

Mr. Gerassimos Thomas
Director-General for Taxation
and Customs Union
European Commission
Via email: gerassimos.thomas@ec.europa.eu

Paris, 3 April 2024

Dear Mr. Thomas,

I am writing to bring to your attention the severe compliance challenges faced by companies – of all sizes and across a range of sectors – during the first reporting period of the transitional phase of the Carbon Border Adjustment Mechanism (CBAM).

To be clear: we are fully supportive of the European Union's ambitious efforts to accelerate climate action globally – and, moreover, recognise the potential challenge posed by carbon leakage given existing asymmetries in domestic policies. However, to be effective, we believe it is imperative to ensure that the CBAM does not create unnecessary barriers to global commerce – which risk stoking severe trade frictions and undermining cooperative action to secure a net-zero future.

In this context, we are eager to work with you to address prevailing concerns related to the implementation of the CBAM which we believe can be resolved through detailed and constructive dialogue with international business. Of particular note, we wish to highlight the following challenges that have been raised with us by a broad spectrum of companies in recent weeks:

- **Access to the CBAM reporting platform:** the decentralised process to receive access to the CBAM reporting platform through national competent authorities varies significantly from Member State to Member State, which makes it complex for companies to navigate. In addition, technical issues were faced that impeded many companies from accessing the platform. Technical challenges have also been encountered once the platform was accessed, for example validation errors with commodity codes when using default values for direct emissions.
- **Navigating the submission of CBAM reports:** following the instructions for filing, it has been a significant challenge for companies to determine how a report can be submitted by the declarant on behalf of the signatory who certifies that the

information is correct. Another challenge many companies encounter when navigating their submission is that the platform is not available in more (EU) languages.

- **High administrative burden:** Due to the low de minimis threshold of €150, a large number of transactions is captured in the scope of the CBAM including those traded in low volumes – such as screws and bolts – resulting in disproportionately high compliance costs which are particularly challenging for smaller businesses. It is also difficult for businesses who do irregular low value/weight consignments or are sending samples for which a quarterly or annual threshold could be considered or a simplified reporting procedure. The climate effects of such low weight/value shipments are negligible compared to the bureaucratic burden and the resulting impacts on international transactions.
- **Collection of required data and calculation of embedded emissions:** There is an urgent need to assist companies in the EU and – in cooperation with partner countries – abroad with user-friendly calculation methodologies and to recognise and facilitate the complexity of data collection across elaborate global supply chains. Even though many companies, globally, are already monitoring and calculating their embedded emissions, they are based on other methodologies, whose use is only possible until the end of 2024. For the CBAM collection method, the installation guide and the “communication template” are too complicated for most suppliers. In addition to the complex data collection, the information required by law differs from the information that the CBAM excel sheet requires. All importers are focused on completing this excel sheet while exporters are focused on the data required by law.
- **Obtaining the required data across supply chains:** There is also a real issue with collecting data across different tiers of the supply chain as many suppliers outside of the EU are reluctant to provide critical information and may even risk violating domestic data protection laws. For example, an intermediary company supplying low-value steel articles downstream will be reticent to reveal the original manufacturer of the respective item to their buyer. There should be a mechanism for DG TAXUD to obtain the required information from operators directly (without importers accessing the information). Especially for non-European companies, there is a difficulty to identify the scope for importation performed in an European country where the company is not established but registered only for VAT purposes.
- **Protection of confidential business information:** The type of information that is collected, particularly in the importer’s excel sheet, exposes confidential business information in relation to the product, the production process and inputs that exporters do not want to share.
- **Uncertainty on default values:** the use of default values is not available for the entire duration of the transitional period. Given the short deadline to understand and implement CBAM compliant reporting, it should be considered to extend the

use of default values throughout the entire transitional phase to facilitate reporting.

In view of these challenges, we would like to ask you for a dialogue to explore solutions to address these immediate concerns – as well as a range of other compliance issues that have been faced over the first reporting period.

More broadly, we see a real risk of the CBAM fostering an uneven playing field for international commerce: not only affecting the competitiveness of European businesses by increasing their administrative burden and resulting compliance costs – but also posing long-term risks to the integrity of the single market. Retaliatory measures by non-EU countries risk precipitating trade barriers that could further distort global markets – with small businesses likely to be most acutely impacted. Other countries are already starting to design their own CBAMs, with a different methodology, serving not only climate objectives but also protectionist interests.

Given this macro- and micro-context, we see an imperative to ensure the CBAM is aligned with a trade policy that fosters fair competition and sustains the EU's principles of open and fair trade on a global scale.

We, of course, appreciate the complexities involved with implementing a forward-looking mechanism such as CBAM – and hope you will see ICC as a genuine partner to achieve its effective implementation.

I look forward to hearing from you.

Yours sincerely,


John W.H. Denton AO

Cc: Director-General for Trade Sabine Weyand; Director-General for Climate Action Kurt Vandenberghe