REA Consultation Response:
Introduction of a UK carbon border adjustment mechanism from January 2027

The Association for Renewable Energy & Clean Technology (REA) is pleased to submit this response to the above consultation. The REA represents a wide variety of organisations, including generators, project developers, fuel and power suppliers, investors, equipment producers and service providers. Members range in size from major multinationals to sole traders. There are over 500 corporate members of the REA, making it the largest renewable energy trade association in the UK.

Questions on product level scope of the CBAM

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.

The REA greatly welcomes Government's acknowledgement of the importance of aligning the UK CBAM with similar mechanisms from other jurisdictions and agrees with using the list of proposed products in the EU CBAM as a starting point for drafting the UK list on sectors included in the UK CBAM. The REA also welcomes the Government's acknowledgement that the UK has a similar carbon leakage risk profile to the EU.

However, whilst Government acknowledges that as global disparities remain, and differential carbon pricing between trading partners can create material carbon leakage risks, we note that the Government fails to fully align with the EU CBAM in terms of product scope (and price, but this is less so of an issue). Thus, failing to fully mitigate against the risks of carbon leakage within the continent.

In general, the REA agrees with the list of commodity codes in Annex A yet has some reservations around the omission of certain products, and the methodology regarding the implementation of the UK CBAM with relation to the differing manufacturing processes of each good/ commodity code. These are explored more in question 2.

Question 2: Are there any relevant commodity codes omitted or any that should be excluded? Please provide supporting evidence.

In general, the REA agrees with the list of commodity codes laid out in Annex A. However, there are certain products omitted of which the REA would like further clarification on as to why these goods have not been included.

Further consideration should be given to the following products to see alignment between the UK ETS, EU ETS and CBAM. This is not only to limit the chances of carbon leakage within these industries, but also to help facilitate trade between the UK and the bloc, minimise the administrative burden on UK importers, and to avoid disincentivising the production of certain goods within the UK.

Electricity as a finished good

To begin, as it stands electricity as a finished good has been omitted from the list of products, unlike the EU's CBAM. The REA believes this is the correct approach at this time, avoiding additional administrative burden on industry and recognising that imported electricity into the UK comes via the EU bloc already. We, however, highlight that this is something that Government should continue to monitor as CBAM is implemented, and if the UK's energy import dynamics significantly change, to avoid encouraging carbon leakage.

We welcome the fact that there are existing Government policy and frameworks to help drive decarbonisation of domestically produced electricity. Policies such as the capped free allocation of UK ETS allowances available to the energy generation sector, the Carbon Price Support scheme (CPS), and the extension of the Energy Intensive Industry Compensation Scheme until 31 March 2025, all drive domestic decarbonisation.

As electricity is included in the indirect emissions list (emissions related to the production of electricity which is consumed during the production of CBAM goods irrespective of whether the electricity was produced on or off site), the Government acknowledges that electricity and its production play a key role in the calculated emissions of a good.

It is estimated that around 5% of the UK's electricity is imported, primarily from the EU. This electricity is subject to the EU ETS, which (at least for the coming years) is expected to remain higher than the UK carbon price. However, issues around undercutting may appear if the UK carbon price significantly diverges from the EU ETS price.

Considering potential wider interconnector expansion plans, the problem of carbon leakage may arise if the current 5% is ever sourced from outside the bloc, from an area with unmatched decarbonisation efforts such as lower carbon pricing, and climate regulations.

An unintended consequence of this could be that we see this 5% growing due to it being cheaper in nature than domestically produced electricity. Thus, enabling further carbon leakage, whilst undercutting UK producers and distorting price signals, and destabilising the UK's long-term energy security plans.

While currently not an issue, it is important that processes are in place to ensure the scheme is future proof and reactive to changing market dynamics. The REA encourages Government to carefully monitor the EU ETS price in relation to the UK ETS price, to avoid issues of undercutting and make amendments where necessary to support UK generators.

