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## **EIUG Response to the Consultation on the Introduction of a UK carbon border adjustment mechanism from January 2027**

### **Introduction**

1. The Energy Intensive Users Group (EIUG) is an umbrella organisation that represents the interests of energy intensive industrial (EIs) consumers. Its objective is to achieve fair and competitive energy prices for British industry. It represents manufacturers of steel, chemicals, fertilisers, paper, glass, cement, lime, ceramics, and industrial gases. EIUG members produce materials which are essential inputs to UK manufacturing supply chains, including materials that support climate solutions in the energy, transport, construction, agriculture, and household sectors. They add an annual contribution of £29bn GVA to the UK economy and support 210,000 jobs directly and 800,000 jobs indirectly around the country.
2. These foundation industries are both energy and trade intensive and continue to invest in the UK. To compete globally, EIs need secure, internationally competitive energy supplies and measures to mitigate the risk of carbon leakage. However, inward investment, growth and competitiveness have been hampered for years by UK energy costs being higher than those abroad. This has increased the risk of carbon leakage and deterred investments in decarbonisation. In some cases, investment, economic activity, emissions and jobs have relocated abroad, leading to a subsequent increase in imports, decrease in productivity and reduction in UK GDP.
3. The EIUG fully agrees with the premise of the consultation that the objective of decarbonisation – to reduce global emissions – could be undermined by carbon leakage. The Government's decision to introduce a UK carbon border adjustment mechanism (CBAM) for a number of sectors could ensure that highly traded and carbon-intensive goods from overseas face a comparable carbon price to those produced in the UK. This would level the playing field in terms of carbon pricing for those energy intensive industries that manufacture these goods, though some that other issues resulting in relative high GB electricity prices still need to be addressed.

4. The EIUG appreciates that a CBAM is novel and complex and that Government would want to keep it simple. However, some of the proposals oversimplify and risk undermining the potential effectiveness of the CBAM. The responses to some of the individual question will highlight where the EIUG thinks this is the case and would encourage HMT to prioritise accuracy and effectiveness over simplicity.

### *Linking*

5. Since the European Union (EU) remains the biggest trading bloc for most UK businesses, differences between their respective ETS and CBAM schemes can present considerable trade challenges. The EIUG believes that linking the UK ETS and EU ETS at the appropriate time is in the best interest of the energy intensive industries (EIIs) in the UK. Linking different emission trading systems of similar ambition, would minimise competitive distortions due to different carbon prices, reduce price volatility and avoid EIIs having to trade under separate CBAMs.
6. The EIUG sees linking the emission trading schemes as constituting an international trade mechanism that retains full use of revenues and the ability to set the majority of the rules. Any linking agreement should benefit both the UK and EU economy whilst taking into account their specific sectoral circumstances. The UK Government in particular should review and adjust its energy and climate change policies that impact EIIs if and before any linking agreement might be finalised.
7. The EIUG appreciates a linking agreement will take time to negotiate and Governments should take care not to destabilise the carbon market during negotiations and communicate information carefully to avoid any adverse market reactions.

### *Timing*

8. The EIUG wants to reiterate that the EU remains the biggest trading bloc for most of the goods that energy intensive industries in the UK manufacture. The differences between the two proposed CBAM schemes will therefore present a considerable challenge for industries in scope of either CBAM, in particular the 12-month difference of their full introduction. The EIUG fears that this risks trade diversion from the EU to the UK (or dumping) for carbon-intensive CBAM goods that are more fungible and globally traded.
9. The EIUG therefore call on HMT to bring the implementation of the UK CBAM forward to 2026 to minimise the risk of trade barriers and trade diversion. The EIUG refers to the response from UK Steel and the Mineral Product Association for more detailed information about this risk.

