

Addressing carbon leakage risk to support decarbonisation

Response by the Chartered Institute of Taxation

1 Executive Summary

- 1.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 19,000 members, and extensive volunteer network, in providing our response.
- 1.2 The CIOT and IFS ran a joint virtual debate on the UK's approach to introducing a carbon border adjustment mechanism ('CBAM'), which remains available for viewing and may be of interest to policy officers working on this consultation (see para 3.3).
- 1.3 We have only responded to questions where we have comments relating to the tax system. The CIOT does not comment on the setting of tax rates and we have not commented on questions that require a response from environmental or industry specialists that are outside the scope of our expertise.

2 About us

- 2.1 The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.
- 2.2 The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.
- 2.3 The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most

effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.

- 2.4 Our members have the practising title of ‘Chartered Tax Adviser’ and the designatory letters ‘CTA’, to represent the leading tax qualification.

3 Introduction

- 3.1 The consultation considers whether, alongside multilateral solutions, the UK should also implement domestic measures to drive decarbonisation by means of introducing a CBAM to facilitate achieving its net zero commitments. The consultation considers the risk of carbon leakage and the development of wider decarbonisation policies including the UK Emissions Trading Scheme (ETS). It acknowledges that measures must consider free and open trade, international climate change commitments and the needs of industry and consumers.

- 3.2 The consultation seeks views on six overall questions to shape the design and implementation of a potential UK CBAM:

1. Sectoral targeting: to which sectors and products should a UK CBAM apply?
2. Emissions measurement: how should emissions be measured as part of a UK CBAM?
3. Emissions scope: which emissions should be in scope of a UK CBAM?
4. Price measurement: how should a UK CBAM price be calculated?
5. Implementation: how and when should businesses be required to comply with a UK CBAM?
6. Timing: when should a UK CBAM be introduced?

- 3.3 To consider the consultation questions, the CIOT partnered with the IFS and hosted a virtual debate, ‘*Carbon Border Adjustment – what approach should the UK take?*’ with speakers from backgrounds in UK public policy, international academia (fiscal policy and legal) and UK industry, as well as a questions and answer discussion session for viewers to raise questions about the potential introduction of a CBAM in the UK. The webinar, approximately 92 minutes long, remains available for viewing and may be of interest to policy officers working on this consultation: <https://www.presenta.co.uk/CIOT/IFS/240523/index.html>.

- 3.4 Our stated objectives for the tax system include:

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
- Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
- Greater certainty, so businesses and individuals can plan ahead with confidence.
- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy.

4 Administrative questions

- 4.1 **Question 0.1: Are you responding as / on behalf of (select all that apply):**

4.2 Option (9) 'other' [option from list]

The Chartered Institute of Taxation is a professional body for tax specialists

4.3 **Question 0.2: If responding on behalf of a business/organisation, where is your business/organisation based/registered? If your organisation is based overseas, please specify which country you are based in.**

4.4 UK

4.5 **Question 0.3: If your country of origin is the UK, which region are you based in?**

4.6 London

4.7 **Question 0.4: Are you in receipt of free allowances under the UK ETS?**

4.8 No

4.9 **Question 0.5: Would you consider your business as part of an industrial cluster (an area where related industries have co-located)? If 'yes', which one?**

4.10 No

5 Chapter 1: Carbon leakage policy measures

5.1 **Question 1.0: Does government's definition of carbon leakage reflect your understanding of the issue? Please explain your reasoning.**

5.2 Yes, agree

5.3 Whilst we broadly agree with the statements provided in the consultation document, we note that in the three main channels anticipated to drive carbon leakage, it mentions '*differences in the strength of carbon pricing and climate regulation influence investment decisions, causing a shift in future production and associated emissions elsewhere*'; we would also include tax policy in that category.

5.4 For example, in the US Inflation Reduction Act, it provides clarity on what tax credits are available for a range of net zero policies; clarity on tax policy increases the attractiveness of investing in a territory as it provides businesses with certainty that can be factored into net zero planning.