The REA would also like to encourage Government to monitor future interconnector plans from non-EU countries to ensure that no forthcoming imports undercut UK producers, nor encourage carbon leakage. In which case, the REA would encourage a further review of electricity as a finished good for inclusion in product scope, with an exemption for EU/EEA electricity imports."

Green Gas

Secondly, as it stands, there are areas of slight worry for our members and their sectors which face strict carbon pricing measures within the UK and the ETS, for example, the UK green-gas market, more specifically, biomethane, which has been omitted from the UK CBAM product list. The REA would like to see the product list increased to better align with the UK ETS and its evolution.

To use biomethane as an example, the USA and the EU, both have flourishing biomethane industries that ensure a competitive market price for green gas in comparison to fossil natural gas. In order the UK remains an attractive investment market for green gas production, it will be

important that costs of UK biomethane remain aligned with these markets, with the value of low carbon green gas being recognised in both domestic carbon pricing and on imports. Failure to do so will place the UK market at a disadvantage and will drive away domestic investment and thus, reduce production. Therefore, greater alignment between the price paid by domestic producers and overseas producers is called for.

Impact on wider Sectors

Finally, the REA also encourages Government to consider how application of CBAM to the listed commodity codes could impact sectors outside of those targeted in the consultation. For example, some concern has been raised around the addition of CBAM to some of the fertiliser chemicals listed in ANNEX A, which may be used in other industrial processes. This includes chemicals like ammonia or urea, imported and used in part to deliver denitrification (DeNOx) of emissions from waste to energy facilities. Increases in cost to these components could therefore have a detrimental impact on other industries, which should be avoided.

It is the REA's understanding that the sectoral scope of the CBAM will be kept under review as new evidence comes to light to reflect changes to carbon leakage risk as well as methodological and technological advances. This is required to ensure the good functioning of a CBAM. The REA would like to encourage the Government to publish a list of proposed goods introduced to the UK CBAM with a timeline and their 'waves', for example, the first wave to be introduced from 2027, the second from 2029, etc.

Question 3: Do you have any concerns on the feasibility of any of the commodity codes in Annex A being within scope of the CBAM? Please provide supporting evidence.

We highlight some concerns regarding the methodology of the implementation of the UK CBAM and the 'one-per-sector' rate due to the differing manufacturing processes of each good laid out in Annex A.

We recognise that Government has previously considered setting the UK CBAM rates at both, sectoral and product levels, to approximate the national carbon pricing treatment of UK installations more closely. However, within this consultation Government believes that setting the UK CBAM rate at the product level would result in a large number of different UK CBAM rates for importers to familiarise themselves with, thus increasing the complexity of the administration of the CBAM.

Whilst complexity does need to be considered, if the UK CBAM is to apply a price comparable to the domestic carbon price paid, accounting for discounts, then a sectoral-level price cannot be used for all sectors mentioned in Annex A due to the different manufacturing processes of each good within that sector and the electricity intensity of production, and the range of other carbon leakage mitigation policies in place. This issue may become more prevalent if the list of goods is to be increased.

The REA encourage Government to consider the UK CBAM rate on a sector-by-sector basis, as some sectors will be more or less suited to a flat 'one-per-sector' rate, than other sectors.

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.

The REA acknowledges that there are methodological uncertainties around the calculation and attribution of emissions embodied in scrap aluminium, scrap glass and scrap iron & steel. In addition, the REA agrees with the Government's reasoning that scrap goods have a net benefit on emissions (given their use as an input material reduces the need for additional production) which reduces the risk of carbon leakage posed by such imported goods.

It is important, however, that firms importing these scrap goods adhere to the Government's definitions of either a product at the end of its useful life, or 'offcuts' with no productive use, other than as a feedstock for recycling, to avoid the evasion of the CBAM tax rate.

Questions on relevant imported embodied emissions

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.

Yes, in general, the REA agrees 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 the scope of the UK ETS.

