



## TERMS OF REFERENCE

**Job title:** International Consultant on CBAM Regulation

**Duty Station:** Home based

**Reference to the project:** EU4Climate

**Contract type:** Individual Contracts (IC)

**Contract duration:** 25 working days in the period June – August 2022

**Starting date:** 1 June 2022

### **1. PROJECT GOAL AND EXPECTED RESULTS**

The goal of EU4Climate Project is to contribute to climate change mitigation & adaptation and the development towards a low-emissions and climate-resilient economy in line with the Paris Agreement in Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova and Ukraine.

To realize this project goal, the following results should be achieved:

**Result 1:** Finalized or up-dated nationally determined contributions communicated to the UNFCCC;

**Result 2:** Improved inter-institutional awareness and coordination at political and technical level of the Paris Agreement and the corresponding national commitments;

**Result 3:** Established or strengthened MRV systems, with countries getting on track with Paris Agreement transparency requirements;

**Result 4:** Advanced alignment with EU climate acquis as provided by bilateral agreements with EU and in the context of Energy Community Treaty on climate matters that are not covered by the EU4Energy programme;

**Result 5:** Establishment of concrete sectoral guidelines for the implementation of the Paris Agreement in each of the Eastern Partners;

**Result 6:** Increased mobilization of climate finance;

**Result 7:** Enhanced adaptation planning.

### **2. BACKGROUND**

The EU is at the forefront of international efforts to fight climate change. The European Green Deal sets out a clear path towards realizing the EU's ambitious target of a 55% reduction in carbon emissions compared to 1990 levels by 2030, and to become a climate-neutral continent by 2050. As the EU raises its own climate ambition and less stringent environmental and climate policies prevail in non-EU countries, there is a strong risk of so-called “carbon leakage” – i.e. companies based in the EU could move carbon-intensive production abroad to take advantage of lax standards, or EU products could be replaced by more carbon-intensive imports. Such carbon leakage can shift emissions outside of Europe and therefore seriously undermine EU and global climate efforts.

The Carbon Border Adjustment Mechanism (CBAM) will equalize the price of carbon between domestic products and imports and ensure that the EU's climate objectives are not undermined by production relocating to countries with less ambitious policies.

CBAM is a climate measure that should prevent the risk of carbon leakage and support the EU's increased ambition on climate mitigation, while ensuring WTO compatibility.

Designed in compliance with World Trade Organization (WTO) rules and other international obligations of the EU, the CBAM system will work as follows: EU importers will buy carbon certificates corresponding to the carbon price that would have been paid, had the goods been produced under the EU's carbon pricing rules. Conversely, once a non-EU producer can show that they have already paid a price for the carbon used in the production of the imported goods in a third country, the corresponding cost can be fully deducted for the EU importer. The CBAM will help reduce the risk of carbon leakage by encouraging producers in non-EU countries to green their production processes.

To provide businesses and other countries with legal certainty and stability, CBAM will be phased in gradually and will initially apply only to a selected number of goods at high risk of carbon leakage: iron and steel, cement, fertiliser, aluminium and electricity generation. A reporting system will apply as from 2023 for those products with the objective of facilitating a smooth roll out and to facilitate dialogue with third countries, and importers will start paying a financial adjustment in 2026.

Finally, as a potential EU own resource, revenues from CBAM will contribute to the EU's budget, as laid out in the December 2020 Interinstitutional Agreement on budget and own resources.

It is expected that CBAM will progressively become an alternative of the EU's Emissions Trading System (ETS). The ETS is the world's first international emissions trading scheme and the EU's flagship policy to combat climate change. It sets a cap on the amount of greenhouse gas emissions that can be released from industrial installations in certain sectors. Allowances must be bought on the ETS trading market, though a certain number of free allowances is distributed to prevent carbon leakage. That system has been effective in addressing the risk of leakage but it also dampens the incentive to invest in greener production at home and abroad. Under the Commission's new proposal for a revised ETS, however, the number of free allowances for all sectors will decline over time so that the ETS can have maximum impact in fulfilling our ambitious climate goals. Furthermore, for the CBAM sectors, the free allowances will gradually be phased out as from 2026.

To complement the ETS, the CBAM will be based on a system of certificates to cover the embedded emissions in products being subsequently imported into the EU. The CBAM departs from the ETS in some limited areas, however, in particular since it is not a 'cap and trade' system. Instead, the CBAM certificates mirror the ETS price.

To ensure a level playing field between EU and non-EU businesses, and once the full CBAM regime becomes operational in 2026, the system will adjust to reflect the revised EU ETS, in particular when it comes to the reduction of available free allowances in the sectors covered by the CBAM. This means that the CBAM will only begin to apply to the products covered gradually and in direct proportion to the reduction of free allowances allocated under the ETS for those sectors. Until they are completely phased out in 2035, the CBAM will apply only to the proportion of emissions that does not benefit from free allowances under the EU ETS, thus ensuring that importers are treated in an even-handed way compared to EU producers.

The CBAM will mirror the ETS in the sense that the system is based on the purchase of certificates by importers. The price of the certificates will be calculated depending on the weekly average auction price of EU ETS allowances expressed in € / tonne of CO<sub>2</sub> emitted. Importers of the goods will have to, either individually or through a representative, register with national authorities where they can also buy CBAM certificates.

National authorities will authorize registration of declarants in the CBAM system, as well as reviewing and verifying declarations. They will also be responsible for selling CBAM certificates to importers. In order to import goods covered under the CBAM into the EU, they must declare by 31 May each year the quantity of goods and the embedded emissions in those goods imported into the EU in the preceding year. At the same time, they must surrender the CBAM certificates they have purchased in advance from the authorities.