5.5 **Question 1:1 Do you believe that the risk of carbon leakage in the UK is likely to:**

1. Increase
2. Decrease
3. Remain unchanged.
4. Carbon leakage is occurring now

Please explain your reasoning, including when you think any change to the level of risk might occur.

5.6 In principle, all options could apply depending on the sector and the respondent's circumstances; the question is complex and based on many factors meaning it is outside of our capability to commit to a single response stated in the list provided. If we solely consider domestic net zero/decarbonisation tax policy in respect of the risk of carbon leakage, the UK's position is currently less certain than say, the USA or the EU, and if the UK's

CBAM, if introduced, puts UK businesses at a disadvantage to other countries, this may affect carbon leakage accordingly.

5.7 Question 1.2: What factors contribute to the risk of future carbon leakage that government should be looking at and that government should address? What evidence can you provide to support your view?

5.8 Whilst all of the factors listed in the consultation document bullet points contribute to carbon leakage, we would also suggest that the clarity and certainty of tax policy in respect of net zero and decarbonisation should also be included. When our members advise overseas businesses on setting up an establishment in Europe, the comparison of local tax policy will form part of the decision-making process.

5.9 Question 1.3: How should the government act to mitigate future carbon leakage risk? Please explain your reasoning.

5.10 Our view is that the UK government should focus on international and multilateral action alongside acting on domestic measures. A CBAM and subsequent carbon pricing would work best with international cooperation and with as much uniformity in the framework and administration as possible as our nearest trading neighbour, the EU has set out its own CBAM plan with an initial data collection period commencing 1 October 2023. Whilst the UK no longer has to adopt tax measures in the same way as the EU, should a UK CBAM be introduced, it seems logical to have the rules largely mirroring the EU scheme to reduce complexity for UK businesses. The government should also look for reciprocal arrangements so that carbon pricing in the UK is properly recognised in foreign CBAM or similar regimes

5.11 However, the UK government should also focus on domestic measures, including considering its medium to long term net zero & decarbonisation tax policy. Our members regularly feedback that they would like to see longer term certainty for businesses so that they can plan accordingly and in October 2021, the CIOT published a [Climate Change Tax Policy Roadmap](#), in which it called on the government to deliver a long-term approach to taxation and climate change. We would also like to see simplification embedded into any CBAM policies as well as considering how uncertainty can be addressed e.g. estimation, thresholds allowing a low % leeway etc.

6 Chapter 2: Carbon border adjustment mechanism

6.1 Question 2:1: Should a CBAM only apply to products in sectors that are subject to the UK ETS? Please explain your reasoning.

6.2 We both agree and disagree.

Whilst we agree that products in the UK ETS sectors would be the first phase of products subject to a UK CBAM (if introduced), we would also anticipate that the design of the CBAM would also facilitate the simplification and/or eventual phasing out of the ETS, so that affected businesses are not subject to two decarbonisation regimes. We do not agree that the CBAM should be indefinitely restricted to only these products; the UK government should remain flexible on any future expansion of the scheme to additional products, as it may wish to increase the pace of decarbonisation in other sectors, and UK businesses may be impacted by CBAM policies in other countries and the government may need to react accordingly.

6.3 **Question 2.3: If the scope of a CBAM is initially limited, should it be designed to potentially cover other products in future? Please explain your reasoning.**

6.4 Answer: Yes, strongly agree.

6.5 Whilst we anticipate the scope of a CBAM to be initially limited to products in the ETS sectors, the CBAM should be developed to allow for flexibility and future proofing that allows for the introduction of other products in the future as the government may wish to increase the pace of decarbonisation other sectors, as well as being able to decide whether to mirror tax policy developments/best practice from existing or newly introduced CBAMs in other countries. However, any CBAM expansion must provide sufficient lead time for businesses to prepare for change, and to provide certainty for future planning.

