



14 July 2026

(26-5133)

Page: 1/16

Original: English

EUROPEAN UNION AND ITS MEMBER STATES – CARBON BORDER ADJUSTMENT MECHANISM

REQUEST FOR THE ESTABLISHMENT OF A PANEL BY THE RUSSIAN FEDERATION

The following communication, dated 10 July 2026, from the delegation of the Russian Federation to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On 12 May 2025, the Russian Federation requested consultations with the European Union ("EU") and its Member States pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), Article XXIII of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), Article 6 of the *Agreement on Import Licensing Procedures* ("Import Licensing Agreement") and Articles 4.1 and 30 of the *Agreement on Subsidies and Countervailing Measures* ("SCM Agreement") concerning the Carbon Border Adjustment Mechanism Package ("CBAM Package"), as well as the export subsidy provided by the EU and its Members under the Scheme (System) for Greenhouse Gas Emission Allowances Trading ("EU ETS"). The request was circulated on 19 May 2025 as document WT/DS639/1, G/L/1573, G/SCM/D142/1, G/LIC/D/55. On 22 May 2025, the EU declined the Russian Federation's request to enter into consultations (circulated as document WT/DS639/2 on 26 May 2025). Consequently, the dispute was not settled.

As a result, the Russian Federation respectfully requests the establishment of a Panel pursuant to Article 6 of the DSU, Article XXIII of the GATT 1994 and Article 6 of the Import Licensing Agreement to examine the measures adopted and maintained by the EU and its Member States under the CBAM Package¹, as well as pursuant to Articles 4 and 30 of the SCM Agreement, Article 6 of the DSU and Article XXIII of the GATT 1994 to examine the export subsidy provided by the EU and its Member States under the EU ETS.

1. BACKGROUND

In October 2003, the EU adopted Directive 2003/87/EC² establishing the EU ETS. The EU ETS is a greenhouse gas emissions allowance trading system operating within the EU. The EU ETS established a limit on the total amount of greenhouse gases that can be emitted by installations covered under this system ("cap"). This cap is expressed in emission allowances with one allowance giving the right to emit one tonne of CO₂ equivalent.³ Allowances may be allocated for free, auctioned or traded.

¹ For the purpose of this request, the Russian Federation refers to the term "CBAM Package" as a collective reference to the rules and requirements established by the EU in its legal instruments concerning the Carbon Border Adjustment Mechanism ("CBAM"), in particular, the umbrella Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 Establishing a Carbon Border Adjustment Mechanism ("Regulation (EU) 2023/956"), OJ L 130, 16.5.2023, pp. 52-104 (*as amended*), as well as delegated and implementing acts and other related documents.

² Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 Establishing a Scheme for Greenhouse Gas Emission Allowance Trading within the Community and Amending Council Directive 96/61/EC ("Directive 2003/87/EC"), OJ L 275, 25.10.2003, pp. 32-46.

³ European Commission, About the EU ETS (Online: https://climate.ec.europa.eu/eu-action/eu-emissions-trading-system-eu-ets/about-eu-ets_en).

After the system was put in place, in 2008, the EU declared that there was a risk of so-called "carbon leakage" resulting from the application of the EU ETS.⁴ According to the EU, "carbon leakage" might occur if EU companies move their production of goods covered by the EU ETS to third countries, or if the EU goods are replaced by like goods from third countries, whether on the EU market or the markets of third countries.⁵

Taking the alleged "carbon leakage" into account, the EU amended⁶ Directive 2003/87/EC and introduced criteria for determining whether a particular sector or subsector is, in the EU's view, exposed to a risk of "carbon leakage" and, therefore, has to be provided additional measures of support. In particular, such sectors and subsectors are eligible to receive additional allowances allocated free of charge compared to sectors and subsectors not considered by the EU to be exposed to a risk of "carbon leakage".

In May 2023, the EU adopted Regulation (EU) 2023/956 establishing the CBAM which was also designed to prevent the alleged risk of "carbon leakage".⁷ In other words, the EU established the CBAM to prevent shift of the production outside the EU and to protect the EU industries from imports.

The EU attempts to present the rules and requirements of the CBAM Package and the EU ETS as measures designed to combat climate change. The Russian Federation, while reaffirming its strong support for international efforts to combat climate change, contends that this request for the establishment of a panel does not concern genuine environmental measures, but rather highly trade-restrictive and discriminatory measures established by the EU under the pretext of climate policy. As the EU itself acknowledges, "the introduction of a CBAM leads to a reduction in imports in the EU 27",⁸ while the CBAM is used as an instrument to boost competitiveness and unlock additional investment capacity in the EU.⁹ In addition, the CBAM is expected to generate additional revenues for the EU budget derived from imports originating in third countries, thereby transferring financial resources from exporting countries to the EU and its Member States,¹⁰ including resources that could otherwise contribute to domestic climate-change mitigation efforts of the exporting countries.

Against this background, the Russian Federation challenges the following.

2. MEASURES AT ISSUE

2.1. Measures under the CBAM Package

Regulation (EU) 2023/956 establishes the CBAM¹¹ and sets out the rules and requirements applicable to certain imported goods originating from third countries (hereinafter "covered goods"¹²).¹³ To implement these rules and requirements, the European Commission has developed and adopted numerous implementing and delegated acts, as well as amendments thereto, and other related documents. Additional implementing and delegated acts are expected to further specify and implement the CBAM Package. The continuous modification of the CBAM rules and requirements creates a moving target and, in itself, presents an excessive challenge for the importers, exporters and other involved operators who face uncertainty and must constantly adapt to ever new aspects

⁴ Directive 2003/87/EC as amended by Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 Amending Directive 2003/87/EC so as to Improve and Extend the Greenhouse Gas Emission Allowance Trading Scheme of the Community.

