

Omnibus proposal on the reduction of the administrative and reporting burden

AFEP's position

17 January 2025

Large French companies strongly support the high-level commitment of the European Commission to reduce the reporting burden by at least 25% and present an Omnibus proposal on 26 February. AFEP welcomes the fact that the new Commission prioritises the speed, consistency and simplification of European legislation, with a mandate for each Commissioner to reduce the administrative burden and engage in regular dialogues with stakeholders on implementation. Negotiations in silos under the previous mandate have led to a **lack of consistency and legal certainty, as well as excessive costs. Most importantly, it will lead to a loss of competitiveness for EU companies and undermine the EU's efforts to reach the goal of a twin transition through European technologies.**

Therefore, as a cross-sectoral association, the French Association of Large Companies (AFEP) is pleased to submit **a first set of proposals to streamline the reporting for companies and reduce administrative burden more broadly**, in particular regarding the following legislation:

1. Emissions Trading Scheme (EU ETS) and Carbon Border Adjustment Mechanism (CBAM)
2. Critical Raw Materials Act (CRMA) and Net Zero Industry Act (NZIA)
3. Important Projects of Common European Interest (IPCEI)
4. Women on board
5. Tax reports and Country-By-Country Reporting (CBCR)

Regarding the **sustainable finance framework**, AFEP's proposals are presented in a **separate note**.

1. [Emission Trading Scheme \(EU ETS\) and Carbon Border Adjustment Mechanism \(CBAM\)](#)

- **Legislative texts:**
 - [Directive](#) 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC
 - [Regulation](#) (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism
- **Problem 1:** The last revision of the EU ETS introduced in Article 10a §1 a **conditional allocation of free allowances** for low-performing installations and imposed them to set up a climate neutrality plan to avoid a subtraction of 20% of their free allowances. This provision is not consistent with the spirit of the EU ETS which is to set up price signals to buy allowances within the global EU allowances ceiling. Furthermore, climate transition plans are meaningful at the group level, not at installation, as requested by the CSRD.
- **Suggested solution 1:** Afep proposes that **such a conditional allocation mechanism be removed from Article 10a of the EU ETS.**

- **Problem 2:** The EU ETS includes in Article 10a §1 the possibility of reducing free allowances by 20% for installations that have not taken additional energy efficiency measures. However, energy efficiency requirements are already imposed by the Energy Efficiency Directive.
- **Suggested solution 2:** To avoid legislation overlaps, AFEP considers that the conditional free allocations depending on energy efficiency efforts at the installation level (up to -20% of free allocations) should be removed from the EU ETS.
- **Problem 3:** The EU ETS integrates into Article 10a §1, a gradual reduction of free allowances for activities considered as subject to a risk of carbon leakage and for which corresponding products are included in the scope of CBAM. The reduction will start as soon as 2026 (97,5% of free allowances until 0% of free allocation in 2034) even if the result of the report of the EU Commission required in 2026 in the CBAM Regulation to assess the effectiveness of the CBAM in addressing carbon leakage, is negative.
- **Suggested solution 3:** Therefore, Article 10a §1a of the EU ETS **should be amended to clearly state that the free allowance reduction trajectory, starting as early as 2026, is conditional on a positive outcome of the report on the effectiveness of the CBAM Regulation in addressing the risk of carbon leakage, to be formalised in 2026.** As this Report – also mentioned in the CBAM Regulation – is then required every two years, **subsequent free allowance reductions should also be conditioned on a positive outcome of the report.** For this reason, the **CBAM Regulation should also be amended in Article 31.**
- **Problem 4:** Quarterly reporting obligations during the CBAM transition phase are very complex to handle for individual companies. They are due to rapidly put into place heavy internal processes meant to combine regular custom declarations with the calculation of greenhouse gas emissions incorporated in imported products, with uneven access to relevant data held by foreign producers and the need to associate very different expertise capacities (custom procedures and environmental processes).

Two specific situations prove particularly burdensome: **CBAM reports for imports of CN 7318 goods (screw, bolt, etc) and the case of groups made of multiple subsidiaries that might hold separate EORI accounts.** Several significant downstream sectors (automotive, machinery) that massively import screws and bolts for their industrial processes are overwhelmed with the number of items to declare under the quarterly reporting obligation. Meanwhile, the obligation to transmit separate reports per EORI account imposes an additional constraint on large companies which have on the contrary an interest to centralise CBAM reporting operations under group-wise divisions that will gather qualified and knowledgeable staff. Under these centralised data collecting and reporting schemes, splitting CBAM reports by EORI account generates a further complication.

- **Suggested solution 4:** to address the two specific issues highlighted above, French companies suggest alternative methods for CBAM reporting of the import of CN 7318 goods, such as **statistical sampling, higher monetary de minimis threshold and/or weight-based de minimis thresholds and the clarification that large groups could opt for centralised reporting based on a single EORI account.** To address broader CBAM reporting issues such as the access to greenhouse gas (GHG) emissions data held by foreign producers, AFEP proposes to develop **legal/digital infrastructures** to convey such data to CBAM declarants in a safe and trustworthy environment, **standard contractual clauses** for purchase contracts of CBAM-covered products on the communication of

embedded GHG emissions to CBAM declarants and/or **secured digital wallets** to store these data at the disposal of CBAM declarants.

