



***COMMISSION INFORMAL EXPERT GROUP ON ANALYTICAL METHODS FOR THE MONITORING,
REPORTING, QUANTIFICATION AND VERIFICATION OF EMBEDDED EMISSIONS IN GOODS
UNDER THE SCOPE OF CBAM***

TERMS OF REFERENCE

1. BACKGROUND

The Commission's Directorate-General for Taxation and Customs Union ('DG TAXUD') has taken the initiative to set up the Commission informal expert group on the analytical methods for the monitoring, reporting, quantification and verification of embedded emissions in goods under the scope of the Carbon Border Adjustment Mechanism (CBAM) ('the group').

The overall mission of the group is to assist DG TAXUD in the completion of methods for the monitoring, reporting, quantification and verification of embedded emissions and the early preparation of implementing acts, before submission to the committee in accordance with Regulation (EU) N°182/2011.

The group is expected to operate until the end of 2023. Its operability could be extended if deemed necessary.

2. SUBJECT MATTER

The group of experts on analytical methods for the monitoring, reporting, quantification and verification of embedded emissions in goods under the scope of the CBAM ('the group') is set up.

3. TASKS

The group's tasks shall be to assist DG TAXUD:

1. in the completion of methods for the monitoring, reporting, quantification and verification of embedded emissions.
2. in the early preparation of implementing acts, before submission to the committee in accordance with Regulation (EU) N°182/2011.
3. by providing advice and expertise in relation to:
 - The analytical methods that shall be applied by third country producers and EU CBAM declarants in order to monitor, quantify, report and verify the embedded emissions of goods under the CBAM scope, when imported in the EU;

- The default values that shall be applied for goods under the CBAM scope, when actual emissions cannot be adequately determined and reported.
- The early preparation of implementing acts, regarding the CBAM, in the context of:
 - o The monitoring, reporting, quantification and verification methods for embedded emissions of goods under CBAM scope to be used during the transitional and definitive period of the CBAM;
 - o The elaboration of technical material such as guidelines and reporting templates to support the implementation of the methods applicable during the transitional and definitive periods of the CBAM;
 - o The determination of default values that will be applied when actual emissions cannot be adequately determined and reported.

The group shall meet in different formations, depending on the meeting agenda and the Type of Membership. Specifically, meetings can be strictly limited to Type D members, or involve also Type C and/or E (See section 4 on Membership). The following topics shall be addressed in accordance with Articles 7, 8 and 35, and Annexes I, III and V of the Proposal for a Regulation on the Carbon Border Adjustment Mechanism:

- Cement, including the methods, technical material and default values for the monitoring, reporting, quantification and verification of embedded emissions.
- Electricity, including the methods, technical material and default values for the monitoring, reporting, quantification and verification of embedded emissions.
- Fertilisers, including the methods, technical material and default values for the monitoring, reporting, quantification and verification of embedded emissions.
- Iron and Steel, including the methods, technical material and default values for the monitoring, reporting, quantification and verification of embedded emissions.
- Aluminium, including the methods, technical material and default values for the monitoring, reporting, quantification and verification of embedded emissions.

The expertise of each sector would include the methods, technical material and default values for the monitoring, reporting, quantification and verification of embedded emissions.

4. MEMBERSHIP

Members of the group shall be:

1. organisations in the broad sense of the word, including companies, associations, Non-Governmental Organisations, trade unions, universities, research institutes, law firms and consultancies ('Type C members').
2. Member States' authorities, at national, regional or local level ('Type D members').
3. EEA/EFTA Member States' authorities ('Type E members').

Members shall nominate their representatives and shall be responsible for ensuring that their representatives provide a high level of expertise. DG TAXUD may refuse the nomination by an organisation of a representative if it considers this nomination inappropriate in the light of the requirements specified in the call for applications. In such case, the organisation concerned shall be asked to appoint another representative.

Member organisations who are no longer capable of contributing effectively to the expert group's deliberations, who, in the opinion of DG TAXUD, do not comply with the conditions set out in Article 339 of the Treaty on the Functioning of the European Union or who resign, shall no longer be invited to participate in any meetings of the group and may be replaced for the remainder of their term of office.

In order to ensure that real added value is provided on the basis of the relevant expertise, the composition of the group shall be shaped as follows:

(i) Cement:

- EU Member States' and EEA/EFTA Member States' authorities, with one representative per State each.
- Up to a total of 2 members of the following type:
 - European associations representing producers of goods in the cement industry under the scope of the CBAM, with one representative per association.
- 1 member of the following type:
 - Non-Governmental Organisation with one representative.

(ii) Electricity:

- EU Member States' and EEA/EFTA Member States' authorities, with one representative per State each
- Up to a total of 2 members of the following type:
 - European associations representing producers of electricity, with one representative per association.
- 1 member of the following type:
 - Non-Governmental Organisation with one representative.

(iii) Fertilisers:

- EU Member States' and EEA/EFTA Member States' authorities, with one representative per State each.
- Up to a total of 2 members of the following type:
 - European associations representing producers of goods in the fertilisers subject under the scope of the CBAM, with one representative per association.
- 1 member of the following type:
 - Non-Governmental Organisation with one representative.

(iv) Iron and Steel:

- EU Member States' and EEA/EFTA Member States' authorities, with one representative per State each.
- Up to a total of 2 members of the following type:

- European associations representing producers of goods in the iron and steel industry under the scope of the CBAM, with one representative per association.
- 1 member of the following type:
 - Non-Governmental Organisation with one representative.