6.6 **Question 2.4: Should the importer of products covered by a CBAM be responsible for meeting all CBAM requirements? If not the importer, who? Please explain your reasoning.**

6.7 We note that in the consultation document, it sets out that the CBAM price could be determined by both independently verified emissions data by a recognised body, and/or by default pricing. If the importer declares its CBAM liability based on these known parameters and has clarity and certainty for the products it imports, much like the responsibilities of importers in calculating customs duty, this would indicate that the importer would be able to meet the responsibilities for the CBAM declarations.

6.8 If the CBAM design requires the importer to obtain or rely on information provided by overseas suppliers or overseas government departments in order to calculate the CBAM liability we would have concerns around data gaps affecting the importer's ability to be certain that its CBAM declarations are accurate. Our members have experienced difficulties in obtaining data from overseas suppliers, particularly in complex supply chains, when trying to calculate Plastic Packaging Tax ('PPT') liabilities on imported products.

6.9 Although the CBAM and PPT address different environmental concerns and sectors of the economy, the team working on the CBAM consultation may find it useful to engage with HMRC's Plastic Packaging Tax team, businesses registered for PPT and/or their agents, to highlight difficulties encountered with data gaps when relying on information from overseas suppliers in order to calculate tax liabilities in the UK.

6.10 **Question 2.5: Should importers be required to provide accurate, independently verified emissions data for the products they import where available? Please explain your reasoning.**

6.11 Answer: Don't know.

6.12 In principle, it would appear reasonable to provide such data where it is readily available, though if there is a default price alternative, for some businesses this may be a simpler way of making the declaration, even if the default price is slightly more expensive than an independently verified CBAM price. A default price may offer a reduction in the administrative burden and the certainty on costs may be more attractive. In such circumstances it would appear excessive for these businesses to have to gather additional data beyond the details required to elect to use the default price.

6.13 **Question 2.6: Should there also be an option for importers to use default values, where they do not or cannot provide accurate emissions data are? Please explain your reasoning.**

- 6.14 We agree that there should be an option for importers to use default values where they do not or cannot provide accurate emissions data. There can be difficulties in obtaining data from overseas third parties or there may be sound commercial reasons to pay a default price that is higher than a verified value.
- 6.15 **Question 2.7: Are there any factors not presented in this chapter which government should consider for the calculation of default values? Please explain your reasoning.**
- 6.16 The government can consider whether there needs to be built in flexibility to allow for circumstances where a carbon value has been determined by a methodology, or temporary derogation, set out in another CBAM jurisdictions, providing such valuations are not being used for the purposes of avoidance. As additional territories introduce their carbon pricing schemes, the UK may wish to offer some flexibility on its valuation basis in certain circumstances.
- 6.17 **Question 2.9: What data could UK importers provide for Scope 1 emissions embodied within imported products on a product basis? Please explain your reasoning.**
- 6.18 As we anticipate that a UK CBAM would initially apply to products currently within the ETS regime, the data requirements to calculate embedded carbon should be fairly similar.
- 6.19 **Question 2.10: What alternative data sources would government need to consider when determining Scope 1 imported emissions on a product basis if these data cannot be provided by an importer? Please explain your reasoning**
- 6.20 This would require further study but perhaps it might be possible to use averages or statistical data, loaded to be less favourable in order to encourage gathering of actual data.
- 6.21 **Question 2.11: Do you agree or disagree a CBAM should be applied to Scope 2 emissions embodied within imported products? Please explain your reasoning.**
- 6.22 In principle, if the UK government wishes to increase the pace of decarbonisation in the ETS and other sectors, it may want to retain the flexibility to apply the CBAM to scope 2 emissions in due course. Whilst we are unsure at the stage if this will be required or not, we would not want to see the scheme not have that option if it should transpire that Scope 2 taxation could assist the decarbonisation aims.
- 6.23 **Question 2.16: Should a CBAM be applied to the Scope 3 emissions embodied within imported products that are also indirectly covered by the UK ETS? Please explain your reasoning.**
- 6.24 Don't know.
- Whilst it may be attractive to retain the right to apply a CBAM to Scope 3 emissions to aid the pace of decarbonisation, it must be balanced with the ability of a business to be able to obtain the relevant data to accurately calculate the liability. The reliance on third parties to provide the level of detail required for this calculation increases the likelihood of data gaps; the CBAM design would ideally allow for estimation in such circumstances should Scope 3 emissions become taxable.
- 6.25 **Question 2.19: Do you have further comments on the inclusion and measurement of emissions embodied in imported products as part of a CBAM?**
- 6.26 The application of the CBAM to emissions embodied in imported products must be balanced with the ability of a business to be able to obtain the relevant data to accurately calculate the liability. The reliance on third