## *Export*

10. As energy intensive industries reflect the carbon price in their goods and invest to decarbonise their manufacturing process production, the increase in production costs will make these goods less competitive in overseas markets where carbon pricing is not yet established. This will lead to a deterioration of UK manufacturing production and an increase the production of these same products in these overseas markets, but with a higher carbon cost to the environment.
11. The EIUG therefore encourage Government to give careful consideration to how reforms to the UK ETS and introduction of the UK CBAM could impact UK manufacturers' ability to compete in export markets. The EIUG deems it vital to find a solution to this export problem that is compatible with WTO rules.
12. Should the EU CBAM be implemented as currently envisaged, its methodology will take account of the carbon 'effectively' paid in the UK for goods exported to the EU. However, for the remaining UK production exported to other markets, there is no consideration of the carbon price paid in the UK. Without addressing export under a UK CBAM and UK ETS, the Government risks ignoring a key carbon leakage issue for the UK's manufacturing base.

***Question 1: Do you agree that the list of commodity codes in Annex A an accurate reflection of the policy intent described above? Please provide supporting evidence.***

13. The EIUG calls for a CBAM which is tailored to the UK's specific and sectoral requirements, and extended to other manufacturing industries time based on their risk of carbon leakage. Any extension of UK CBAMs to other sectors should be based on sector-specific impact assessments and aligned with the EU CBAM to avoid trade distortions with the UK's largest trading partner. The EU has currently not included ceramics and glass within scope of its CBAM as the European Commission has deemed them too complex for the time being.
14. The EIUG therefore agrees with the list of commodity codes in annex A for the cement, hydrogen, fertiliser, iron & steel sectors, but not for the ceramics and glass sectors. **All ceramics and glass products should be excluded until they are included in the EU CBAM. This would help Government avoid unnecessary complexity, prevent possibly a whole series of teething issues for HMRC and keep the UK CBAM simpler in its initial stages.**
15. Furthermore, the EIUG encourages HMT to assess further the carbon-intensity of the precursor goods of those commodity codes proposed, for example clinker for cement.

***Question 4: Do you agree that scrap aluminium, scrap glass and scrap iron & steel do not pose a carbon leakage risk and should not be within scope of the CBAM? If not, please provide evidence to support your response.***

16. The EIUG agrees with the proposal that scrap iron & steel and scrap glass (cullet) should not be included in the UK CBAM at present. As the UK CBAM is designed to ensure a level playing field between domestic and international producers, scrap materials should not be covered by the CBAM as the UK ETS does not cover scrap.

***Question 5: Do you agree that the government's definitions of 'direct' and 'indirect' emissions accurately describe the embodied emissions a CBAM ought to place a carbon price on, in line with those emissions within scope of the UK ETS? If not, please explain why not.***

17. The EIUG agrees with the definitions of 'direct' and 'indirect', providing 'direct' also includes **process emissions** and not just emissions related to heating and cooling that are consumed during the product process. These definitions align with those set out in the EU CBAM regulation. They could be clearer if 'related to' was replaced with 'from'.

***Question 6: Do you foresee any issues with calculating the emissions associated with precursor goods in CBAM goods? Please provide evidence to support your response.***

18. The responses to the consultation may highlight some technical sector-specific issues with calculating emissions associated with precursor good that should be taken into account in further policy development. The EIUG strongly recommends that HMT and HMRC engage with those sectors who foresee any issues to understand and address them.

***Question 7: Do you foresee any difficulties with the government's proposal to use product level default emissions values calculated in line with global average missions weighted by the production volumes of the UK's key trading partners? Please outline.***

***Question 8: Are there alternative approaches to default emissions values the government ought to consider which neither undermine the environmental integrity of the CBAM nor are punitive in nature? If so, please provide detailed evidence.***

***Question 9: Do you have views on how a percentage based mark-up (in addition to global average emissions weighted by production volumes of embodied emissions intensities of the UK's key trading partners) could impact the use of default values and actual reported emissions data? Please outline.***

**Question 10: Do you have any initial views on the considerations and/or aims of a future review into the use and functionality of default values? Please outline.**