⁵ Ibid.

⁶ Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 Amending Directive 2003/87/EC so as to Improve and Extend the Greenhouse Gas Emission Allowance Trading Scheme of the Community, OJ L 140, 5.6.2009, pp. 63–87.

⁷ Regulation (EU) 2023/956, preamble, recital 9, Article 1.1.

⁸ Proposal for a Regulation of the European Parliament and of the Council Establishing a Carbon Border Adjustment Mechanism, COM(2021) 564 final, p. 48 (Online: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0564>).

⁹ European Commission, CBAM: New Commission Proposal Will Simplify and Strengthen (Online: https://taxation-customs.ec.europa.eu/news/cbam-new-commission-proposal-will-simplify-and-strengthen-2025-02-26_en).

¹⁰ By EU's own assessments in 2021, "CBAM is expected to generate additional revenue, which for 2030 is estimated at above EUR 2.1 billion" (Online: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0564>).

¹¹ See, *inter alia*, Regulation (EU) 2023/956, Article 1.

¹² List of goods subject to the CBAM Package is provided in Annex 1 to this request.

¹³ See, *inter alia*, Regulation (EU) 2023/956, Articles 2.1, 2.2, Annex I.

of the convoluted and overburdensome rules and requirements of the CBAM Package governing the importation of the covered goods into the EU.

The CBAM Package provides for multiple interlinked trade barriers for the importation of the covered goods into the EU, making such importation extremely complex, burdensome, costly, time-consuming, and creating restrictions for trade.

The CBAM Package includes, in particular, the following:

- a. rules and requirements for obtaining an authorisation to import the covered goods into the EU (the status of authorised CBAM declarant);¹⁴
- b. rules and requirements for monitoring, collecting, calculating¹⁵ and reporting¹⁶ the "embedded emissions" in the covered goods imported into the EU¹⁷, including the submission of a CBAM declaration;
- c. rules and requirements concerning verification of "embedded emissions" in the covered goods imported into the EU¹⁸ and accreditation of verifiers for the purposes of such verification¹⁹;
- d. rules and requirements related to the purchase by an authorised CBAM declarant of a specific number of CBAM certificates²⁰ corresponding to the "emissions embedded" in the covered goods imported into the EU;²¹
- e. rules and requirements related to the maintenance on the account of an authorised CBAM declarant at the CBAM registry of a specific number of CBAM certificates corresponding to certain amount of "emissions embedded" in the covered goods imported into the EU;²²
- f. rules and requirements related to the surrender of the CBAM certificates corresponding to the "embedded emissions" in the covered goods imported into the EU.²³

The importation of the covered goods into the EU is conditional upon obtaining the status of authorised CBAM declarant. Without obtaining the status of authorised CBAM declarant a person is prohibited from importing the covered goods into the EU.

The rules, including the procedures, for obtaining the status of authorised CBAM declarant subject the importation of the covered goods into the EU to administratively burdensome, lengthy and highly discretionary authorization procedures administered by the competent authorities of the EU Member States. Applicants are required, *inter alia*, to submit extensive commercial and financial information, demonstrate their financial and operational capacity, including through financial guarantees, and provide any additional information requested by the competent authorities.

Moreover, as part of the reporting obligations in connection with the importation of the covered goods the EU requires authorised CBAM declarants to submit annual CBAM declarations containing, *inter alia*, information on the total quantity of imported goods, the total "embedded emissions" in those goods, the total number of CBAM certificates to be surrendered, the carbon price effectively paid in the country of origin. The information provided for in the CBAM declaration must be verified by the verifiers accredited specifically for this purpose, in case actual emissions data is reported. The copies of verification reports issued by accredited verifiers must be submitted as part of the

¹⁴ See, *inter alia*, Regulation (EU) 2023/956, Articles 4, 5, 17, 25.1.

¹⁵ See, *inter alia*, Regulation (EU) 2023/956, Articles 7, 10.5, Annex IV.

¹⁶ See, *inter alia*, Regulation (EU) 2023/956, Articles 6, 19.

¹⁷ For the purpose of this request, "embedded emissions" are understood as certain greenhouse gas emissions attributed by the EU to the specific covered goods originating from third countries and calculated in accordance with the rules established by the EU in respect of each of the goods covered.

¹⁸ See, *inter alia*, Regulation (EU) 2023/956, Articles 8, 10.5, 10.6, 10.7, 19, Annex VI.

¹⁹ See, *inter alia*, Regulation (EU) 2023/956, Articles 10a, 18.

²⁰ The CBAM certificate is a certificate corresponding to one tonne of CO₂ equivalent of "embedded emissions" in the covered goods.

²¹ See, *inter alia*, Regulation (EU) 2023/956, Articles 20, 21, 24.

²² See, *inter alia*, Regulation (EU) 2023/956, Articles 22.2, 22.2a, 22.3.

²³ See, *inter alia*, Regulation (EU) 2023/956, Articles 22, 31.

relevant CBAM declaration. The EU also requires that the carbon price paid in the country of origin shall be certified by a person that is independent from both the CBAM declarant and the authorities of the country of origin.