parties to provide the level of detail required for this calculation increases the likelihood of data gaps; the CBAM design would ideally allow for estimation or an alternative calculation route in such circumstances.

- 6.27 **Question 2.20: Should the price applied by a CBAM be comparable to the effective domestic carbon price paid, including accounting for any discounts available through free allowances or compensation? Please explain your reasoning.**
- 6.28 Agree in principle. We support the calculation basis largely mirroring the ETS methodology as this is also familiar to businesses within the current ETS scheme which would aid the transition to a CBAM.
- 6.29 **Question 2.23: Would it be practicable for importers to provide information on the effective carbon price already paid on products in the originating country? Please provide details.**
- 6.30 Agree. If the importer has already paid the effective carbon price in another country the business will have agreed these costs with the supplier either in the contract or by means of a charge on the invoice. If an importer has a clear paper trail of the carbon charges it incurs, this facilitates the provision of information for the basis of the CBAM calculation.
- 6.31 **Question 2.24: What issues might arise in taking into account a carbon price already paid in another country when calculating the price applied by a CBAM? Please explain your reasoning.**
- 6.32 The overseas carbon price may be embedded into the product price but the importer has not ascertained the methodology for the basis of the carbon charge in either the contract or the invoices. If the data has not been supplied prior to delivery of the product and/or payment, it can increase the difficulty of obtaining data retrospectively from the supplier. Our members advising importers have had similar difficulties in trying to obtain retrospective data to assist in calculating PPT liabilities, resulting in data gaps.
- 6.33 **Question 2.25: Do you have any views on how a CBAM could be designed to ensure maximum simplicity? For example, by following the mechanism for other border charges such as tariffs and excise duties. Please explain your reasoning.**
- 6.34 We agree that it would aid simplicity if the UK's proposed CBAM mirrored the EU's CBAM as far as possible, as they are the UK's closest trading partner. That said, it would provide greater simplicity to have multijurisdictional agreement that new CBAM schemes have identical underlying principles, and for local variations to be kept to a minimum. As stated in the consultation document, the UK can also consider best practice from the longer running New Zealand and Canada schemes. Many UK importers will purchase from China too so it would aid simplification if the UK government could provide guidance on best practice on interacting with the Chinese scheme, particularly around evidencing locally paid carbon taxes. The UK government may also produce relevant CBAM guidance in Chinese language to assist with raising understanding of best practice for UK-Chinese supplies.
- 6.35 In principle, an excise charge or a percentage set in the tariff could be simple, clear and provide certainty, though the rates would need to allow for variation for the same product, e.g. the imported products from two suppliers may be identical but one supplier may use energy sourced from fossil fuels whereas another supplier may be using only renewable energy. This would differ from the tariff which focuses on a single rate for a specific product, but a CBAM 'tariff' could have several rates for the same product based on the supplier's energy supply e.g. 3 rates on a product: supplier who relies on 100% fossil fuel, 50/50 fossil fuel and renewables, or 100% renewable energy used, but this would rely on a valid disclosure by the supplier and could give rise to evasion if false data is supplied to the importer. The government would also have to embed

the CBAM into the work currently being done for the 'Border 2025' project, including the Single Window simplified border declaration system.