As the Government explains, direct emissions are emissions related to the production processes of CBAM goods. This includes emissions from the production of heating and cooling that are consumed during the production processes, irrespective of whether the heating or cooling was produced on or off site. Whilst indirect emissions are emissions related to the production of electricity, which is consumed during the production of CBAM goods irrespective of whether the electricity was produced on or off site.

The REA understands that responses to the previous consultation suggested that the categorisation of emissions in terms of "Scopes" was not clear. However, for greater alignment and clarity with all emissions-related policy, including reporting, moving forward, the REA would like to see solid and clear terms, that are not interchangeable, when discussing direct and indirect emissions and how they feed-in to different Scopes, particularly elements of Scope 3, with relation to the value chain

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.

In general, the REA agrees with the UK CBAM rate being applicable to all embodied emissions and thus, welcomes the inclusion of calculating the emissions associated with precursor goods (precursor emissions) in CBAM goods to ensure comparative coverage with the UK ETS.

As a 'precursor good' is a good which is used as an input material in the production of a second good, and therefore, can be either a simple or complex good, both will refer to an in-scope CBAM good which is used as an input into the production process of a complex good that is also within

the scope of the CBAM. This, in theory, makes logical sense, yet for industry to fully analyse the potential impact of calculating the emissions associated with precursor goods, more information is needed on the methodology, reasoning and scope before it is fully implemented.

The Government has stated that the precise goods within the scope of the CBAM to be deemed 'precursor goods' will be specified at a later date and mapped to resulting complex goods, also within scope of the CBAM, which is welcomed.

It is worth noting that, whilst the REA welcomes calculating embodied emissions, wider industry has raised concerns that there is a lack of clarification surrounding the impact on whole/ finished goods imported into the UK market, and the wider consequences of this. For example, as both precursor and complex goods, only apply to the seven sectoral scopes listed, the CBAM therefore only applies to primary materials, whether imported as a complex good, or precursor (for further manufacturing in the UK), and is not applicable for imported finished products that contain these primary materials e.g. a finished car (glass in the windows and windscreens, and steel in the tyres).

Unfortunately, as it stands, the current proposed CBAM may make the imports of these finished goods more attractive and cheaper when compared to UK-produced finished goods, particularly for firms which must pay the CBAM rate to import precursor goods, in addition to adhering to domestic ETS rules in the production process. In-turn, this may reduce domestic production and manufacturing, encourage offshoring, disincentivise foreign direct investment in UK manufacturing, and have wider knock-on effects on the UK population and economy. As well as leading to the potential for carbon leakage.

More thought needs to be given on how the introduction of the CBAM will interact with UK-based manufacturing and production.

Questions on values for default emissions for all chargeable goods

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 emissions weighted by the production volumes of the UK's key trading partners? Please outline.

If the Government is proposing to use a product-level default emission value calculated in line with global average emissions weighted by the production volumes of the UK's key trading partners, then this raises the question as to why a CBAM price will not be introduced on a product-level basis too?

As it stands, the Government is proposing a sector-by-sector approach for those who accurately calculate their emissions data, but for those who don't and rely on default values, a product-level value will be used. There are various issues which may arise from this including firms who import/ produce goods which are less-energy intensive in nature than their counterparts within the same sector, relying on default values, to get an accurate representation of the emissions produced for their good (lower in t/CO2e and therefore, lower in price).

This seems counterintuitive and could penalise firms who have used accurate emissions data.

With reference to the global average emissions weighted by the production volumes of the UK's key trading partners, more clarification is needed as to what this entails before a reasonable judgement can be made.

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.

The REA agrees with the Government that when considering the purpose of using default values, it is important to understand that it should be seen as a 'last resort' and people should be dissuaded from relying on them. At the same time, their use should not be viewed as punitive and recognised as necessary to maintain trade openness.