19. The EIUG disagrees with the proposal to calculate the default values in line with global average embodied emissions weighted by production volumes. This will overvalue the emissions in goods from less carbon-intensive trading partners and undervalue the emissions in goods from more carbon-intensive trading partners, leaving the UK Government open to legal challenges from the former and undermining the environmental integrity of the UK CBAM due to the latter.
20. If the Government proceeds with making default values available, they must be time-limited and a significant mark-up should be applied. If a significant mark-up is applied to the default value, the Government will need to ensure that imported high emission products face a closer-to-accurate CBAM carbon cost, while providing an incentive for importers of lower-emission products to report accurate emission data.
21. The EU is only using the global average approach for the transition phase when no payment is required for the import of CBAM products into the EU. From 2026 onwards, it will use default values set at the average emission intensity of each exporting country, increased by a proportionately designed markup.
22. The use of mark-ups in addition to global average emissions weighted by production volume of embodied emission intensities is a second-best option..
23. By proposing to use global average embodied emissions, HMT would by definition under-price the most emissions intensive imports and would therefore be inconsistent with the CBAM's objective to mitigate the risk of carbon leakage.

**Question 11: Do you foresee any issues with a liable person acquiring and providing to HMRC details of emissions embodied in CBAM goods at the end of the accounting period (should they choose to)? Please outline.**

24. No, as long as there is clear sector specific guidance available for both the liable person and the overseas production site.

**Question 12: Do you agree that verification of emissions should be performed by any body accredited by accreditation services which are part of the International Accreditation Forum (IAF), like UKAS in the UK? If not, please explain why not.**

25. The EIUG supports the proposal, but would urge the Government to continue to monitor the quality of data reported, especially as they are submitted via a simple

online return, and the risks of misreporting and fraud. As carbon prices are due to increase and consequently the CBAM compliance costs, so will the financial pay for underreporting embedded emissions or fraud.

***Question 13: Would the market respond adequately to provide for the accreditation of verifiers by accreditation services and the verification of emissions independent verifiers?***

26. The EIUG believes that the market can deliver accreditation of verifiers and verification of emissions by independent verifiers. However, the Government must be mindful of the incentives accreditors and verifiers have to understate and underreport GHG emissions, as in the case of rules of origin for example.

***Question 14: Noting that the government is still developing policy in this area, do you have any initial views on the monitoring, reporting and verification (MRV) rules for the UK CBAM? Please outline.***

27. The EIUG encourages that the MRV rules for the UK CBAM mirror the UK ETS MRV rules to ensure a level playing field. A lesser UK CBAM MRV regime would be inappropriate and threaten the environmental integrity of the CBAM and more MRV rules would like to unnecessary administrative burdens.

***Question 15: Do you foresee any difficulties in obtaining an accurate weight for CBAM imported goods? If so, please specify the difficulties, why they will arise and any suggestions you might have for dealing with those concerns.***

28. The EIUG expects there might be sector-specific difficulties in obtaining accurate weight for CBAM imported goods and these should be taken into account in further policy development. The EIUG strongly recommends that HMT and HMRC engage with those sectors who foresee such difficulties to understand and address them.

***Question 18: Do you agree that the CBAM rate calculation set out a fair reflection of the price paid in the production of goods in UK? If not, please explain why not.***

29. The EIUG does not agree with the proposals of having an individual UK CBAM rate for each sector of goods in scope. The carbon intensity of goods of sectors in scope varies significantly across sites, products, production technology, and countries. The EIUG supports the direct link to the UK ETS but its benchmarks and compensation for indirect emission costs for individual goods should be taken into account. Otherwise, the CBAM level will not accurately reflect the carbon value in the good undermining the environmental integrity of the policy.