In addition, the rules and requirements related to reporting, including the submission of CBAM declarations, imply, *inter alia*, that producers in third countries must monitor, collect, and calculate emissions data in accordance with methodologies and procedures prescribed by the EU. The "emissions embedded" in the covered goods imported into the EU can be calculated on the basis of actual emissions data or on the country-specific default values established by the EU and increased by a mark-up also designed by the EU. In addition, such producers must provide data and supporting documentation to authorised CBAM declarants. The rules and requirements related to reporting, including the submission of CBAM declarations, imply, *inter alia*, that producers in third countries must monitor, collect, and calculate emissions data in accordance with methodologies and procedures prescribed by the EU, provide data and supporting documentation to authorised CBAM declarants, while such data should be verified by accredited verifiers. The rules, including the procedures, pertaining to accreditation of persons who can serve as verifiers under the CBAM Package substantially limit the number of such verifiers available to the importers, exporters and producers.

The EU also requires authorised CBAM declarants to maintain a certain number of CBAM certificates in their accounts in the CBAM registry at the end of each quarter and to surrender annually a number of CBAM certificates corresponding to the "embedded emissions" in the covered goods imported into the EU. To comply, authorised CBAM declarants must purchase the required number of CBAM certificates. The method for calculation of the price at which the CBAM certificates are sold is established by the European Commission. The requirements to purchase at a price and surrender such certificates results in mandatory payments in connection with importation of the covered goods into the EU.

The rules and requirements described above and the associated administrative and compliance costs substantially restrict the access of the covered goods into the EU market.

The CBAM Package also provides for the rules and requirements related to its enforcement, including anti-circumvention investigations and measures²⁴ as well as heavy penalties²⁵.

Furthermore, the Regulation (EU) 2023/956 envisages that the CBAM Package will become more stringent over time, in particular, through the expansion of the goods and greenhouse gases to be covered, as well as the increase in the price of CBAM certificates and the number of certificates required to be purchased and surrendered by the importers.²⁶ That would result in further increase in burden, including costs borne, in connection with importation and limiting effect of the CBAM Package on the importation of the covered goods into the EU.

At the same time, the rules and requirements of the CBAM Package described above provide for a number of exceptions and exemptions ("derogations"), including origin-based derogations. These include, *inter alia*, the following:

- a. An importer may be exempted from the rules and requirements of the CBAM Package if such importer imports into the EU in a given calendar year an amount of the covered goods not exceeding a specific threshold established by the EU.²⁷
- b. The covered goods imported into the EU from certain countries are either fully or partially exempted from the rules and requirements of the CBAM Package.²⁸ For instance, the CBAM Package does not apply to the covered goods originating in Iceland, Norway, Liechtenstein and Switzerland.
- c. Electricity imported from a third country or territory which has an electricity market integrated with the EU internal market for electricity is exempted from the rules and

²⁴ See, *inter alia*, Regulation (EU) 2023/956, Article 27.

²⁵ See, *inter alia*, Regulation (EU) 2023/956, Article 26.

²⁶ See, *inter alia*, Regulation (EU) 2023/956, Article 30.

²⁷ See, *inter alia*, Regulation (EU) 2023/956, Articles 2a, 25a, Annex VII.

²⁸ See, *inter alia*, Regulation (EU) 2023/956, Articles 2.4, 2.6, Annex III.

requirements of the CBAM Package if the EU considers that there is no technical solution for the application of the CBAM to importation of electricity into the customs territory of the EU from that third country or territory and that such country or territory complies with certain other conditions set out by the EU.²⁹

d. The CBAM Package provides for the possibility of taking into account carbon pricing mechanisms of certain third countries,³⁰ including pursuant to agreements concluded between such third countries and the EU,³¹ thereby reducing the costs associated with the importation of the covered goods into the EU.

Overall, the CBAM Package establishes significant trade barriers for the covered goods imported into the EU, including those originating in the Russian Federation, and limits the right of persons of third countries to import the covered goods into the customs territory of the EU.

The legal instruments and other documents through which the CBAM Package is established and implemented are listed in Annex 2 to this Request.

The Legal Basis for the Complaint

The measures under the CBAM Package appear to be inconsistent with the EU's and its Member States' obligations under the covered agreements.

1. The EU and its Member States failed to grant immediately and unconditionally to the covered goods originating in the Russian Federation the advantage, favour, privilege or immunity they grant to like goods originating in certain other countries, by:

- a. requiring to purchase and surrender a varying number of CBAM certificates corresponding to "embedded emissions" in the covered goods imported into the EU calculated on the basis of either actual emissions data or on country-specific default values;
- b. requiring to purchase and surrender a varying number of CBAM certificates corresponding to "embedded emissions" in the covered goods imported into the EU from certain third countries taking into account carbon price paid in such third countries, including on the basis of an agreement between a third country and the EU;
- c. requiring to maintain on the account of an authorised CBAM declarant at the CBAM registry a varying number of CBAM certificates corresponding to certain amount of "embedded emissions" in the covered goods imported into the EU;
- d. exempting imported covered goods, including electricity, originating in certain third countries (in particular in Iceland, Norway, Liechtenstein and Switzerland) from the rules and requirements of the CBAM Package;

and **thereby acted inconsistently with Article I:1 of the GATT 1994.**

2. The EU and its Member States failed to accord to the commerce of the Russian Federation treatment no less favourable than that provided for in the EU's Schedule of Concessions, by requiring CBAM declarants to purchase at a certain price and then surrender a number of CBAM certificates in connection with importation of the covered goods into the EU, and **thereby acted inconsistently with Article II:1(a) of the GATT 1994.**

The EU and its Member States failed to exempt the covered goods when imported to the EU from ordinary customs duties, other duties and charges of any kind imposed on or in connection with the importation in excess of those provided for in the EU's Schedule of Concessions, by requiring CBAM declarants to purchase at a certain price and then surrender a number of CBAM certificates in

²⁹ See, *inter alia*, Regulation (EU) 2023/956, Articles 2.3a, 2.7, 2.8, Annex III.