However, to encourage firms to use actuals, rather than default values, there are various approaches which could be considered:

1. An end-date/ deadline should be given for the use of default values.
   This is similar to the current policies within the EU's CBAM framework.
   - For example, this can be introduced on a sector-by-sector, or even product-by-product basis dependent upon how feasible it is to calculate the accurate emissions data for the import as some sectors may have significantly more complex barriers to calculate the emissions of production than others.
   - Secondly, an end-date/ deadline could be introduced to firms and their liable persons, particularly after the initial introductory phase of the CBAM (e.g. after 2 years of relying on default values, from 1 January 2029, actual emissions data must be used).
2. Greater checking and verification on those using default values
   - As it stands, firms who have calculated their emissions data, may realise that the cost of accurately reporting and paying the tax may be above that of the default value applied to the good. This creates an issue of a 'loophole' where more carbon intensive products are underpaying, thus arises issues of carbon leakage, in addition to undermining other products on the market which may be more expensive in nature due to the accurate costs paid.
   - Furthermore, if it is 'free' administratively speaking, to use a default value, rather than pay £x to calculate the emissions data via firms domestically and overseas, and to pay for a tax agent, then the average cost of this administration per firm, should also be included into the default value.
3. The default value should not be the average.
   - The default value could either include a percentage-based mark-up or be a multiple of the global average emission weighted by production volumes of embodied emissions intensities of the UK's key trading partners (multiplied by 1.5 or 2) to encourage firms to use accurate data. This is similar as to what is used by the Renewable Energy Directive (RED).
   - Again, these steps could be introduced at a later date, for example, from 1 January 2029.

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.

The REA agrees that a percentage-based mark-up (in addition to the cost of global average emissions weighted by production volumes of embodied emissions intensities of the UK's key trading partners), may further reduce the risk of under-pricing the most emissions intensive imported goods. A mark-up could also increase the incentives for importers to work with producers in other jurisdictions to provide greater levels of actual reported emissions to reduce reliance on default values.

However, the Government needs to guarantee that these measures cannot been seen as unduly punitive in nature and must abide by all WTO commitments and regulations.

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.

Please see responses to Questions 7, 8, and 9.

Questions on the calculation and verification of actual embodied emissions

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.

In general, the REA agrees with the introduction of a liable person acquiring and providing HMRC with the details of emissions embodied in CBAM goods at the end of the accounting period should they choose to.

The REA would like to remind the Government that firms and liable persons should be provided detailed guidance on how to navigate the fine line between the protection of confidential business information and accurately report emissions data.

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.

Regarding verification purposes, the REA agrees that embodied emissions data will need to be independently verified to prevent fraud and maintain the integrity of the CBAM. Therefore, to ensure equitable treatment with goods produced in the UK, the REA agrees with the Government's proposal that the existing principles of verification used for the UK ETS will also be applied to the UK CBAM, including the requirement to have an agreed emissions monitoring plan and site visits.

In general, the REA agrees with the Government's proposal that embodied emissions data provided for the purpose of calculating the UK CBAM liability will be required to be verified by bodies accredited by accreditation services which are part of the International Accreditation Forum (IAF), such as the United Kingdom Accreditation Service (UKAS).

The Government has stated that accredited verification bodies would not need to be based in the nation where the emissions occur but should be able to fulfil the requirements for physical inspection of facilities which will form part of the verification requirements. In addition, under this model, accreditation would also not need to be by a body located in the territory where the emissions occur, and hence emissions from countries with no accreditation service would still be able to be verified by bodies which receive their accreditation in other nations.

However, the REA would like to see further clarification on the feasibility of these proposals, and how operations and methodologies would work under this model.

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

It is the REA's belief that the market will respond adequately to provide for the accreditation of verifiers by accreditation services and the verification of emissions independent verifiers, as where there is demand, the market will follow.

However, it should not be overlooked that the market will take time to respond, and the REA asks for the introduction of a transitionary grace period for firms to allow for this adjustment. For example, during the first few years, it is to be expected that the costs of these services, and the waiting times will be considerably high.

