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# CURRENT ESG CHALLENGES

The Carbon Border Adjustment Mechanism (CBAM) is part of the Fit for 55 Package and serves as a tool to achieve the goal of a climate-neutral EU by 2050. The CBAM, together with the EUDR, has a significant impact on businesses importing goods into the EU from third countries.

## CBAM REGULATION

The CBAM transitional period from October 1, 2023 to December 31, 2025 serves as a pilot phase. Importers and indirect customs representatives must report data on the quantity of imported CBAM goods (such as steel, aluminum, iron, cement, electricity, fertilizers, hydrogen) and the greenhouse gas emissions linked to those imports. Quarterly reports are submitted within one month after the end of each quarter. Failure to submit a CBAM report, or providing incorrect data, shall be subject to a fine of 10–50 euros per unreported ton of emissions.

The competent authority for CBAM is the Ministry of Environment of the Slovak Republic (“ME SR”). The ME SR closely cooperates with the Financial Directorate of the Slovak Republic, which regularly informs importers and indirect customs representatives about their obligations arising from the CBAM and sends data on imported CBAM goods to the European Commission. The ME SR grants access to the CBAM transitional register to importers and indirect customs representatives based in Slovakia.

From January 1, 2025, EU Member States will grant importers and indirect customs representatives the status of “approved CBAM declarant” upon application. Without the status of approved CBAM declarant, it will not be possible to import goods

falling under the CBAM into the EU customs territory. Declarants will buy CBAM certificates at a price calculated by the European Commission every calendar week, based on the average closing prices of European Emissions Trading System (EU ETS) allowances on the auction platform. One CBAM certificate will correspond to 1 ton of emissions.

Reports based on standard reference values published by the European Commission may only have been submitted until July 31, 2024. After this date, CBAM reports may only be submitted using real emission values obtained from suppliers, and this obligation is considered one of the biggest challenges.

The methodology for calculation of embedded greenhouse gas emissions for CBAM goods is closely linked to the EU ETS and considers three main streams:

- Direct greenhouse gas emissions (released during production)
- Indirect greenhouse gas emissions (associated with electricity used in production)
- Greenhouse gas emissions associated with intermediates (from the production of intermediates)

The methods for calculating embedded emissions in CBAM goods are outlined in Annex IV of the CBAM Regulation. The legislation allows some flexibility in the values used to calculate embedded

emissions in the transitional period. The methods for reporting emissions until the end of 2024 are:

- Full reporting according to the new methodology (EU method);
- Reporting based on an equivalent method, i.e. based on equivalent national systems of third countries – three options:
  - A carbon pricing system at the location of the facility, or
  - A mandatory emission monitoring system at the location of the facility, or
  - An emission monitoring system at the facility, which may include verification by an accredited verifier;
- Reporting based on standard reference values (only possible for reporting period ending July 2024).

From January 1, 2025, only the EU method will be accepted. Estimates, including standard values, may only be used for complex goods if these estimates represent less than 20% of the total embedded emissions. We recommend that companies use a digital solution that enables EU importers to automate their CBAM reporting obligations.

Under the permanent mechanism, declarants must report the quantity of CBAM goods imported into the EU in the previous year by May 31 (starting in 2027 for the year 2026). They must also state the total embedded emissions in these goods, the total number of

CBAM certificates to be surrendered, and submit copies of verification reports. Declarants may request a reduction in the number of required CBAM certificates if they demonstrate that the carbon price was already paid during the production of the goods in a third country.

(“EUDR”), which is a legal act that introduces new obligations for companies, specifically for those that trade in commodities such as wood, rubber, cattle, cocoa, coffee, soy, and palm oil, or products made from them. This includes products such as chocolate, wooden packaging, paper, furniture and pneumatic tires.

The EUDR requires companies to demonstrate that their products do not cause deforestation, are produced in compliance with the laws of the country of production and have the necessary due diligence declaration attached. These obligations will begin to apply from December 30, 2024, and for small and micro-enterprises from June 30, 2025. There is also a draft of a Slovak law that will implement EU measures to mitigate global deforestation.

Non-compliance with the EUDR may result in financial penalties of up to 4% of a company’s total annual turnover, confiscation of the relevant products, exclusion from public procurement processes, or a temporary ban on placing the products on the market.

Adapting to the new ESG standards may be challenging, but it’s essential to protect a company’s reputation and to ensure customer loyalty. Being compliant won’t just be a necessity for doing business on the European market – it is also an investment in a company’s future success.



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Before the implementation of the permanent mechanism on January 1, 2026, a review of the CBAM will be conducted to reassess the scope of products and consider the inclusion of additional goods in the CBAM system, with a plan to incorporate them by 2030.

## EU DEFORESTATION REGULATION

An additional ESG challenge is the EU Deforestation Regulation