³⁰ See, *inter alia*, Regulation (EU) 2023/956, Articles 9, 10.5, 10.6, 10.7.

³¹ See, *inter alia*, Regulation (EU) 2023/956, Article 2.12.

connection with importation of the covered goods into the EU, and **thereby acted inconsistently with Article II:1(b) of the GATT 1994.**

3. The EU and its Member States instituted and applied a restriction on the importation of the covered goods by requiring CBAM declarants to maintain at their accounts at the CBAM registry a specific number of purchased CBAM certificates corresponding to certain amount of "embedded emissions" in the covered goods imported into the EU, and **thereby acted inconsistently with Article XI:1 of the GATT 1994.**

4. The EU and its Member States failed to comply with their obligations not to institute or maintain any prohibitions or restrictions other than duties, taxes or other charges on the importation of any product of the Russian Federation, by imposing the following requirements:

- a. to obtain the status of authorized CBAM declarant as a condition for importing covered goods into the EU;
- b. to monitor, collect, calculate, and report "embedded emissions" in the covered goods imported into the EU, including to submit a CBAM declaration;
- c. to verify "embedded emissions" in covered goods imported into the EU by accredited verifiers;
- d. to maintain on the account of an authorised CBAM declarant at the CBAM registry a specific number of purchased CBAM certificates corresponding to certain amount of "embedded emissions" in the covered goods imported into the EU;

and **thereby acted inconsistently with Article XI:1 of the GATT 1994.**

5. Bulgaria, Croatia, Estonia, Latvia and Lithuania failed to comply with their obligations not to impose restrictions on the right to trade in goods by imposing the following requirements:

- a. to obtain the status of authorized CBAM declarant as a condition for importing covered goods into the EU (in particular into the territories of the said EU Member States);
- b. to monitor, collect, calculate, and report "embedded emissions" in the covered goods imported into the EU (in particular into the territories of the said EU Member States), including to submit a CBAM declaration;
- c. to verify "embedded emissions" in covered goods imported into the EU (in particular into the territories of the said EU Member States) by accredited verifiers;
- d. to maintain on the account of an authorised CBAM declarant at the CBAM registry a specific number of purchased CBAM certificates corresponding to certain amount of "embedded emissions" in the covered goods imported into the EU (in particular into the territories of the said EU Member States);
- e. to purchase at a certain price and then surrender a specific number of CBAM certificates corresponding to certain amount of "embedded emissions" in the covered goods imported into the EU (in particular into the territories of the said EU Member States);

and **thereby acted inconsistently with** paragraph 2, second sentence, of the **Protocol** for the Accession of **Bulgaria** to the WTO Agreement (WT/ACC/BGR/7, 11 October 1996) and the General Council's Decision of 2 October 1996 (WT/ACC/BGR/6, 11 October 1999) in conjunction with paragraphs 25, 92 of the Report of the Working Party on the Accession of Bulgaria to the WTO (WT/ACC/BGR/5, 20 September 1996); paragraph 2, second sentence, of the **Protocol** of Accession of **Croatia** to the WTO Agreement (WT/ACC/HRV/61, 19 September 2000) and the General Council's Decision of 17 July 2000 (WT/ACC/HRV/60, 3 August 2000) in conjunction with paragraphs 47, 225 of the Report of the Working Party on the Accession of Croatia to the WTO (WT/ACC/HRV/59, 29 June 2000); paragraph 2, second sentence, of the **Protocol** of Accession of **Estonia** to the WTO Agreement (WT/ACC/EST/30, 5 July 1999) and the General Council's Decision of 21 May 1999 (WT/ACC/EST/29, 5 July 1999) in conjunction with paragraphs 41, 141 of the Report of the Working Party on the Accession of Estonia to the WTO (WT/ACC/EST/28, 9 April 1999); paragraph 2, second

sentence, of the **Protocol** of Accession of **Latvia** to the WTO Agreement (WT/ACC/LVA/35, 23 October 1998) and the General Council's Decision of 14 October 1998 (WT/ACC/LVA/34, 23 October 1998) in conjunction with paragraphs 40, 131 of the Report of the Working Party on the Accession of Latvia to the WTO (WT/ACC/LVA/32, 30 September 1998); paragraph 2, second sentence, of the **Protocol** of Accession of **Lithuania** to the WTO Agreement (WT/ACC/LTU/54, 15 January 2001) and the General Council's Decision of 8 December 2000 (WT/ACC/LTU/53, 15 January 2001) in conjunction with paragraphs 42, 189 of the Report of the Working Party on the Accession of Lithuania to the WTO (WT/ACC/LTU/52, 7 November 2000), respectively.