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.

As mentioned by Government, further details on the methodology and rules for monitoring and reporting embodied emissions for the purpose of the CBAM will be published at a later date. The REA looks forward to this publication.

In general, the REA agrees with Government's acknowledgement that the CBAM must be aligned with the UK ETS methodology where possible. In addition, the REA agrees that when developing proposals for the monitoring, reporting and verification (MRV) arrangements for the UK CBAM, consideration must be given to:

- the specificities of goods included in scope of the CBAM and other domestic emissions reporting standards,
- any emissions MRV arrangements in operation (now or in the future) in the international community and,
- options for apportioning installation-level reporting (which is more common within domestic carbon pricing regimes) on a product basis

The REA would also like to remind the Government to continue to monitor any ongoing developments in these areas.

Additionally, whilst the Government has decided not to adopt an alternative CBAM model, as adopted by the EU, such as the purchase and surrender of 'CBAM certificates' at the current ETS market price for the reasons stated within the consultation including requiring additional new administrative steps for UK importers and the Government through the sale and purchase of

certificates, which would add complexity to the UK CBAM. In addition to market-based certificates not accurately reflecting the totality of the effective UK carbon price as set out at paragraph 6.34 below, as it would not include the CPS or the EII compensation scheme, making the carbon price less comparable to that faced by domestic producers. It should be noted that this will not aid trade between the UK and the bloc and may adversely affect UK businesses.

The REA would like to see greater thought given to how the UK's CBAM and the EU's CBAM will interact with one another, whether that be through mutual acknowledgement, or even incorporating and accepting certain aspects of the EU's CBAM within our own legislation. For example, this could include a separate policy for EU importing and exporting firms where certificates are accepted.

Questions on measurements and weights

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.

Feedback from industry suggests that there are issues in obtaining accurate weight for CBAM imported goods, most notably in the iron and steel industry, in addition to questions surrounding gross and net weight calculations.

Question 16: If a liable person was required to arrive at the weight of the goods themselves, how would they do that? Please explain how CBAM products that you import are weighed. For example, is the weight arrived by means of a calculation or is it physically weighed?

N/A

Question 17: Is there a UK industry standard weight for the CBAM good you import? If so, please give details.

N/A

Questions on setting the UK CBAM rates

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.

Yes, the REA agrees with the CBAM rate calculation and the acknowledgment that the UK CBAM rate should be comparable to the carbon price faced in the UK by domestic producers, after accounting for adjustments, exemptions or compensation schemes.

The REA welcomes the consideration of other announced Government policies and the reference to the pricing mechanisms currently expected to be in place for 2027, including the expansion of the UK ETS and the incorporation of Green House Gas Removal Credits. These proposals will impact the free allocation of allowances under the UK ETS, and the CPS rate on electricity generated using fossil fuels in Great Britain. The evolution of the CBAM must take these developments into account.

The REA welcomes the inclusion of each policy area on direct and indirect emissions. For example, the UK ETS and free allowances are relevant to the direct emissions of a sector in the UK, while the UK ETS and CPS (but not free allowances) are relevant to the indirect emissions of a sector in the UK.

The REA agrees that when bringing these elements together to form a UK CBAM rate for each sector, they are applied on a weighted basis to reflect the proportion of emissions that are either direct or indirect in that sector and produce a single rate. This would mean that for each sector, the UK ETS reference price and free allocation adjustment would be weighted based on relevant direct (product and precursor) emissions covered by the UK ETS in that sector, and the UK ETS reference price and CPS rate would be weighted on the basis of relevant indirect electricity emissions in that sector based on UK electricity emissions.

It should be worth adding, that as mentioned previously in the response to question 5, the REA would like to ask for greater clarity and alignment surrounding the terms 'direct' and 'indirect' emissions for all emissions-based policy and reporting.

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.

Yes, the REA agrees that setting a CBAM rate for each sector on a quarterly basis will strike the correct balance between tracking the UK ETS market price and giving importers certainty for financial planning.

