

## The EU Carbon Border Adjustment Mechanism – Implications for India

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On 14 July 2021, the European Commission (**Commission**) published its proposal for a regulation establishing a carbon border adjustment mechanism (**CBAM**).<sup>1</sup> The core element of the CBAM is the obligation to pay for the greenhouse gas (**GHG**) emissions embedded in certain carbon-intensive products imported into the European Union (**EU**) through the purchase of so-called CBAM certificates.

The CBAM is conceived as a measure against the risk of carbon leakage, a phenomenon whereby companies move their production abroad to avoid the costs of complying with stringent environmental standards domestically or import cheaper foreign products that were not subject to a carbon price in their country of production. The European Union fears that its increased climate ambitions and the rapidly increasing price of carbon under its domestic emissions trading scheme, having reached nearly 90 EUR/tonne CO<sub>2</sub> in December 2021, may exacerbate the risk of carbon leakage and undermine the competitiveness of its domestic industry. This is where CBAM comes into play. By pegging the price of CBAM certificates to the price of emission allowances auctioned under the EU Emissions Trading System (**EU ETS**)<sup>2</sup>, the CBAM aims to ensure a level playing field for both domestic and imported products by making sure that they bear comparable CO<sub>2</sub> costs and thereby prevent domestic producers from relocating their production abroad.

Compliance with the CBAM will require monitoring and calculating the GHG emissions embedded in the products covered by the CBAM. This, however, is not a straightforward task and many details of the calculation methodology will only be determined in future implementing acts. The obligation to monitor, calculate, report and verify the emissions, in addition to the obligation to pay for them, will likely result in a significant administrative burden for foreign producers and importers and affect imports of the covered products to the EU.

As a major emerging economy, India is likely to be significantly impacted by the implementation of the CBAM.<sup>3</sup> While India has raised its concerns on the implementation of the CBAM with the EU,<sup>4</sup> Indian

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<sup>1</sup> European Commission, Proposal for a Regulation of the European Parliament and of the Council establishing a carbon border adjustment mechanism, COM (2021) 564 final, 14.7.2021 (**Proposed Regulation**), available at:

[https://ec.europa.eu/info/sites/default/files/carbon\\_border\\_adjustment\\_mechanism\\_0.pdf](https://ec.europa.eu/info/sites/default/files/carbon_border_adjustment_mechanism_0.pdf).

<sup>2</sup> The EU ETS is the world's first emissions trading system. See European Commission, Developing the carbon market, available at: [https://ec.europa.eu/clima/eu-action/eu-emissions-trading-system-eu-ets\\_en](https://ec.europa.eu/clima/eu-action/eu-emissions-trading-system-eu-ets_en). The EU ETS works as a "cap and trade system", whereby a cap is set on the total amount of certain GHG emissions that can be emitted by the installations under the system. Within that cap, the installations can buy or receive free emission allowances, which can be subsequently traded among installations on a secondary market. See European Commission, A 'cap and trade' system, available at: [https://ec.europa.eu/clima/eu-action/eu-emissions-trading-system-eu-ets\\_en](https://ec.europa.eu/clima/eu-action/eu-emissions-trading-system-eu-ets_en).

<sup>3</sup> UNCTAD, "EU should consider trade impacts of new climate change mechanism", 14 July 2021, available at: <https://unctad.org/news/eu-should-consider-trade-impacts-new-climate-change-mechanism>.

<sup>4</sup> Joint Statement issued at the conclusion of the 30<sup>th</sup> BASIC Ministerial Meeting on Climate Change hosted by India on 8 April 2021 (BASIC Joint Statement), available at <https://www.gov.za/nr/speeches/joint-statement-issued-conclusion-30th-basic-ministerial-meeting-climate-change-hosted>.

exporters of the products covered by the CBAM should familiarise themselves with how the CBAM operates and take appropriate steps to mitigate the risk of losses arising from its implementation.