6. The EU and its Member States failed to ensure that the administration of their rules and requirements for obtaining the status of authorised CBAM declarant to import the covered goods is uniform, impartial and reasonable, and **thereby acted inconsistently with Article X:3(a) of the GATT 1994.**

7. The EU and its Member States failed to ensure that the rules, including administrative (authorization) procedures, for obtaining the status of authorized CBAM declarant, which authorizes the importation of the covered goods into the EU, are in conformity with **Article 1.2 of the Agreement on Import Licensing Procedures and relevant provisions of the GATT 1994.**

8. The EU and its Member States failed to ensure that the rules and requirements for obtaining status of authorized CBAM declarant, in the absence of which importation of the covered goods into the EU is prohibited, are neutral in application and administered in a fair and equitable manner, **contrary to Article 1.3 of the Agreement on Import Licensing Procedures.**

9. The EU and its Member States failed to ensure that their administrative procedures used to implement rules and requirements for obtaining the status of authorized CBAM declarant (i) do not have trade-restrictive and trade-distortive effects on imports additional to those caused by the imposition of such rules and requirements; (ii) correspond in scope and duration to such rules and requirements they are used to implement; and (iii) are not more administratively burdensome than absolutely necessary to administer such rules and requirements, and **thereby acted inconsistently with Article 3.2 of the Agreement on Import Licensing Procedures.**

The Russian Federation is of the view that, as described above, the rules and requirements of the CBAM Package constitute border measures, i.e. measures on or in connection with importation, that fall within the scope of Articles II and XI of the GATT 1994 and the relevant provisions of the Agreement on Import Licensing Procedures, and are inconsistent therewith. Various legal acts and other documents of the EU support this understanding. Certain other EU acts and documents, however, portray incertitude of the EU's officials about the nature of the rules and requirements of the CBAM Package and whether they are border measures.

Without prejudice to the position of the Russian Federation regarding the relevance of the qualification by a Member of its measures in its own legal acts and other documents, the Russian Federation submits the following.

In the course of this dispute the EU failed to enter into consultations in good faith with a view to reaching a mutually satisfactory solution, as required by Articles 4.1, 4.2 and 4.3 of the DSU, consequently, failing to clarify multiple ambiguous aspects of the measures at issue, including their nature, design and operation.

In the event if in the course of this dispute the EU chooses to submit and demonstrates that the measures at issue are other than border measures, the Russian Federation, nonetheless, claims that they are WTO-inconsistent on the following grounds:

10. The EU and its Member States subject the covered goods imported into the EU to internal taxes or other charges in excess of those applied to like domestic products by requiring CBAM declarants to purchase at a certain price and then surrender a number of CBAM certificates in connection with importation of the covered goods into the EU, and **thereby acted inconsistently with the first sentence of Article III:2 of the GATT 1994.** Moreover, the EU and its Member States apply these measures at issue in a manner contrary to the principles set forth in **Article III:1 of the GATT 1994**, thereby acting **in a manner inconsistent with the second sentence of Article III:2 of the GATT 1994.**

11. The EU and its Member States failed, with respect to the covered goods imported into the EU, to accord treatment no less favourable than that accorded to like products of national origin by requiring:

- a. to obtain the status of authorized CBAM declarant;
- b. to monitor, collect, calculate, and report emissions in the covered goods imported into the EU, including to submit a CBAM declaration;
- c. verification of "embedded emissions" in the covered goods imported into the EU by accredited verifiers;
- d. CBAM declarants to maintain at their accounts at the CBAM registry a specific number of purchased CBAM certificates.

and **thereby acted inconsistently with Article III:4 of the GATT 1994**. In doing so, the EU and its Member States also afford protection to their domestic production **in a manner inconsistent with Article III:1 of the GATT 1994**.

2.2. Export Subsidy

As described above, under the EU ETS the emission allowances, that provide the right for certain installations in the EU and its Member States to emit particular amount of emissions, may be allocated for free, auctioned or traded. The primary sources of rules on free allocation of allowances are Article 10a of Directive 2003/87/EC and EU Commission Delegated Regulation (EU) 2019/331 of 19 December 2018 Determining Transitional Union-Wide Rules for Harmonized Free Allocation of Emission Allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council.³² Specific rules on the free allocation of allowances in sectors and subsectors in "carbon leakage" list are elaborated in Article 10b of Directive 2003/87/EC.

As the EU stated in the Explanatory Memorandum to the Commission Delegated Decision concerning the determination of sectors and subsectors deemed at risk of "carbon leakage",³³ "[w]hen a sector or subsector is placed on the "carbon leakage" list, each installation in that (sub)sector is granted free allocation at 100 % of its relevant benchmark level. Those not on the list will receive 30 %, up to 2026, with the free allocation to be gradually phased out by 2030. Consequently, the "carbon leakage" list has an economic significance as free allowances have a substantial financial value."

Thus, the EU allocates additional free of charge allowances to sectors and subsectors in "carbon leakage" list. In order to determine such sectors, the EU uses the following formula set out in Article 10b of Directive 2003/87/EC: "[M]ultiplying the intensity of trade with third countries of those sectors and subsectors, defined as the ratio between the total value of exports to third countries plus the value of imports from third countries and the total market size for the European Economic Area (annual turnover plus total imports from third countries), by their emission intensity, measured in kgCO₂, divided by their gross value added (in euros) shall exceed 0,2 threshold."

This formula can be illustrated as follows:

$$\frac{\text{total value of exports + value of imports}}{\text{annual turnover + total imports}} \times \frac{\text{emission intensity}}{\text{gross value added}} > 0,2$$

This results in the allocation of additional free of charge allowances being dependent on the value of exports in sectors and subsectors in "carbon leakage" list. By allocating additional free of charge allowances the EU seeks to maintain and strengthen the competitiveness of the relevant domestic industries, including their export performance.