(v) Aluminium

- EU Member States' and EEA/EFTA Member States' authorities, with one representative per State each.
- Up to a total of 2 members of the following type:
 - European associations representing producers of goods in the aluminium industry under the scope of the CBAM, with one representative per association.
- 1 member of the following type:
 - Non-Governmental Organisation with one representative.

5. SELECTION PROCESS

1. The selection of the member organisations shall be carried out via a public call for applications, to be published on the Register of Commission expert groups and other similar entities ('the Register of expert groups'). In addition, the call for applications may be published through other means, including on dedicated websites. The call for applications shall clearly outline the selection criteria, including the required expertise and the interests to be represented in relation to the work to be performed. The minimum deadline for applications shall be four weeks.
2. Registration in the Transparency Register is required in order for organisations referred to in point 4 to be appointed.
3. The members of the group shall be appointed by the Director-General of DG TAXUD from applicants with competence in the areas referred to in point 3 and who have responded to the call for applications.
4. Members shall be appointed until the start of the definitive period of CBAM.
5. Members shall remain in office until replaced or until the end of their term of office. Their term of office may be renewed.
6. DG TAXUD shall establish a reserve list of suitable candidates that may be used to appoint members' replacements. DG TAXUD shall ask applicants for their consent before including their names on the reserve list.
7. Member States' authorities and other public entities shall be appointed by direct invitation.

6. CHAIR

The group shall be chaired by a representative of DG TAXUD.

7. OPERATION

1. The group shall act at the request of DG TAXUD, in compliance with the Commission's horizontal rules on expert groups ('the horizontal rules')¹.
2. Meetings of the group shall, in principle, be held on Commission premises or virtually, depending on the circumstances.
3. DG TAXUD shall provide secretarial services. Commission officials from other departments with an interest in the proceedings may attend meetings of the group.
4. In agreement with DG TAXUD, the group may, by simple majority of its members, decide that deliberations shall be public.
5. Minutes on the discussion on each point on the agenda and on the opinions delivered by the group shall be meaningful and complete. Minutes shall be drafted by the secretariat under the responsibility of the Chair.
6. The group shall adopt its opinions, recommendations or reports by consensus.

8. INVITED EXPERTS

DG TAXUD may invite experts with specific expertise with respect to a subject matter on the agenda to take part in the work of the group or sub-groups on an *ad hoc* basis.

9. OBSERVERS

1. Individuals, organisations in the broad sense of the word and public entities other than EU Member States' and EEA/EFTA Member States' authorities may be granted an observer status, in compliance with the horizontal rules, by direct invitation.
2. In particular, DG TAXUD may by invitation, include the following associations as observers if they do not apply to become members:
 - Eurelectric
 - Association of the Aluminium Industry in Europe
 - The European Steel Association EUROFER
 - European Association of Metals EUROMETAUX
 - Fertilisers Europe (previously European Fertiliser Manufacturers Association)
 - The European Cement Association CEMBUREAU
3. Organisations and public entities appointed as observers shall nominate their representatives.
4. Observers and their representatives may be permitted by the Chair to take part in the discussions of the group and provide expertise. However, they shall not have voting rights and shall not participate in the formulation of recommendations or advice of the group.

¹ C(2016) 3301, Article 13.1.

10. RULES OF PROCEDURE

On a proposal by and in agreement with DG TAXUD the group shall adopt its rules of procedure by simple majority of its members, on the basis of the standard rules of procedure for expert groups, in compliance with the horizontal rules².

11. PROFESSIONAL SECRECY AND HANDLING OF CLASSIFIED INFORMATION

The members of the group and their representatives, as well as invited experts and observers, are subject to the obligation of professional secrecy, which by virtue of the Treaties and the rules implementing them applies to all members of the institutions and their staff, as well as to the Commission's rules on security regarding the protection of Union classified information, laid down in Commission Decisions (EU, Euratom) 2015/443³ and 2015/444⁴. Should they fail to respect these obligations, the Commission may take all appropriate measures.

12. TRANSPARENCY

1. The group shall be registered in the Register of Commission expert groups and other similar entities ('the Register of expert groups').
2. As regards the group composition, the following data shall be published on the Register of expert groups:
 - (a) the name of the Member States' authorities;
 - (b) the name of EEA/EFTA Member States' authorities;
 - (c) the name of member organisations; the interest represented shall be disclosed;
 - (d) the names of observers.
3. All relevant documents, including the agendas, the minutes and the participants' submissions, shall be made available on the Register of expert groups. In particular, DG TAXUD shall publish the agenda and other relevant background documents in due time ahead of the meeting, followed by timely publication of minutes. Exceptions to publication shall only be possible where it is deemed that disclosure of a document would undermine the protection of a public or private interest as defined in Article 4 of Regulation (EC) N° 1049/2001⁵.

² See Article 17 of the horizontal rules.

³ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

⁴ Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

⁵ These exceptions are intended to protect public security, military affairs, international relations, financial, monetary or economic policy, privacy and integrity of the individual, commercial interests, court proceedings and legal advice, inspections/investigations/audits and the institution's decision-making process.

14. MEETING EXPENSES

1. Participants in the activities of the group shall not be remunerated for the services they offer.
2. Travel and subsistence expenses incurred by participants in the activities of the group shall not be reimbursed by the Commission.

Done in Brussels, on 14 July 2022.