## 1. The Carbon Border Adjustment Mechanism – The Product and Geographical Scope

The CBAM will initially apply to products from a limited number of sectors, namely cement, electricity, fertilizers, iron and steel, and aluminium. The Proposed Regulation includes an annex with the specific list of goods subject to the CBAM (**CBAM goods**) and their European harmonised system tariff codes (CN codes).<sup>5</sup> The Commission determined the initial product scope of the CBAM based on the scope of the EU ETS, focusing on those goods which are – according to the Commission – most exposed to the risk of carbon leakage and which do not entail an excessive administrative burden.<sup>6</sup>

The product scope of the CBAM may, however, be extended in the future, in particular to other products that fall within the scope of the EU ETS. The Proposed Regulation notes that “the ultimate objective of the CBAM is a broad product coverage” and requires the Commission to present a report, before the end of 2025, on extending the scope of the CBAM to other goods, including goods further down the value chain that may be subject to carbon leakage.<sup>7</sup> Importantly, in the context of the EU ETS, the list of sectors deemed at risk of carbon leakage is broad and includes, among others, the production of plastics and other bulk organic chemicals which are of strategic importance to India.<sup>8</sup>

In terms of the geographical scope of application, the Proposed Regulation exempts imports from certain third countries and territories from the CBAM. The exemptions will be granted only to those third countries subject to the EU ETS or that have a domestic emissions trading system linked to the EU ETS under an agreement with the EU.<sup>9</sup> At this stage, the exempt countries are Switzerland, Norway, Iceland and Liechtenstein, and certain European territories.<sup>10</sup>

## 2. India’s Industries Likely to be Affected by the CBAM

Many of the CBAM goods, including unwrought aluminium, aluminium powder, iron and steel in their primary forms (including other processed products such as tubes and fittings, structures, and railway materials), are strategically important for India.<sup>11</sup>

The European Union is a key export market for India and is India’s third largest trading partner. India’s exports to the EU were worth EUR 33 billion in 2020 alone, with an average of EUR 36 billion in the last three years.<sup>12</sup> Of particular importance to India are the exports of aluminium, iron and steel. The total

<sup>5</sup> Annex I of the Proposed Regulation.

<sup>6</sup> Recitals 26-29 of the Proposed Regulation.

<sup>7</sup> Article 30 of the Proposed Regulation.

<sup>8</sup> Chemicals accounted for 24% of imports from India to the EU in 2020 and were among the top twenty goods traded between the two nations in 2020, India-EU – international trade in goods statistics, Eurostat, March 2021, available at: [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=India-EU\\_%E2%80%93\\_international\\_trade\\_in\\_goods\\_statistics#EU-India\\_trade\\_by\\_type\\_of\\_goods](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=India-EU_%E2%80%93_international_trade_in_goods_statistics#EU-India_trade_by_type_of_goods).

<sup>9</sup> Article 2(5) of the Proposed Regulation. In addition, the Proposed Regulation includes special exemption rules for imports of electricity – see Article 2(7) and Annex II.B of the Proposed Regulation.

<sup>10</sup> Annex II.A of the Proposed Regulation.

<sup>11</sup> Annex I of the Proposed Regulation.

<sup>12</sup> The European Commission, Countries and Regions, available at: <https://ec.europa.eu/trade/policy/countries->

exports from India to the European Union of base metals and minerals, including iron, steel and aluminium, accounted for approximately 10.4 percent of all exports in 2020.<sup>13</sup> According to the CBAM impact assessment conducted by the Commission, India was the eighth largest exporter of iron and steel and the twelfth largest exporter of aluminium to the European Union in 2019.<sup>14</sup> Further, Italy and Belgium emerged as the two top destinations for India's finished steel exports in 2021.<sup>15</sup>

The imposition of the CBAM will thus affect a significant share of India's exports to the European Union, and Indian goods will run the risk of becoming less competitive in the EU market due to the financial and administrative burden imposed by the CBAM. In fact, the UNCTAD forecasts that India will lose USD 1-1.7 billion in exports of energy-intensive products such as steel and aluminium.<sup>16</sup> This is in line with the general estimates provided by the Boston Consulting Group that a levy of USD 30 per metric tonne of CO2 emissions could reduce profits for foreign producers by about 20%.<sup>17</sup>

### 3. Preparing India's Industry for CBAM Implementation

As noted above, the Proposed Regulation envisages that foreign countries can be exempted from the CBAM, provided certain conditions are met. India has introduced various schemes such as Perform, Achieve and Trade (PAT),<sup>18</sup> Renewable Purchase Obligations (RPO),<sup>19</sup> a tax (a cess) on coal production and Gujarat Air Pollution Cap and Trade Program,<sup>20</sup> that have been considered as applying an implicit price on carbon.<sup>21</sup> In 2019, India also briefly discussed introducing a carbon pricing instrument, in line with the EU ETS, in the Micro, Small and Medium Enterprises (MSME) sector.<sup>22</sup> Beyond these

[andregions/countries/india/#::~:~:text=The%20EU%20is%20India's%20third,the%20total%20after%20the%20USA.](#)

<sup>13</sup> European Union, Trade in goods with India, European Commission, available at: [https://webgate.ec.europa.eu/isdb\\_results/factsheets/country/details\\_india\\_en.pdf](https://webgate.ec.europa.eu/isdb_results/factsheets/country/details_india_en.pdf).