³² Commission Delegated Regulation (EU) 2019/331 of 19 December 2018 Determining Transitional Union-Wide Rules for Harmonized Free Allocation of Emission Allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council, OJ L 59, 27.2.2019, pp. 8-69.

³³ Commission Delegated Decision (EU) 2019/708 of 15 February 2019 supplementing Directive 2003/87/EC of the European Parliament and of the Council Concerning the Determination of Sectors and Subsectors Deemed at Risk of Carbon Leakage for the Period 2021 to 2030, OJ L 120, 8.5.2019, pp. 20-26.

The Legal Basis for the Complaint

The Russian Federation considers that this measure provides certain sectors and subsectors in "carbon leakage" list with a financial contribution:

- a. either in the form of a government practice that involves a direct transfer of funds within the meaning of Article 1.1(a)(1)(i) of the SCM Agreement, or
- b. in the form of government revenue otherwise due that is foregone or not collected within the meaning of Article 1.1(a)(1)(ii) of the SCM Agreement,

that thereby confers a benefit within the meaning of Article 1.1(b) of the SCM Agreement.

The Russian Federation considers that this measure is a prohibited subsidy contingent upon export performance.

The measure at issue described above appears to be inconsistent with **Articles 3.1(a) and 3.2 of the SCM Agreement**, because the EU and its Member States grant or maintain a subsidy contingent upon export performance as one of several conditions.

The Russian Federation requests that the Panel recommend that the EU withdraw the subsidy without delay pursuant to Article 4 of the SCM Agreement.

The Russian Federation also considers that the EU and its Member States have acted inconsistently with **Article XVI of the GATT 1994** because they have granted and maintained subsidies, including price support, which operate directly or indirectly to increase exports.

The measures described above appear to nullify or impair the benefits accruing to the Russian Federation directly or indirectly under the cited covered agreements.

This request covers all measures at issue as well any amendments, replacements, supplements, extensions, implementing, renewal and related measures.

Based on the foregoing, the Russian Federation respectfully requests that the Dispute Settlement Body ("DSB") establish a Panel to examine these matters with standard terms of reference as set out in Article 7.1 of the DSU.

The Russian Federation asks this request to be placed on the agenda of the meeting of the DSB that is to be held on 24 July 2026.

Annex 1

List of goods and greenhouse gases covered by the CBAM Package

	Column 1	Column 2
	CN code and description	Greenhouse gas
1.	Cement	
1.1	ex 2507 00 80 – Other kaolinic clays except non-calcined kaolinic clays	Carbon dioxide
1.2	2523 10 00 – Cement clinkers	Carbon dioxide
1.3	2523 21 00 – White Portland cement, whether or not artificially coloured	Carbon dioxide
1.4	2523 29 00 – Other Portland cement	Carbon dioxide
1.5	2523 30 00 – Aluminous cement	Carbon dioxide
1.6	2523 90 00 – Other hydraulic cements	Carbon dioxide
2.	Electricity	
2.1	2716 00 00 – Electrical energy	Carbon dioxide
3.	Fertilisers	
3.1	2808 00 00 – Nitric acid; sulphonitric acids	Carbon dioxide and nitrous oxide
3.2	2814 – Ammonia, anhydrous or in aqueous solution	Carbon dioxide
3.3	2834 21 00 – Nitrates of potassium	Carbon dioxide and nitrous oxide
3.4	3102 – Mineral or chemical fertilisers, nitrogenous	Carbon dioxide and nitrous oxide
3.5	3105 – Mineral or chemical fertilisers containing two or three of the fertilising elements nitrogen, phosphorus and potassium; other fertilisers; goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg Except: 3105 60 00 – Mineral or chemical fertilisers containing the two fertilising elements phosphorus and potassium	Carbon dioxide and nitrous oxide
4.	Iron and steel	
4.1	72 – Iron and steel Except: 7202 2 – Ferro-silicon 7202 30 00 – Ferro-silico-manganese 7202 50 00 – Ferro-silico-chromium 7202 70 00 – Ferro-molybdenum 7202 80 00 – Ferro-tungsten and ferro-silico-tungsten 7202 91 00 – Ferro-titanium and ferro-silico-titanium 7202 92 00 – Ferro-vanadium 7202 93 00 – Ferro-niobium 7202 99 – Other: 7202 99 10 – Ferro-phosphorus 7202 99 30 – Ferro-silico-magnesium 7202 99 80 – Other 7204 – Ferrous waste and scrap; remelting scrap ingots and steel	Carbon dioxide