6.36 Question 2.26: Should government prioritise reflecting the flexibility offered by the UK ETS in a CBAM? For example, by allowing emissions to be paid for at a separate point to the release of products into free circulation. Please explain your reasoning.

6.37 Yes, strongly agree. There has been a move away from declaring tax at the time of releasing goods into free circulation to aid simplification and a more efficient flow of goods e.g. postponed VAT accounting allows importers to shift the declaration of VAT from the border to a self-assessed declaration in the VAT return; PPT is paid via a quarterly return rather than at the border; there are live simplification projects for 'Border 2025' to ease transit authorisations that defer payments of customs duty, and the 'single window' project that will facilitate a 'tell us once' declaration used by multiple government agencies at the point of import. During the design of the single window system, the CIOT has raised to HMRC that any system should allow for compatibility with future CBAM declarations, if there is any requirement for data entry at the border, so the CBAM team may want to discuss this further with HMRC's single window project team.

6.38 Question 2.27: Are there further actions government could take to design a CBAM in a way that facilitates the smooth flow of trade? Please explain your reasoning.

6.39 See above response.

6.40 Question 2.28: Are there further interactions with the customs and/ or border systems which government should take into account for the development of a CBAM? Please explain your reasoning.

6.41 See above response.

6.42 Question 2.29: Are there further policy interactions that government should consider regarding potential implementation timelines for a CBAM? Please explain your reasoning.

6.43 The illustrative timeline on page 30 of the CBAM consultation should be commented upon by relevant the sectors highlighted to see if they agree the potential timelines proposed. We would like businesses to be provided with adequate lead in times, so a long-term plan of key events in the timeline will aid businesses with their decarbonisation planning.

7 Chapter 3: Mandatory product standards

7.1 Question 3.1: Were mandatory product standards introduced, should the above criteria be used to decide on its initial sectoral scope? Are there other criteria that should be considered? Please explain your reasoning, including any alternative criteria.

7.2 Agree and disagree in part.

Although the MPS principles are generally supported as they aid the decarbonisation pace management, there will always be highly specialised businesses that rely on very specific products, which may happen to fall within a high carbon category or can only be sourced from a developing country that is not as far down its net zero pathway as the UK. The proposals do not set out any 'by exception' principles, which seems to be too rigid at the early stage of their introduction. Perhaps any 'by exception' provisions could be time barred so that both the supplier and the importer have time to make changes.

7.3 Question 3.5: Which option, if any, would be most appropriate for targeting the point of obligation for a mandatory product standard for domestically produced goods? Please explain your reasoning, with reference to specific sectors if possible, and details of any alternative options.

- **Point of Sale**
- **Point of Production**
- **Other**

7.4 Although industry would be best placed to respond to this question, it is not particularly clear as to whether the point of production/sale means in the upstream, midstream or downstream stage of the supply chain, or if the points of production/sale apply for all three.

7.5 Question 3.6: What considerations should government consider when targeting the point of obligation for imported goods? Please explain your reasoning, with reference to specific sectors if possible.

7.6 As stated in the consultation document, it would appear distortive to only tax goods manufactured in the UK. The MPS team could consider mirroring the reporting for imports subject to the Plastic Packaging Tax, i.e. not tax at the point of import, it is declared in a quarterly return similar to VAT. The PPT team at HMRC could engage with you on this. A further step would be to consider if the PPT and CBAM could be streamlined in some way so that there is only one reporting obligation.

7.7 Question 3.7: Do you agree or disagree that any mandatory product standard should apply to imports? Please explain your reasoning, including any details of the possible impacts for your sector.

7.8 Agree. If mandatory product standards (MPS) are introduced, it should apply to imports as well as UK manufactured goods. There may be reasons why an exception rule could be applicable. The position for exported UK goods should also be considered.

7.9 Question 3.8: Do you agree or disagree with the proposed principles for setting thresholds and increasing the stringency of mandatory product standards over time? Please explain your reasoning.