<sup>14</sup> CBAM Impact Assessment Report, SWD(2021) 643, Part 2/2, 14 July 2021, p. 100, available at: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12228-EU-Green-Deal-carbon-border-adjustment-mechanism\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12228-EU-Green-Deal-carbon-border-adjustment-mechanism_en).

<sup>15</sup> "Europe Emerges as Leading Destination for Indian Steel Exports", Eurometal, 27 July 2021, available at: <https://eurometal.net/europe-emerges-as-leading-destination-for-indian-steel-exports/>.

<sup>16</sup> "EU should consider trade impacts of new climate change mechanism", UNCTAD, 14 July 2021, available at: <https://unctad.org/news/eu-should-consider-trade-impacts-new-climate-change-mechanism>.

<sup>17</sup> Boston Consulting Group, "How an EU Carbon Border Tax Could Jolt World Trade", 30 June 2020, available at: <https://www.bcg.com/publications/2020/how-an-eu-carbon-border-tax-could-jolt-world-trade>.

<sup>18</sup> PAT Scheme is a regulatory instrument to accelerate improvements in energy efficiency in energy intensive industries. Further details on the PAT scheme are available at: <https://beeindia.gov.in/content/pat-read-more>.

<sup>19</sup> RPO requires electricity distribution licensees to purchase or produce a minimum specified quantity of their requirements from Renewable Energy Sources. Further details on RPO are available at: <https://anert.gov.in/node/114>.

<sup>20</sup> Gujarat Air Pollution Cap and Trade Program sets a cap on emissions from all industries but allows trade and selling of permits. PUTTING A PRICE ON CARBON Handbook for Indian Companies 2.0, The Energy and Resources Institute, 2019, available at: [https://6fefcbb86e61af1b2fc4c70d8ead6ced550b4d987d7c03fcd1d.ssl.cf3.rackcdn.com/cms/reports/documents/000/004/918/original/CDP\\_India\\_Second\\_Handbook\\_on\\_ICP.pdf?1580233115](https://6fefcbb86e61af1b2fc4c70d8ead6ced550b4d987d7c03fcd1d.ssl.cf3.rackcdn.com/cms/reports/documents/000/004/918/original/CDP_India_Second_Handbook_on_ICP.pdf?1580233115).

<sup>21</sup> "Pricing carbon: Trade-offs and opportunities for India", 5 June 2021, available at: <https://www.orfonline.org/expert-speak/pricing-carbon-trade-offs-opportunities-india/>.

<sup>22</sup> Konrad Adenauer Stiftung, "Perception of the Planned EU Carbon Border Adjustment Mechanism in Asia Pacific — An Expert Survey", March 2021, available at: <https://www.kas.de/documents/265079/265128/EU+Carbon+Border+Adjustment+Mechanism.pdf/fe1d5a4-4424-c450-a1b9-b7dbd3616179?version=1.1&t=1615356593906>.

initiatives, however, India currently does not have any explicit carbon pricing regulation in place, so no carbon tax nor any emissions trading system either.<sup>23</sup> It follows that, as things stand, India will not be exempted from the CBAM until it introduces a robust emissions trading system and links<sup>24</sup> it with the EU ETS. Until then, CBAM goods imported from India will be subject to the requirements of the CBAM. The key requirements and the timeline for the implementation of the CBAM are addressed below.

The Proposed Regulation envisages that the CBAM will apply starting from 1 January 2023.<sup>25</sup> During the initial phase (2023-2025), there will be no obligation to pay for embedded emissions.<sup>26</sup> During this transitional period, however, both direct and indirect emissions embedded in the imported CBAM goods will need to be monitored and reported on a quarterly basis.<sup>27</sup> From January 2026, the CBAM is expected to apply in full, including the obligation to purchase CBAM certificates.

The CBAM explicitly imposes obligations only on EU importers of CBAM goods. Those obligations, however, will necessarily require a number of actions to be taken by foreign producers.