4.2	2601 12 00 – Agglomerated iron ores and concentrates, other than roasted iron pyrites	Carbon dioxide
4.3	7301 – Sheet piling of iron or steel, whether or not drilled, punched or made from assembled elements; welded angles, shapes and sections, of iron or steel	Carbon dioxide
4.4	7302 – Railway or tramway track construction material of iron or steel, the following: rails, check-rails and rack rails, switch blades, crossing frogs, point rods and other crossing pieces, sleepers (cross-ties), fish- plates, chairs, chair wedges, sole plates (base plates), rail clips, bedplates, ties and other material specialised for jointing or fixing rails	Carbon dioxide
4.5	7303 00 – Tubes, pipes and hollow profiles, of cast iron	Carbon dioxide
4.6	7304 – Tubes, pipes and hollow profiles, seamless, of iron (other than cast iron) or steel	Carbon dioxide
4.7	7305 – Other tubes and pipes (for example, welded, riveted or similarly closed), having circular cross-sections, the external diameter of which exceeds 406,4 mm, of iron or steel	Carbon dioxide
4.8	7306 – Other tubes, pipes and hollow profiles (for example, open seam or welded, riveted or similarly closed), of iron or steel	Carbon dioxide
4.9	7307 – Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel	Carbon dioxide
4.10	7308 – Structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, lock- gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel	Carbon dioxide
4.11	7309 00 – Reservoirs, tanks, vats and similar containers for any material (other than compressed or liquefied gas), of iron or steel, of a capacity exceeding 300 l, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide
4.12	7310 – Tanks, casks, drums, cans, boxes and similar containers, for any material (other than compressed or liquefied gas), of iron or steel, of a capacity not exceeding 300 l, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide
4.13	7311 00 – Containers for compressed or liquefied gas, of iron or steel	Carbon dioxide
4.14	7318 – Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel	Carbon dioxide
4.15	7326 – Other articles of iron or steel	Carbon dioxide
5.	Aluminium	
5.1	7601 – Unwrought aluminium	Carbon dioxide and perfluorocarbons
5.2	7603 – Aluminium powders and flakes	Carbon dioxide and perfluorocarbons
5.3	7604 – Aluminium bars, rods and profiles	Carbon dioxide and perfluorocarbons
5.4	7605 – Aluminium wire	Carbon dioxide and perfluorocarbons
5.5	7606 – Aluminium plates, sheets and strip, of a thickness exceeding 0,2 mm	Carbon dioxide and perfluorocarbons
5.6	7607 – Aluminium foil (whether or not printed or backed with paper, paper-board, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0,2 mm	Carbon dioxide and perfluorocarbons

5.7	7608 – Aluminium tubes and pipes	Carbon dioxide and perfluorocarbons
5.8	7609 00 00 – Aluminium tube or pipe fittings (for example, couplings, elbows, sleeves)	Carbon dioxide and perfluorocarbons
5.9	7610 – Aluminium structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns); aluminium plates, rods, profiles, tubes and the like, prepared for use in structures	Carbon dioxide and perfluorocarbons
5.10	7611 00 00 – Aluminium reservoirs, tanks, vats and similar containers, for any material (other than compressed or liquefied gas), of a capacity exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide and perfluorocarbons
5.11	7612 – Aluminium casks, drums, cans, boxes and similar containers (including rigid or collapsible tubular containers), for any material (other than compressed or liquefied gas), of a capacity not exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide and perfluorocarbons
5.12	7613 00 00 – Aluminium containers for compressed or liquefied gas	Carbon dioxide and perfluorocarbons
5.13	7614 – Stranded wire, cables, plaited bands and the like, of aluminium, not electrically insulated	Carbon dioxide and perfluorocarbons
5.14	7616 – Other articles of aluminium	Carbon dioxide and perfluorocarbons
6.	Chemicals	
6.1	2804 10 00 – Hydrogen	Carbon dioxide

Annex 2

The legal instruments through which the CBAM Package is established and implemented are, in particular, as follows:

1. Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 Establishing a Carbon Border Adjustment Mechanism (*as amended*);³⁴
2. Commission Implementing Regulation (EU) 2023/1773 of 17 August 2023 Laying Down the Rules for the Application of Regulation (EU) 2023/956 of the European Parliament and of the Council as regards Reporting Obligations for the Purposes of the Carbon Border Adjustment Mechanism during the Transitional Period;³⁵
3. Commission Delegated Regulation (EU) 2025/2551 of 20 November 2025 supplementing Regulation (EU) 2023/956 of the European Parliament and of the Council by Specifying the Conditions for Granting Accreditation to Verifiers, for the Control and Oversight of Accredited Verifiers, for the Withdrawal of Accreditation and for Mutual Recognition and Peer Evaluation of Accreditation Bodies;³⁶
4. Commission Implementing Regulation (EU) 2024/3210 of 18 December 2024 Laying Down Rules for the Application of Regulation (EU) 2023/956 of the European Parliament and of the Council as regards the CBAM Registry (*as amended*);³⁷
5. Commission Implementing Regulation (EU) 2025/486 of 17 March 2025 Laying Down Rules for Application of Regulation (EU) 2023/956 of the European Parliament and of the Council as regards the Conditions and Procedures Related to the Status of Authorised CBAM Declarant (*as amended*);³⁸
6. Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 Establishing a Scheme for Greenhouse Gas Emission Allowance Trading within the Community and Amending Council Directive 96/61/EC (*as amended*), to the extent this Directive concerns CBAM;³⁹
7. Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the Verification of Data and on the Accreditation of Verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council (*as amended*);⁴⁰
8. Commission Implementing Regulation (EU) 2025/2546 of 10 December 2025 on the Application of the Principles for Verification of Declared Embedded Emissions pursuant to Regulation (EU) 2023/956 of the European Parliament and of the Council;⁴¹
9. Commission Implementing Regulation (EU) 2025/2547 of 10 December 2025 Laying Down Rules for the Application of Regulation (EU) 2023/956 of the European Parliament and the Council as regards the Methods for the Calculation of Emissions Embedded in Goods;⁴²
10. Commission Implementing Regulation (EU) 2025/2548 of 10 December 2025 laying Down Rules for the Application of Regulation (EU) 2023/956 of the European Parliament and of the Council as regards the Calculation and Publication of the Price of CBAM Certificates;⁴³
11. Commission Implementing Regulation (EU) 2025/2619 of 16 December 2025 Laying Down Rules for the Application of Regulation (EU) 2023/956 of the European Parliament and of the Council as regards the Information Communicated by Customs Authorities;⁴⁴

³⁴ OJ L 130, 16.5.2023, pp. 52-104.