30. ETS benchmarks and the methodology to calculate the level of compensation per goods are publicly available and it does not require that big of a step to include these in the calculate to set CBAM rates for goods. This would enable the comparison of the imported emissions with the product-specific benchmark emission level, avoiding the need for multiple CBAM rates. Nonetheless, they are additional variables – especially for more diverse sectors such as glass and ceramics – and the EIUG therefore strongly recommends excluding them from the scope until they are included in the EU CBAM.

***Question 19: Does setting a CBAM rate for each sector on a quarterly basis strike the right balance between tracking the UK ETS market price and giving importers certainty for financial planning? If not, please explain why not.***

31. The EIUG agrees with updating the rates quarterly, but not with having a single CBAM rate for a whole sector due to the reasons outlined in the response to question 18.

***Question 20: Are there any other considerations for setting the UK CBAM rate not set out above? Please outline.***

32. A further move by HMT to reflect carbon prices in the climate change levy should also be reflected in the UK CBAM rate.

***Question 21: Are there explicit carbon pricing policies which do not align with our criteria which should be recognised by the UK? Please outline.***

33. The EIUG recognises that not all carbon pricing schemes have an explicit carbon price as the UK ETS, with the Australian scheme being a prime example of this.

***Question 22: Are there other recognised forms of evidence which a liable person could provide? Please outline.***

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***Question 23: Are there additional considerations or processes that might facilitate the provision of information on the oversea carbon price from producer to liable person, including by mutual agreement with other jurisdictions? Please outline.***

34. When considering mutual recognition with other jurisdictions, the Government should prioritise linking the UK ETS and EU ETS, as this would benefit both domestic producers and importers of goods in scope of a common CBAM. A mutually recognised CBAM between the EU and UK would mean that UK manufacturers in scope can avoid reporting against EU CBAM and that UK

importers can avoid reporting against the UK CBAM for goods in scope from the EU.

***Question 24: For operators overseas, do you foresee challenges providing the evidence for importers to comply with the measure? Please outline.***

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***Question 25: Do you foresee challenges with referencing the overseas carbon price on a quarterly basis? Please outline.***

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***Question 26: Do you have views on what types of third parties would be appropriate to verify overseas carbon price? Please outline.***

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***Question 27: Do you have views on how the government could decrease the burden on the liable person to evidence an overseas carbon price? Please outline.***

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***Question 28: Do you agree that where a CBAM good has been subject to multiple carbon prices, the total carbon price can be offset from the UK CBAM liability? If not, please explain why not.***

35. The EIUG agrees with the proposal, as long as sufficient evidence can be provided.

***Question 29: Do you foresee any difficulties with the arrangements for where the tax point arises, including which rates will apply? Please explain where you have any difficulties with the proposed policy.***

***Question 30: Do you foresee any risks with our proposal to base the CBAM liability on the CBAM good which is processed into a non-CBAM good before it is released into free circulation? Please explain the risks.***

36. The EIUG foresees a potential issue in situations where goods in scope are imported into a special customs procedure, such as a freeport or customs warehouse, where they are further processed into finished goods not liable for the CBAM before they enter the domestic market. The EIUG wants to flag the risk of new manufacturing plants located in freeports and importing carbon intensive goods in scope which are then used to make other goods or semi-finished products to avoid CBAM liability. This would encourage value chain circumvention and undermine the objective of the UK CBAM.



**Question 31: Do you agree that the proposal for designating the liable person is appropriate or are there likely to be unintended consequences? If you do not agree, please explain your reasons.**

37. The EIUG believes that the liable person should also fulfil the following criteria for an authorised CBAM declarant under the EU scheme:

- (a) the applicant has not been involved in a serious infringement or in repeated infringements of customs legislation, taxation rules, market abuse rules or this Regulation and delegated and implementing acts adopted under this Regulation, and in particular the applicant has no record of serious criminal offences relating to its economic activity during the five years preceding the application;
- (b) the applicant demonstrates its financial and operational capacity to fulfil its obligations under this Regulation;
- (c) the applicant is established in the UK
- (d) the applicant has been assigned an EORI number.