In particular, during the *transitional period*, EU importers will be required to report direct and indirect emissions embedded in the imported CBAM goods.<sup>28</sup> To comply with this obligation, importers will need to request foreign producers to provide information on such direct and indirect emissions and, to the extent possible, will likely seek to import only those CBAM goods for which such information on embedded emissions is made available by foreign producers. Foreign producers will thus need to implement an internal system to monitor the embedded GHG emissions and provide this information to EU importers. It should be noted that the Commission has not yet made available all relevant rules for calculating the embedded emissions. While general calculation rules are set out in Annex III to the Proposed Regulation, the Commission still needs to adopt implementing acts determining the system boundaries of production processes, emission factors, installation-specific values of actual emissions and calculation methods for indirect emissions.<sup>29</sup>

Starting *from January 2026*, only importers that are registered as authorised declarants with competent authorities of the EU Member States will be able to import CBAM goods into the European Union. To apply for an authorisation, an importer must be established in the European Union.<sup>30</sup>

<sup>23</sup> The World Bank Carbon Pricing Dashboard, available at: <https://carbonpricingdashboard.worldbank.org>.

<sup>24</sup> The European Union prescribes certain conditions for other countries to link their emissions trading system with the EU ETS, namely: (i) system compatibility (the systems have the same basic environmental integrity, and a tonne of CO<sub>2</sub> in one system is a tonne in the other system); (ii) the mandatory nature of the system; and (iii) the existence of an absolute cap on emissions – further details are available at: [https://ec.europa.eu/clima/eu-action/eu-emissions-trading-system-eu-ets/international-carbon-market\\_en](https://ec.europa.eu/clima/eu-action/eu-emissions-trading-system-eu-ets/international-carbon-market_en).

<sup>25</sup> Article 36(2) of the Proposed Regulation. Considering that the legislative procedure is currently still at an early stage, the deadline of January 2023 appears to be very ambitious. At the same time, the CBAM is among the top priorities on the EU agenda and thus, the Proposed Regulation could well be adopted shortly after or even in line with the set deadline.

<sup>26</sup> Article 36(3)(a) of the Proposed Regulation.

<sup>27</sup> Article 35 of the Proposed Regulation.

<sup>28</sup> Under the CBAM, the *direct emissions* are the emissions from the production processes of goods over which the producer has direct control. The *indirect emissions* are emissions from the production of electricity, heating and cooling, which is consumed during the production processes of goods. See Articles 3(15) and 3(28) of the Proposed Regulation.

<sup>29</sup> Articles 7(6) and 35(6) of the Proposed Regulation.

<sup>30</sup> Article 5(1) of the Proposed Regulation.

Importers will be required to report direct emissions and surrender to the EU Member State competent authorities the number of purchased CBAM certificates corresponding to the amount of verified *direct* emissions embedded in the imported CBAM goods. If the embedded emissions were subject to a carbon price in the country of origin, the importer may claim a deduction in the number of certificates to be surrendered.<sup>31</sup> Considering that India does not have an explicit carbon pricing mechanism in place, EU importers of CBAM goods produced in India cannot claim any reduction in the number of CBAM certificates to be surrendered.

To surrender the required number of CBAM certificates, EU importers will need to calculate the *direct* embedded emissions<sup>32</sup> based on verified actual values or default values, if reliable actual emissions data is not available.<sup>33</sup> Based on the best available data, the Commission will determine default values at the average emission intensity of each exporting country and for each of the CBAM goods (except electricity) increased by a mark-up. If no reliable data for the specific exporting country or specific CBAM good is available, the default values will be based on 10% of the EU's worst performing installations.<sup>34</sup> The Proposed Regulation also provides that default values can be adapted to particular areas and regions of countries where specific objective characteristics, such as market conditions, industrial production or energy mix, prevail.<sup>35</sup> While the exact mechanism of regional adaptation is unclear, it will likely be possible for Indian producers of CBAM products to contribute to the regional adaptation of default values. In most cases, however, default values, even when adapted, will likely result in a higher amount of embedded emissions than actual emissions and thus require more CBAM certificates to be purchased and surrendered. Default values will be particularly disadvantageous for those Indian producers that already implement cleaner production processes.

To be able to rely on actual emissions and avoid punitive default values, Indian producers will need to establish internal systems for monitoring embedded emissions in line with the CBAM requirements. Some of the companies in India have already implemented voluntary internal carbon pricing<sup>36</sup> to reduce emissions and encourage innovation in the field of a low-carbon economy.<sup>37</sup> While such Indian producers already monitor their production emissions, they will need to verify the extent to which their current monitoring systems comply with the CBAM requirements.