³⁵ OJ L 228, 15.9.2023, pp. 94-195.

³⁶ OJ L, 2025/2551, 22.12.2025.

³⁷ OJ L, 2024/3210, 30.12.2024.

³⁸ OJ L, 2025/486, 18.3.2025.

³⁹ OJ L 275, 25.10.2003, pp. 32-46.

⁴⁰ OJ L 334, 31.12.2018, pp. 94-134.

⁴¹ OJ L, 2025/2546, 22.12.2025.

⁴² OJ L, 2025/2547, 22.12.2025.

⁴³ OJ L, 2025/2548, 22.12.2025.

⁴⁴ OJ L, 2025/2619, 22.12.2025.

12. Commission Implementing Regulation (EU) 2025/2620 of 16 December 2025 Laying Down Rules for the Application of Regulation (EU) 2023/956 of the European Parliament and of the Council as regards the Calculation of the Free Allocation Adjustment to the Number of CBAM Certificates to be Surrendered;⁴⁵

13. Commission Implementing Regulation (EU) 2025/2621 of 16 December 2025 Laying Down Rules for the Application of Regulation (EU) 2023/956 of the European Parliament and the Council as regards the Establishment of Default Values.⁴⁶

⁴⁵ OJ L, 2025/2620, 22.12.2025.

⁴⁶ OJ L, 2025/2621, 31.12.2025.

Annex 3

The legal instruments through which the Export Subsidy is granted or maintained are, in particular, as follows:

1. Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 Establishing a Scheme for Greenhouse Gas Emission Allowance Trading within the Community and Amending Council Directive 96/61/EC (*as amended*);⁴⁷
2. Commission Delegated Regulation (EU) 2019/331 of 19 December 2018 Determining Transitional Union-Wide Rules for Harmonised Free Allocation of Emission Allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (*as amended*);⁴⁸
3. Commission Implementing Regulation (EU) 2021/447 of 12 March 2021 Determining Revised Benchmark Values for Free Allocation of Emission Allowances for the Period from 2021 to 2025 pursuant to Article 10a (2) of Directive 2003/87/EC of the European Parliament and of the Council (*as amended*);⁴⁹
4. Commission Decision (EU) 2021/355 of 25 February 2021 Concerning National Implementation Measures for the Transitional Free Allocation of Greenhouse Gas Emission Allowances in accordance with Article 11(3) of Directive 2003/87/EC of the European Parliament and of the Council (notified under document C (2021) 1215) (*as amended*);⁵⁰
5. Commission Implementing Decision (EU) 2021/927 of 31 May 2021 Determining the Uniform Cross-Sectoral Correction Factor for the Adjustment of Free Allocations of Emission Allowances for the Period 2021 to 2025 (notified under document C (2021) 3745);⁵¹
6. Commission Decision of 29 June 2021 instructing the Central Administrator of the European Union Transaction Log to Enter the National Allocation Tables of Belgium, Bulgaria, Czechia, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland and Sweden into the European Union Transaction Log;⁵²
7. Commission Implementing Regulation (EU) 2019/1842 of 31 October 2019 Laying Down Rules for the Application of Directive 2003/87/EC of the European Parliament and of the Council as regards Further Arrangements for the Adjustments to Free Allocation of Emission Allowances due to Activity Level Changes (*as amended*);⁵³
8. Commission Decision 2014/746/EU of 27 October 2014 Determining, pursuant to Directive 2003/87/EC of the European Parliament and of the Council, a List of Sectors and Subsectors which are Deemed to be Exposed to a Significant Risk of Carbon Leakage for the Period 2015 to 2019 (notified under document C(2014) 7809);⁵⁴
9. Commission Delegated Decision (EU) 2019/708 of 15 February 2019 Supplementing Directive 2003/87/EC of the European Parliament and of the Council Concerning the Determination of Sectors and Subsectors Deemed at Risk of Carbon Leakage for the Period 2021 to 2030;⁵⁵
10. Commission Decision of 5 September 2013 on the Standard Capacity Utilisation Factor pursuant to Article 18(2) of Decision 2011/278/EU (2013/447/EU);⁵⁶
11. Commission Decision of 5 September 2013 Concerning National Implementation Measures for the Transitional Free Allocation of Greenhouse Gas Emission Allowances in accordance with

⁴⁷ OJ L 275, 25.10.2003, pp. 32-46.

⁴⁸ OJ L 59, 27.2.2019, pp. 8-69.

⁴⁹ OJ L 87, 15.3.2021, pp. 29-34.

⁵⁰ OJ L 68, 26.2.2021, pp. 221-226.

⁵¹ OJ L 203, 9.6.2021, pp. 14-15.

⁵² OJ C 302, 28.7.2021, pp. 1-464.

⁵³ OJ L 282, 4.11.2019, pp. 20-24.

⁵⁴ OJ L 308, 29.10.2014, pp.114-124.

⁵⁵ OJ L 120, 8.5.2019, pp.20-26.

⁵⁶ OJ L 240, 7.9.2013, pp. 23-26.

Article 11(3) of Directive 2003/87/EC of the European Parliament and of the Council (notified under document C (2013) 5666) (2013/448/EU) (*as amended*).⁵⁷

⁵⁷ OJ L 240, 7.9.2013, pp. 27-35.