2. [Critical Raw Materials Act \(CRMA\) and Net Zero Industry Act \(NZIA\)](#)

- **Legislative texts:** [Regulation](#) of the European Parliament and of the Council on establishing a framework of measures for strengthening Europe's net-zero technology products manufacturing ecosystem
- **Problem description:** The CRMA and NZIA Regulations have been developed with a number of direct and indirect reporting obligations for EU companies falling within the scope of these two instruments. Under the **CRMA**, large companies will be required to submit **large sets of data to conduct EU-wide stress tests**, while reporting obligations imposed on the Commission and Member States under **Article 31** of the **NZIA** will result in the adoption of implementing measures requiring **EU companies to transmit data**.
- **Suggested solution:** Large companies call for an **early check of these reporting obligations as part of a post-adoption impact assessment of these Regulations in order to remedy the situation**.

3. [Important Projects of Common European Interest \(IPCEI\)](#)

- **Texts:** [Communication](#) from the Commission on the criteria for the analysis of the compatibility with the internal market of state aid to promote the execution of important projects of common European interest – 2021/C528/02
- **Problem:** large French companies have identified different issues due to the revision of the 2014 Communication, namely:
 - (i) the **requirement for 4+ states and an invitation to all other states**,
 - (ii) the **excessively wide compulsory IP licences, which expose companies to technology leakage to non-EU players** and act as a very strong disincentive for companies, including SMEs, to apply for IPCEIs, and
 - (iii) a **very long and cumbersome process** characterised by massive information requirements and difficult parameters, such as an overly constraining counterfactual requirement.
- **Suggested solutions:** large French companies support the revision of the Communication to include the following amendments to facilitate the development of IPCEI:
 - **Review the IPCEI parameters (§16) to allow targeted EU flagship industrial projects to qualify**, to the extent they involve **at least 2 member states and have a clear benefit** to the EU policy agenda,
 - Mention the need to **protect trade secrets and technological breakthroughs in the wider global context (§18)**,
 - **Simplify the procedure:**
 - (i) allow for a much faster and less bureaucratic granting of public support, at least in cases where no particularly significant competition problem is identified,
 - (ii) drastically reduce the burden of proof (it is not necessary to provide thousands of invoices or cost estimates ex-ante when, in any case, Member States will only pay money based on actual invoices when the project is implemented) and rely on it more ex-post than ex-ante,

- (iii) explicitly allow and encourage, in complex cases, early pre-notification meetings involving companies (this will allow issues to be clarified and resolved at an early stage and will drastically simplify the process), and
- (iv) reduce the importance and the almost automatic requirement of counterfactual scenario: only if such a scenario is effectively reflected in the decision-making process of companies should it be factored in the procedure.

4. [Women on boards](#)

- **Legislative text:** [Directive](#) 2022/2381 of the European Parliament and of the Council of 23 November 2022 on improving the gender balance among directors of listed companies and related measures.
- **Problem:** The Directive includes directors representing employees in the calculation of the quota to improve gender balance. However, in France, these directors are either elected by the employees, appointed by the trade unions or appointed by the works council. In any case, the Board of Directors has no influence over their appointment. This leads to very complicated rules to solve this issue.
- **Suggested solution:** Member States should be **free to decide whether to include directors representing employees in the calculation of the quota or not.**

5. [Tax reports and Country-By-Country Reporting \(CBCR\)](#)

- **Legislative texts:** [Directive](#) (EU) 2018/822 on DAC 6, [Directive](#) (EU) 2021/2101 on CBCR, [Directive](#) (EU) 2022/2523 on Pillar 2...
- **Problem description:** In the last few years, the number of tax reports has significantly increased, and their complexity with it (DAC6, CBCR, Pillar 2...). Additional projects under discussion would continue to trigger new tax reports and increase the administrative burden on European companies. For example, the ViDA Directive which aims to harmonise and simplify VAT rules between Member States, would nevertheless require the implementation of a new report in each Member State, without taking into account their existing reports or their other constraints (timing, deadline, mandatory information, confidentiality). Another example is the BEFIT project which would come in addition to Pillar 2 and would again create new complex tax rules and tax returns. The UnShell project would come in addition to all the existing anti-abuse laws and would also create new mandatory tax declarations.
Suggested solution: French companies are fully occupied with existing tax reporting obligations. In this perspective, the Country-By-Country Reporting (CBCR) remains a handicap for the competitiveness of European companies. **If the Directive cannot be withdrawn, the *safe harbour clause* should be extended. Companies should be allowed not to disclose sensible information at all (in the current version, sensible information has to be published within 5 years).** In addition, European companies welcome any simplification projects of European tax regulations.

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About Afep:

Founded in 1982, AFEP brings together 117 of the largest French companies, which represent 15% of France's commercial GDP, employ 13% of the private sector workforce, and account for 20% of the mandatory corporate contributions in France. AFEP member companies employ 8.5 million people and are key players in the French, European, and global economies across all sectors of activity. Among the 60 largest European companies, a third is a member of AFEP.

Its mission is to contribute to the creation of an environment conducive to the development of economic activity and to make the voice of large French companies heard by policymakers in Paris and Brussels. They are fully committed to the green and digital transition, innovation, and the pursuit of better governance.

AFEP is involved in drafting cross-sectoral legislation, at French and European level, in the following areas: economy, taxation, company law and corporate governance, corporate finance and financial markets, competition, intellectual property, digital and consumer affairs, labour law and social protection, environment and energy, corporate social responsibility and trade.

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