Finally, if the EU importer and the foreign producer wish to rely on actual values of embedded emissions, all such reported emissions must be verified by an EU-accredited verifier.<sup>38</sup> EU importers

<sup>31</sup> Article 9 of the Proposed Regulation.

<sup>32</sup> Pursuant to Article 30(2) of the Proposed Regulation, the Commission may extend the CBAM obligations also to *indirect* emissions based on the data collected during the transitional period.

<sup>33</sup> Article 7(2) of the Proposed Regulation.

<sup>34</sup> Section 4 of Annex III of the Proposed Regulation.

<sup>35</sup> Section 6 of Annex III of the Proposed Regulation.

<sup>36</sup> "An internal carbon price (ICP) is a voluntarily determined price used within a company to value the cost of a unit of CO<sub>2</sub>e emission. This price tends to reflect the market prices of the regions where the company trades, although some companies may set theirs differently, based on their objectives." – PUTTING A PRICE ON CARBON Handbook for Indian Companies 2.0, The Energy and Resources Institute, 2019, see supra fn. 20.

<sup>37</sup> "Pricing carbon: Trade-offs and opportunities for India", 5 June 2021, see supra fn. 21; "What is India Inc's carbon footprint?", 9 July 2020, available at: <https://www.thehindubusinessline.com/opinion/what-is-india-incs-carbon-footprint/article32034375.ece>.

<sup>38</sup> Article 8 of the Proposed Regulation.

may also rely on the verified actual emissions reported by operators and installations in third countries that are registered in a central database established by the European Union.<sup>39</sup> The advantage of using the central database is that the registration and the verified data will be valid for five years, and there will be no need to conduct an annual verification of embedded emissions. While not mandatory, it would thus be favourable for Indian exporters and producers to register in the EU central database, assess the actual emissions and ensure verification of those emissions by an EU-accredited verifier in good time for EU importers to rely on that data. Importantly, while the CBAM appears to provide an option for the Commission to expand the verification authority to foreign verifiers,<sup>40</sup> Indian operators should prepare for verification of their actual emissions data by EU-accredited verifiers.

#### 4. India's Potential Role in Shaping the CBAM

India has consistently opposed the CBAM, questioning its compatibility with the fundamental rules of the World Trade Organization (WTO).<sup>41</sup> According to India, the CBAM is discriminatory and goes against the principles of equity and common but differentiated responsibilities.<sup>42</sup> Under the latter principle, developed countries should acknowledge that they have a responsibility for providing financial and technological assistance to developing countries to fight climate change.<sup>43</sup> The increase in prices and the consequent shrinking of demand for the Indian goods imported into the European Union has been another concern for India.<sup>44</sup>

Despite India's opposition to the CBAM, it may be in India's interest to engage with the European Union on issues concerning the implementation of the CBAM and its related implementing acts. This is particularly so given that India's exporters may be subjected to punitive default values making their exports uncompetitive and subsequently may find it difficult to regain the EU customer-base lost due to the CBAM. On its part, the European Union appears to be open to a dialogue and cooperation with third countries, whose exports to the European Union will be affected by the CBAM, with regard to the implementation of specific elements of the CBAM.<sup>45</sup> The areas of potential dialogue for India could include a wide spectrum of issues ranging from the less-acceptable ask of complete exemption from the CBAM to more-acceptable asks such as the recognition of domestic carbon pricing measures implemented by India or voluntary measures taken by Indian businesses, establishment of country-specific and/or regionally adapted fair and reasonable default values and accreditation of foreign verifiers. It may also relate to the determination of production process boundaries setting the limits for the calculation of direct emissions.

The dialogue with the European Union can take place in a number of fora, including the WTO. India

<sup>39</sup> Articles 8(2) and 10(1) of the Proposed Regulation.

<sup>40</sup> Article 18(2) of the Proposed Regulation.

<sup>41</sup> Report of the meeting of the WTO Committee on Trade and Environment held on 30 March 2021, WT/CTE/M/71, para. 1.121.

<sup>42</sup> BASIC Joint Statement, supra fn. 4.

<sup>43</sup> BASIC Joint Statement, supra fn. 4. Reportedly, India expects the EU to use the revenue generated by the EU CBAM to help developing countries decarbonise. Konrad Adenauer Stiftung, "Perception of the Planned EU Carbon Border Adjustment Mechanism in Asia Pacific — An Expert Survey", March 2021, see supra fn. 22.