7.10 Agree in principle. The government will want to control the pace of decarbonisation though any introduction of MPS, or any subsequent changes to the scheme, should have sufficient lead in time so that businesses can adequately prepare and also budget for the additional cost. Where the use of thresholds can introduce simplification, that too would be welcomed.

7.11 Question 3.9: Should mandatory product standards be delivered in stages, broadly moving from a less stringent, relatively focussed application in the late 2020s to a more stringent and potentially broader application during the 2030s? Please explain your reasoning.

7.12 Agree. This proposed timeline appears to provide adequate preparation time for businesses. However, simplification should remain a key priority for the design of the MPS.

8 Chapter 4: Cross cutting policy issues for CBAM and MPS

8.1 Question 4.3 What is your view on the importance of finding ways to simplify the process for estimating product level emissions intensities?

8.2 As tax simplification is a key priority for HM Treasury and HM Revenue and Customs following the closure of the Office of Tax Simplification, finding ways to simplify processes is a very important step from the outset.

8.3 Question 4.5 Do you have any views or empirical data on the trade-offs between reductions in administrative costs in the generation of product level data, and the accuracy of such data?

8.4 We would support introducing some estimation rules, particularly if the business may have data gaps due to relying on a third party to provide evidence. We have had feedback from members that estimation rules would be particularly helpful for imported goods subject to plastic packaging tax, where even highly compliant businesses are experiencing difficulties in obtaining all information from overseas suppliers, particularly in more complex supply chains.

8.5 Question 4.6: Is circumvention a risk in your sector(s)? Please explain your reasoning, with references to particular sectors where possible.

8.6 For tax professionals accredited to a professional body, they are subject to the Professional Conduct in Relation to Tax (PCRT) standards, which contain rules on 'The Standards of Tax Planning' that members must observe when advising on UK tax planning, and this includes one on advising on tax planning arrangements, i.e. *Members must not create, encourage or promote tax planning arrangements or structures that: i) set out to achieve results that are contrary to the clear intention of Parliament in enacting relevant legislation; and/or ii) are highly artificial or highly contrived and seek to exploit shortcomings within the relevant legislation.* Whilst tax planning that upholds the spirit of the law is allowable, providing advice that has the intention of circumventing the rules would not. Members of the CIOT who were found to have provided such advice may be reported to the Tax Disciplinary Board.

The full PCRT rules for chartered tax advisers can be found at: <https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/d0836d40-5102-4ac1-89f3-efc9b7c75e8a/CIOT%20-%20PCRT%2003.01.23.pdf>

8.7 Question 4.7: How can carbon leakage measures be best designed to limit risk of circumvention? Please explain your reasoning.

8.8 The tax legislation should be clear on what constitutes circumvention and that if it is found to have taken place the goods will become liable to the tax avoided and penalties may apply.

8.9 Question 4.8: Is resource shuffling a risk in your sector(s)? Please explain your reasoning, with references to particular sectors where possible.

8.10 The tax legislation should be clear on what constitutes resource shuffling and that if it is found to have taken place the goods will become liable to the tax avoided and penalties may apply.

8.11 Question 4.9: How can carbon leakage mitigation measures be best designed to limit risk of resource shuffling? Please explain your reasoning.

8.12 The measures should be clearly defined in the tax legislation and the consequences of the steps to be taken if businesses are found to be in breach of the rules. However, note that there can be genuine business reasons for particular sales and if sufficiently evidenced, these circumstances should not be subject to tax charges or penalties.

8.13 Question 4.17: For UK sectors affected by carbon leakage risk in export markets described in 4.1 above, what approaches would you propose for the mitigation of carbon leakage risk?

8.14 Consideration must be given as to whether exports are subject to a carbon charge and if so how this may impact the ability for developing countries to purchase products from UK suppliers, due to affordability. For an initial period (there does not have to be a specified timeline), the UK could consider whether a rebate should be due on sales to named developing countries.