The REA agrees with the majority of responses to the previous consultation that a CBAM price should track the prevailing UK ETS price throughout the year, as opposed to being a fixed price. Therefore, by using a quarterly reference to the UK ETS price, this would allow for the UK CBAM rate to track the changes in the UK ETS price throughout the year which is considerably more flexible than the carbon price support rate (CPS rate). This will also balance the need to give importers certainty on the price they will pay for their consignments in each reporting period.

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

As laid out in the response to Question 7, if the Government is proposing to use a product-level default emission value calculated in line with global average emissions weighted by the production volumes of the UK's key trading partners, then this raises question as to why the UK CBAM rate will not be introduced on a product-level basis too?

As it stands, the Government is proposing a sector-by-sector approach for those who accurately calculate their emissions data, but for those who don't and rely on default values, a product-level value will be used. There are various issues which may arise from this, including firms who import/ produce goods which are less-energy intensive than their counterparts within the same sector who are relying on default values. It could be harder for companies who are doing the right thing and reducing emissions to get an accurate representation of the emissions produced for their good when their competition can just rely on averages (lower in t/CO2e and therefore, lower in price).

This seems counterintuitive and if anything, penalises firms who have used accurate emissions data.

Questions on adjusting for overseas carbon prices

(Further member feedback welcome for question 21-27)

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

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

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.

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

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

Issues may arise if the information regarding the overseas carbon price is not published in line with domestic information e.g. the UK Emissions Trading Scheme price, Free allocation of UK ETS allowances and even the Carbon price support, regardless of whether this is on a quarterly, or annual basis.

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

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.

Question on indirect imports

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.

Yes, in general, the REA agrees that in keeping with the principles set out at paragraph 6.02, where CBAM goods are not sent directly to the UK from the country of production, any overseas carbon price should be deducted from the UK CBAM liability. This must be subject to the same requirements as set out at paragraphs 6.42 – 6.47, and that appropriate evidence is obtained and can be provided confirming the carbon price- as set out in paragraph 6.49.

Questions on when the CBAM tax point arises

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.

Yes, there is a lack of clarity around where the CBAM tax point arises, particularly for goods not intended to be released on the UK market. As stated, the Government believes that the most effective way of reducing carbon leakage will be to ensure that the CBAM applies to goods that end up on the UK market. This means that the CBAM will not be applied to imported goods that are not placed or released for consumption on the UK market.

This is problematic for two reasons. The first being that this opens the CBAM up to being misused as firms may claim their goods will not be released onto the UK market, only for them to do the opposite. As no timeline is offered as to how long a good must be kept for the CBAM to not be applicable (ideally indefinitely), before being released into free circulation, firms may import, store and then release the imported goods later onto the UK market. Greater thought needs to be given here.

Secondly, the REA understands that the CBAM must be effective at reducing carbon leakage, whilst also maintaining trade transparency and being WTO compliant. However, if goods are able to be imported into the UK with the intention of never being released onto the UK market, thus avoiding the rate of CBAM, this may have a significant impact on British firms who export and have had to abide by UK ETS compliancy. It is our understanding that 'not placed or released for consumption on the UK market' would include a firm importing a good, storing, and then exporting the same good outside of the UK, yet clearer language is needed here.

The UK Government does not want to run the risk of opening-up a loophole that could discourage the exportation of British-manufactured products.

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.

In general, the REA agrees with the principle that where an imported CBAM good is processed into a non-CBAM good before it is released into free circulation, the liability will be based on the CBAM good before it was processed. Thus, maintaining the principle that CBAM goods that are placed on the UK market should be subject to the UK CBAM.

However, we note that in practice, this may be detrimental to UK manufacturing, undercutting prices, as mentioned in previous responses above.

Unfortunately, this proposal may make the imports of these finished non-CBAM goods more attractive and cheaper over a good which has been imported (CBAM) good and then processed into a non-CBAM good by British manufacturers who have had to comply with both CBAM and ETS regulations, both on the domestic and overseas markets.