<sup>44</sup> "How EU's proposed carbon border tax will work & why India is among the nations opposing it", 27 July 2021, available at: <https://theprint.in/theprint-essential/how-eus-proposed-carbon-border-tax-will-work-why-india-is-among-the-nations-opposing-it/703214/>.

<sup>45</sup> Recitals 53 and 54 of the Proposed Regulation.

could also discuss these issues within a broader framework of its ongoing free trade agreement (FTA) negotiations with the European Union.

## 5. CBAM and the Broader Context of EU Environmental and Climate Initiatives Shaping the Future of International Trade

The CBAM is not a standalone instrument but rather one of several measures the European Union is planning to implement in the coming years as part of its climate change and sustainability policies. Many of these measures are likely to have a negative impact on foreign exporters.

On 11 December 2019, the Commission adopted the European Green Deal setting ambitious targets to reduce the European Union's GHG emissions by 55% from the 1990 levels by 2030 and become climate neutral by 2050. In order to meet these targets, in July 2021, the Commission presented a series of legislative proposals, including the CBAM Proposed Regulation, jointly referred to as "Fit for 55" package, setting out measures to reduce GHG emissions and transition to a greener economy. Other legislative proposals that form the "Fit for 55" package relate in particular to the EU ETS, the Renewable Energy Directive or the Land Use, Land Use Change and Forestry Regulation.

In addition to the "Fit for 55" package, the European Union has recently published a proposal for a regulation on deforestation-free products aimed to ban certain products (i.e., wood, cattle, cocoa, coffee, palm oil and soy), the production of which has contributed to deforestation, from the EU market.<sup>46</sup> That proposal sets out mandatory due diligence rules for operators placing those goods on the EU market to ensure that only deforestation-free and legal products (according to the laws of the country of origin) are allowed on the EU market. Notably, the proposal foresees a benchmarking system, whereby the Commission will categorise countries as being at low-, standard- or high-risk of deforestation with simplified due diligence obligations in respect of products coming from low-risk countries.

Another reflection of the European Union's policies are the planned sustainable corporate governance rules. The latter are said to include new due diligence rules to curb environmental and labour abuses in corporate supply chains as well as new duties for corporate directors to integrate mandatory sustainability criteria into their decision-making.

Importantly, the European Union has not been alone in implementing such measures under the umbrella of climate change and sustainability policies. Several other developed countries are pursuing similar policies through domestic trade and economic measures that may affect foreign exporters. For instance, some countries including Canada, the United Kingdom and the United States are currently considering the adoption of their own carbon border adjustment measures, which are not necessarily identical to those of the European Union. Moreover, sustainability and Environment, Social and Governance (ESG) concerns are more frequently reflected in multilateral and bilateral agreements.<sup>47</sup> For example, the United Kingdom and Australia have included a chapter on Trade and Gender Equality

<sup>46</sup> European Commission, Proposal for a Regulation of the European Parliament and of the Council on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010, Brussels, COM (2021) 706 final, 17.11.2021, available at:

[https://ec.europa.eu/environment/publications/proposal-regulation-deforestation-free-products\\_en](https://ec.europa.eu/environment/publications/proposal-regulation-deforestation-free-products_en).

<sup>47</sup> "Environmental Provisions in Free Trade Agreements", Congressional Research Service, February 2021, available at: <https://crsreports.congress.gov/product/pdf/IF/IF10166>.

in their FTA.<sup>48</sup>

At the same time, the approach of emerging economies like India remains largely conservative. While India recognises the urgent need to make trade more environmentally sustainable, it prefers a consensus-based solution in line with the principle of common but differentiated responsibilities. The risk of a multitude of diverging carbon border adjustment measures taken by several developed countries, and their likely negative effect on international trade, appears to indicate that a long-term sustainable solution could be best achieved through coordinated action at a multilateral level. While the European Union remains open to multilateral talks, it plans to proceed with a unilateral CBAM, as announced by the Commission's President Ursula von der Leyen during the recent climate summit in Glasgow. India's businesses should therefore closely monitor the CBAM-related developments and make sure that they are ready for the measure's entry into force.

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<sup>48</sup> See Chapter 24 of the Australia-United Kingdom Free Trade Agreement, available at: <https://www.dfat.gov.au/trade/agreements/not-yet-in-force/aukfta/australia-uk-fta-official-text>.