8.15 **Question 4.18: Should mandatory product standards apply to all UK manufactured products intended for export? Please explain your reasoning, and provide details of any impacts this would have on your sector.**

8.16 The government can review the export chargeability position for the existing CBAM schemes (EU, Canada, NZ, China) so that the UK position for exports is currently compatible with those schemes. If it is deemed that an export charge should not apply for at least the early introduction of the CBAM, it can reserve the right to change the chargeability position for exports as more overseas jurisdictions agree whether a carbon charge may apply at the place of consumption.

9 Chapter 5: Growing the market for low carbon products

9.1 **Question 5.1: Which of the following statements corresponds most with your view?**

9.2 For sales to consumers, the energy efficiency style letters and coloured ratings are familiar and easily understood. For business-to-business sales, the QR code system allows fuller data to be provided, which may be of relevance for determining CBAM calculations.

9.3 **Question 5.2: Should the government adopt mandatory labelling for products that are required to have their embodied emissions reported? Please explain your reasoning.**

9.4 In principle we would agree, as improved and clear information assists in driving customer choice. However, industry will be better placed to provide practical issues as to why mandatory labelling may be difficult. Some excise goods have mandatory labelling requirements so the CBAM team could consider the rules for these products and if they can be worked across to CBAM products.

9.5 **Question 5.6: What can the government do to support firms to join the First Movers Coalition? Please explain your reasoning.**

9.6 It is not clear from gov.uk what steps are being taken to increase the UK member numbers. If it is not already, the government can increase its support by assisting in raising awareness of the coalition to new joiners and to new buyers by ensuring staff in relevant governmental departments are aware of the scheme and are taking steps to assist in growing numbers. 3 of the 6 UK businesses that have joined the scheme are Big 4 audit firms, who will have a large reach into the emerging technology sector and businesses from sectors highlighted in the net zero ten-point plan and the government could engage (if it is not already) with a campaign of raising the profile via webinar speakers/conference attendance/stakeholder networking. The output should be stressing the benefits to businesses of onboarding.

10 Chapter 6: Emissions reporting framework

10.1 **Question 6.1: Should the government introduce a new framework to enable the reporting and collection of product level emissions?**

10.2 Maybe/Undecided. If the government wants to be able to ascertain embedded emissions data for Scope 2 and 3 products, the suggested framework should be able to capture this information. The Life Cycle Assessment

('LCA') appears to capture the more statistically accurate data compared to the Deposit Values, though that comes with a drawback that it appears to be administratively burdensome and with attributed costs.

10.3 Question 6.5: Would you prefer a single emissions reporting framework for all carbon leakage policy measures? Please explain your reasoning

10.4 Maybe. Whilst we would like a reporting framework that is simple and clear for businesses to administer, it must also provide certainty to allow businesses to plan ahead. In principle a single framework would appear to be the most straightforward for businesses to understand, but it may end up being very complex to accommodate all of the various sectors and products.

10.5 Question 6.6: What are your views on balancing the administrative burden of product emissions reporting against the accuracy of results?

10.6 The complexity of administering the proposed framework should not be underestimated for businesses with large portfolios of products, though we note that the more complex LCA would produce the most accurate results on embedded carbon levels in products. We note that if the option 1 average rate was used for a sector, there would be businesses that are ahead in their net zero journey but would be penalised by the average rate, so that is not necessarily fair to these businesses, though their input will be key in understanding if the administrative advantage offsets the resources and costs involved in a more complex bureaucratic scheme.

10.7 Question 6.8: Do you have a preference for how default values could be calculated? What are the advantages or disadvantages of the options?

10.8 The option one average for sector may be unattractive on a cost basis, as it disadvantages businesses that are further ahead in their net zero journey and it may not incentivise businesses paying the average rate who are very much behind. That said, if the difference in tax rate between the two extremes across the average are not very different, the disadvantage on cost may be offset by the reduced time and resource required to administer the scheme. At this time, the average rate compared to the minimum/maximum ranges for the sectors are impossible to know.