**Question 32: Do you agree that there should be a minimum threshold below which a person should not be required to register for the CBAM? If not, please explain why not.**

38. The EIUG agrees with the proposal for a minimum threshold, but such a threshold should ideally be aligned with the EU CBAM threshold.

**Question 33: Do you agree that an annual value of £10,000 is an appropriate level at which to set the minimum threshold? If not, please explain where you think it should be set and your reasoning.**

39. The EIUG is concerned that the proposed level would exclude significant import volumes of potential registrations indicating that the level proposed is too high. Individual sectoral response will provide further detail and quantification for this.

40. To establish the appropriate level, HMRC might want to conduct analysis as to the estimated value and quantity of goods by product code the proposed threshold would exclude.

41. If the Government proceeds with the proposed threshold, it should monitor trade flows carefully to assess that traders do not exploit the threshold by spreading their goods over multiple months.

**Question 34: Do you agree with the tests set out in Figure 15 for assessing whether a person has met the minimum threshold? If not, please explain how you think the threshold should be assessed.**

42. The EIUG agrees with the tests.

**Question 35: Do you consider the registration and deregistration requirements set out above to be appropriate? If not, please specify why not.**

43. The EIUG believes that, similar to the EU CBAM Regulation, deregistration should occur if one of the following applies:

- (a) The liable person is involved in a serious infringement or in repeated infringements of customs legislation, taxation rules, market abuse rules or the CBAM Regulation or is convicted of serious criminal offences relating to their economic activity.
- (b) The liable person can no longer demonstrate their financial and operational capacity to fulfil their obligations
- (c) The liable person is no longer established in the UK.

**Question 36: Do you foresee any difficulties with the arrangements set out for completing and submitting returns, including the content required on the return? If so, please specify the difficulties and why they would arise.**

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**Question 37: Do you think that allowing 5 months from the end of the first accounting period until returns are due allows sufficient time for a liable person to obtain data about the carbon content of their CBAM goods? If you think a different period should operate, please explain why.**

43. The EIUG agrees with the 5 months period.

**Question 38: Do you agree with the proposal to move to quarterly accounting period from 2028 and, if not, why not?**

44. If the Government proceeds with implementing the UK CBAM in 2027, then the EIUG would agree that the quarterly accounting period can start in 2028, as periods would also align with the EU accounting periods. However, as the EIUG recommends for the UK CBAM to be moved forward to 2026, it would be more appropriate for the quarterly accounting period to then start in 2027.

**Question 39: Do you foresee any difficulties in moving to a system of four fixed accounting periods a year from 2028, with returns/payments generally due a month later? If so, please explain your concerns and any suggestions for dealing with those concerns.**

45. The EIUG does not foresee any difficulties, but would argue that this should be moved forward one year.

**Question 40: Do you consider that HMRC's approach to enforcement powers and penalties is appropriate? If not, please specify why.**

46. The EIUG encourage HMRC to include similar MRV requirements as under the UK ETS to minimise the risk of trade diversion and to communicate in more detail how it intends to enforce the UK CBAM.

47. Additional, as the CBAM is a novel instrument, HMRC should introduce robustness tests in the UK CBAM, similar to what the EU has introduced. Such tests would assess the degree of circumvention, fraud, effectiveness, sector scope, etc.. If fraud and circumvention are widespread and the UK CBAM does not mitigate the risk of carbon leakage, then Government should be prepared to intervene with alternative measures to mitigate this risk.

**Question 41: Do you have any other concerns or suggestions around potential compliance risks? Please outline.**

48. The EIUG would like to raise the concern that there are no checks to ensure that CBAM returns are being submitted for imports of all CBAM products. For example, the EU customs system logs imports of CBAM goods and this information is then used to cross-check the accuracy of CBAM quarterly returns.

49. However, there are no checks on the reported embodied emissions. Compliance checks should automatically be triggered if the reported embodied emissions are outside of a given range. These ranges should be country specific.

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