of different production sites.

Another critical point is that the companies concerned will meet obstacles in their research. Supply chains are very complex and built over a long period of time. Requests for precise information on

production sites and publication thereof are likely to meet with delays, or even resistance from suppliers. Upstream supply chains can change, for instance, a producer of the end product, and thus a direct supplier of the importer, may change his steel purchase. This information is usually not passed on.

Also for the CBAM, **an 18 month preparation is necessary in order to enable companies to base internal process and external data acquisition on a solid basis.** This would ensure a reliable picture of the CO2 emissions of the purchased goods. An 18 months period should be feasible as the envisaged fees will not be due until 2026

2) The reporting requirements are too onerous

a) Geolocation is unnecessary for CO2 emissions and disproportionate

The detailed information about production sites is hardly practicable for retailers. Nor is it – contrary to the EUDR- purposeful. CBAM is about CO2 emissions, in which the geographical origin plays much less of a role than the actual production processes of metal-containing products. For example, in the production of aluminium, the CO2 emissions per ton of material can vary between 4 and 20t, depending on whether hydropower or coal-fired power plants are used to generate electricity.

Exact geolocation is irrelevant to the objective of the CBAM Regulation. Whether the production site is south or north of Delhi or west or east of Shanghai, has little to no effect on CO2 emissions. The procurement of this information also constitutes a disproportionate effort, as the report will need to contain an extreme amount of data, which will require an enormous effort from the economic operators, **but will not add any value with regard to the initial objective of CBAM.** Last but not least, **any geographically differentiated values in relation to CO2 emissions are unlikely to be available.**

3) The calculation of emissions is too complex

a) The reporting requirements should focus on the key indicators for CO2 measurement

The methodology for determining CO2 emissions is far too complex and can hardly be applied in practice and particularly unnecessary for stage 1. The EU already receives information about every import via electronic customs declarations. It contains the sender, importer with EORI number, goods number, quantity, designation, weight and value. The EU therefore has all the information in the customs declarations. They just need to be used.

In addition, only the following key indicators would be required in the implementation phase:

- Amount of goods in tons per customs tariff number
- Country of origin
- CO2 price paid, if applicable.
- Emissions (self-determined or calculated according to standard values)

Further information is not relevant at this stage.

b) Default values should always be permitted

- The wording on default values is ambiguous. It is therefore unclear in which cases default values can be used.

\ Article 5: Default values for the transitional period made available and published by the Commission may be used for input materials or sub-processes contributing to less than 20% of the total emissions of the good, where the reporting declarant reports actual emissions for complex goods.

\ In Annex III: Where an operator cannot adequately determine actual data for one or more data sets, by applying approaches provided in Section A.4 of this Annex, and where no other method for closing data gaps is available, the preliminary default made available and published by the Commission may be used for communication to reporting declarants in line with Section I of this Annex.

Default/standard values must always be permitted, since the calculation and analysis may very well not be technically possible in production sites in third countries, and are certainly not available on the basis of geographical distribution.

In order for the concerned companies to begin to fulfill the reporting obligations from the 4th quarter of 2023, **the Commission needs to promptly publish the (provisional) default values for all products**. It should be possible to enter these in the CBAM report for at least a transitional period. As mentioned above, we consider that the use of these should always be permitted.

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*Established in 1963, **Independent Retail Europe** (formerly UGAL – the Union of groups of independent retailers of Europe) is the European association that acts as an umbrella organisation for groups of independent retailers in the food and non-food sectors.*

Independent Retail Europe represents retail groups characterised by the provision of a support network to independent SME retail entrepreneurs; joint purchasing of goods and services to attain efficiencies and economies of scale, as well as respect for the independent character of the individual retailer. Our members are groups of independent retailers, associations representing them as well as wider service organizations built to support independent retailers.

Independent Retail Europe represents 23 groups and their over 417.800 independent retailers, who manage more than 753.500 sales outlets, with a combined retail turnover of more than 1,320 billion euros and generating a combined wholesale turnover of 513 billion euros. This represents a total employment of more than 6.500.000 persons.

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