As previously mentioned, more thought needs to be given on how the introduction of the CBAM will interact with UK-based manufacturing and production.

Question on liable person

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.

Yes, the REA agrees with the proposal for designating the liable person. However, we would like to see greater clarity surrounding the definitions of where there are customs controls, and where there are no customs controls, particularly surrounding issues regarding change of ownership during the import process.

Secondly, as mentioned below, the REA would like further clarification on who is able to register as the liable person and whether a detailed record/ quota will be kept of firms, liable persons, and their addresses etc. This is to avoid firms registering multiple liable persons, and artificially splitting their imports of CBAM goods, to fall below the minimum threshold.

The question of liable person should also consider how they are defined under the UK ETS, ensuring that that schemes are aligned, and liabilities are fairly distributed and not contradictory.

Questions on registration and the minimum registration threshold

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.

Yes, the REA agrees that there should be a minimum threshold below which a person should not be required to register for the CBAM. The REA agrees with the Government that this will reduce the administrative burdens for those importing small quantities of CBAM goods, as well as balance the cost of administering the CBAM against achieving the carbon leakage objectives, as seen in the Plastic Packaging Tax.

To avoid tax evasion and avoidance, the REA would like to remind the Government that despite the accounting and liabilities arising from the CBAM falling on one sole liable person, imported CBAM goods should not be able to be artificially split by firms and designated amongst staff, each acting as a sole liable person in order to not exceed the minimum threshold and thus, avoiding paying the CBAM price.

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.

Yes, in general the REA agrees that £10,000 is an appropriate level at which to set the minimum threshold in relation to the total value of a person's CBAM goods. The REA welcomes the decision to set the threshold in this way, rather than by each consignment, reducing the incentives to artificially split consignments to avoid or reduce the liability. However, as mentioned above, greater guidance needs to be given to avoid firms artificially splitting consignments when above the minimum threshold.

In addition, the REA would like to see the Government confirm that the threshold of £10,000 will be reviewed annually, if not quarterly, and kept in line with the rate of inflation to avoid fiscal drag.

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.

Yes, in general the REA agrees with the tests set out in Figure 15 for assessing whether a person has met the minimum threshold. However, we believe that the second test is significantly easier to measure and quantify than the first test. This is due to the lack of guaranteed certainty around the first test, problems may arise regarding liability and culpability.

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

Yes, the REA agrees that if a person meets either of these tests, they must register for the tax, and if they meet both tests their effective data of registration is the earlier of the two dates.

The REA also agrees with the Government's decision that when a person becomes liable to be registered for the CBAM, that they will have 30 days to notify HMRC of that liability.

The REA agrees with the proposed list of information needed to be submitted to HMRC and welcomes the addition of the importer's Economic Operators Registration and Identification (EORI) number, if applicable.

The REA would like to remind the Government that as HMRC will need to build a new CBAM online service for liable persons to register and submit returns and payments, HMRC have acknowledged, themselves, that in the first year it may be some months after a person becomes registrable until HMRC is able to register them. The REA would like to see this level of patience and generosity extended to liable persons and their firms during the first year or so during the introduction of the CBAM.

Finally, careful thought must also be given to how this information is processed and what, if anything, is publicly published. HMRC must continue to consider any commercial sensitivities around the information being provided.

Questions on accounting periods, returns and payments

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.

The REA agrees with the required information to be declared on the return including:

- the CBAM commodities imported during the period by reference to the commodity code
- the dates of all imports of CBAM goods during the period
- the weight of the CBAM goods
- the total carbon emissions embodied in those CBAM goods (where not available, a default value would need to be used), and
- any effective overseas carbon price

Having said this, the REA would like to remind the Government that issues to do with practicalities may arise with certain information for specific sectors (e.g. the weight of imported iron and steel). Appropriate allowances should be used to take these practicalities into account.