11 Chapter 7: Designing the mechanism for embodied emissions reporting

11.1 Question 7.1: Should government pursue a Life Cycle Assessment-based approach?

11.2 Don't know.

It has an increased administrative burden but it allows for the most accurate calculation; it would require industry experience to understand how straightforward it is to fulfil the bureaucratic requirements.

11.3 Question 7.5: Should the government introduce a data collection period before the full implementation of carbon leakage policy measures? What are the advantages or disadvantages of the options?

11.4 Maybe/undecided.

The EU's CBAM scheme has implemented a data collection period prior to the launch of the full scheme and the UK would be able to learn about what issues arose during the data collection period. For the introduction of a new tax, the government could instead run a pilot period undertaken initially with a small number of businesses, then at each stage of testing, opening up the trial to a greater number based on a certain criterion e.g. specific sectors. A trial period based on limited volunteers may prevent a broader number of businesses

having to run a dual system in the period prior to full implementation. A pilot period was launched for both phases of Making Tax Digital for VAT and VAT registered persons only had to take part in the data collection period if they chose to.

11.5 Question 7.6: If Yes or Maybe/Undecided, how long should this data collection period be?

11.6 If a pilot is implemented, the team would need to set out the timeline. If the UK ETS is to be phased out with the introduction of a carbon leakage scheme, the trial data collection period for volunteers can run up to the point of the closure of the ETS.

11.7 Question 7.7: Should only those businesses in scope of current or upcoming policies be required report information about the emissions of products? Please explain your reasoning. [5 point scale: Yes, strongly agree; Yes, agree; Maybe/Undecided; No, disagree; No, strongly disagree] [Open text]

11.8 Yes, agree. The government can learn about arising issues as each sector becomes obliged to report the CBAM so that the expansion of the scheme to a wider audience will have the best chance of identifying areas for troubleshooting, so that the system and reporting processes are better understood and improved before the numbers of businesses affected grows.

12 Chapter 8: Reporting to government and delivery of the IT system

12.1 Question 8.3: Do you have a preference for how frequently emissions data should be reported?

12.2 As the current UK ETS reports annually and the Climate Change Levy reports every two years, options 2 or 4 would be familiar timescale for businesses.

12.3 Question 8.4: What are the advantages or disadvantages of the options? Please explain your reasoning.

12.4 Having a longer reporting period provides businesses with certainty for a fixed period and they can plan accordingly. However, as CBAMs may be under development in other countries by the time the UK version is introduced (if it is taken forward), the UK government may wish to have the flexibility to adapt to the global position. That said, we would still like sufficient lead time to be available to businesses so that they are able to accommodate change effectively, which may rule out the 'different frequencies' option.

12.5 Question 8.6: Should embodied emissions data for products be made publicly available through either labelling, a publicly accessible database, both, or neither? Please explain your reasoning.

12.6 Agree. In principle, a publicly accessible database would provide clear guidance with the same accessibility for industry, agents and consumers alike. Labelling may also have its place, though feedback from industry should drive the decision on this.

12.7 There are specific requirements for the labelling of excise goods (alcohol and tobacco) so if the CBAM is expanded to include such goods at a future time, this must also be considered.

13 Public Sector Equality Duty

13.1 Question 9.1: Do you have any views about the implications of the policy measures explored in this consultation on people with protected characteristics and how any potential negative impacts could be mitigated? Please provide any relevant evidence.

- 13.2 If a CBAM is introduced and initially only imposed on businesses in place of the current ETS and with similar costs, in principle, consumer prices should be largely unaffected by the changeover, in which case there would be little impact on those with protected characteristics.
- 13.3 Where CBAM costs exceed the current ETS, or if the CBAM is expanded to new products in due course, the cost of the scheme will highly likely cause increases in the price charged to consumers, in which cases those on lower incomes will be impacted. The government has the relevant statistics on which people with protected characteristics fall within such pay brackets. There may be a requirement to consider whether benefits and tax credits need to be revised accordingly.

14 Acknowledgement of submission

- 14.1 We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

The Chartered Institute of Taxation

7 July 2023