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.

Yes, the REA agrees with allowing a longer period from the end of the first accounting period before a liable person or their tax agent needs to submit their return to HMRC.

If possible, industry may prefer for this to be extended beyond 5 months from the date of the first accounting period ending 31 December 2027. This is simply to ensure that the liable person has enough time to obtain data about the carbon content of their CBAM goods, regardless of where this falls in the accounting period.

For example, if liable person A was to import their CBAM goods on 1 January 2027, they would have a significantly longer period to set up processes to obtain information from their suppliers in the originating countries about the carbon content of those goods, than liable person B importing their CBAM goods on 31 December 2027.

Furthermore, as mentioned in responses to previous questions, as it stands, there is a lack of available tax agents able to assist with this work. It is the Government's belief that as this demand grows, so will the supply of firms able to assist, but it is important to acknowledge that due to its complex nature, these firms will not be available overnight and liable persons may face a long period of waiting before a tax agent is available to help, particularly during the first accounting period.

The lack of available assistance, the high administrative burden, navigating the submission of the reports, obtaining the required data across supply chains, the uncertainty around default values, whilst navigating the fine line between the protection of confidential business information and accurately reporting emissions data, all add up to a very complicated and burdensome challenge for firms and their liable persons. The REA asks the Government to kindly take this into account when deciding the deadline for submitting the first CBAM return and payment, and where necessary, considers extending this deadline based on industry feedback, and/or on an individual basis, particularly for the first accounting period.

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

The REA agrees with the Government's proposal to have four fixed accounting periods a year to align with the standard practice in many other taxes. However, introducing this by 2028 may be too soon, and industry may prefer for this to be introduced in 2029.

By having a two-year transition period regarding accounting, this will allow firms and their liable persons to have established processes with their supplies for obtaining information regarding the carbon content of liable goods and the overseas carbon price on those goods. This will also give the market enough time to react to the CBAM legislation, with the creation of more firms/ tax agents able to assist and establish a greater and more efficient system of verification.

Furthermore, it should be noted that the Government's proposals for the accounting periods should only apply to the goods currently listed in Annex A. If and when further commodity codes

are added, they too should be given the same level of lead time that the current listed goods are due to receive to allow for sufficient time to obtain the carbon content data.

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.

While the REA agrees with moving to four fixed accounting periods a year to align with the standard practices of many other taxes, we emphasise feedback from industry that only allowing a month after the accounting period ends, is too short of a timeframe for firms and their liable persons to submit their returns/ payments.

Perhaps Government could consider introducing a 3-month deadline for the returns/ payments after the discussed accounting period, to coincide with the start of the subsequent accounting period. For example:

Accounting period ends	Returns and payments due
31 March each year	30 June each year
30 June each year	30 September each year
30 September each year	31 December each year
31 December each year	31 March each year

This may assist with the administrative burden by coinciding with firms' quarterly accounts reconciliations and gives greater clarity and succinctness to the timeline. What's more, a more generous 3-month window allows for a greater window for firms to submit accurate returns/ payments.

Questions on compliance and penalties

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

Yes, the REA considers HMRC's approach to enforcement powers and penalties is appropriate and welcomes the general understanding that the CBAM will be implemented in a way that minimises the risk of avoidance or evasion and provides a level playing field for businesses.

The REA welcomes the idea of HMRC using similar enforcement and inspection powers to those that are currently used to administer other taxes, providing certainty for businesses.

The REA agrees with the alignment of the CBAM penalties to that of the recently introduced system for VAT for any late submissions or returns of late payment. In addition to the introduction of a general penalty for any non-compliance specific to CBAM, such as failure to keep appropriate records, late registration and failure to provide information.

Lastly, the REA welcomes the consideration of criminal offences for a liable person who is knowingly involved in the fraudulent evasion of the CBAM.

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

The REA does not intend to respond to this question, but please let us know if you have any further feedback.

June 2024