By ensuring importers pay the same carbon price as domestic producers under the EU ETS, CBAM will ensure equal treatment for products made in the EU and imports from elsewhere and avoid carbon leakage.

Under the European Commission's proposal, importers will have to report emissions embedded in their goods without paying a financial adjustment in a transitional phase starting in 2023 and finishing at the end of 2025, giving time for the final system to be put in place.

This transitional phase, combined with the gradual phasing in of CBAM over time, will allow for a careful, predictable and proportionate transition for EU and non-EU businesses as well as authorities. Once the definitive system becomes fully operational in 2026, EU importers will have to declare annually the quantity of goods and the amount of embedded emissions in the total goods they imported into the EU in the preceding year, and surrender the corresponding amount of CBAM certificates.

The CBAM will apply to direct emissions of greenhouse gases emitted during the production process of the products covered. By the end of the transition period, the Commission will evaluate how the CBAM is working and whether to extend its scope to more products and services - including down the value chain, and whether to cover so-called 'indirect' emissions (i.e. carbon emissions from the electricity used to produce the good).

The information on embedded emissions for goods subject to CBAM should be communicated to importers registered in the EU by their non-EU producers. In cases where this information is not available as the goods are being imported, EU importers will be able to use default values (even once the definitive system has kicked in) on CO<sub>2</sub> emissions for each product to determine the number of certificates they need to purchase. Importers will nevertheless be able to demonstrate actual emissions during a reconciliation procedure, and surrender the appropriate number of CBAM certificates accordingly.

Imports of goods from all non-EU countries will be covered by the CBAM. That said, certain third countries who participate in the ETS or have an emission trading system linked to the Union's will be excluded from the mechanism (this is the case for members of the European Economic Area and Switzerland).

CBAM will be applied to electricity generated in and imported from countries that wish to integrate their electricity markets with the EU until such a point that those electricity markets are fully integrated. At that point, and under strict conditions linked to their implementation of certain obligations and commitments, these countries could be exempted from the mechanism. If that is the case, the EU will revisit any exemptions granted in 2030, at which point those partners should have put in place the decarbonisation measures they have committed to, and an emissions trading system equivalent to the EU's

As CBAM aims to encourage cleaner production processes, the EU also stands ready to work with low and middle income countries towards the decarbonisation of their manufacturing industries.

The Union will also support less developed countries with the necessary technical assistance.

To provide businesses and other countries with legal certainty and stability, the CBAM will be phased in gradually and will initially apply only to a selected number of goods at high risk of carbon leakage.

The Republic of Moldova (RM) signed an Association Agreement (AA) with the European Union (EU) on 27 June 2014, which has entered into force in September 2014. The AA, has been ratified by the Parliament through the Law No. 112 as of 02.07.2014<sup>1</sup>, see specifically Chapter 17 'Climate Policies' and Annex XII of the AA RM-EU, as well as the Governmental Decision No. 1472 as of 30.12.2016 on approval of the National Action Plan on implementation of the AA RM-EU within the period 2017-2019<sup>2</sup>.

Article 95 from the AA specifically refers to the cooperation between the two Parties in the area of climate change and ozone layer protection. At present, the RM is working to fulfill its obligations under the AA and to converge further its legislation towards the acquis communautaire in the field of environment protection and climate change.

According to the Annex XII of the AA RM-EU, the Government of the Republic of Moldova has undertaken to transpose and implement the following EU Directives and Regulations:

1. Directive 2003/87/ EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC<sup>3</sup> (ETS Directive).

Certain articles of this Directive need to be transposed into national legislation, namely:

- establishing a system for identifying relevant installations and for identifying greenhouse gases (Annexes I and II);
- setting up a monitoring, reporting, verification and enforcement system and a public consultations process (Articles 9, 14-17, 19 and 21).

With the support of EU4Climate project, these provisions were transposed into national legislation during 2021 year. The respective draft regulation has not yet entered into a consultation process towards the adoption. The connection with draft Law on industrial emissions (that transpose into the national legislation Directive 2010/75/EU) is still being discussed.

2. Regulation (EC) No 842/2006<sup>4</sup> of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases.

According to the Annex XII of the Association Agreement between Republic of Moldova and European Union, the Government of the Republic of Moldova has undertaken to implement selected basic provisions of the Regulation 842/2006, namely:

- adoption of national legislation and designation of competent authority/authorities;
- establishment/adapt national training and certification requirements for relevant personnel and companies (Article 5);
- establishment of reporting systems for acquiring emission data from the relevant sectors (Article 6);
- establishment of enforcement system (Article 13).

Moldova went beyond the articles stated in the Annex XII to the AA RoM-EU and transposed partially the entire Regulation (EU) No 517/2014<sup>5</sup> of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases, which repeal the Regulation 842/2006. The draft law on F-gases was designed with the support of EU4Climate and during the 2022 will enter into a consultation process towards the adoption by the Parliament.

An important piece of the Moldovan legislation related to monitoring, reporting and verification of the GHG emissions is the Governmental Decision #1277/2018<sup>6</sup> regarding the establishment

---

<sup>1</sup> [https://www.legis.md/cautare/getResults?doc\\_id=83489&lang=ro](https://www.legis.md/cautare/getResults?doc_id=83489&lang=ro)

<sup>2</sup> [https://www.legis.md/cautare/getResults?doc\\_id=119199&lang=ro](https://www.legis.md/cautare/getResults?doc_id=119199&lang=ro)

<sup>3</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02003L0087-20200101>

<sup>4</sup> <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32006R0842>

<sup>5</sup> <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32014R0517>

<sup>6</sup> [https://www.legis.md/cautare/getResults?doc\\_id=112485&lang=ro](https://www.legis.md/cautare/getResults?doc_id=112485&lang=ro)

and functioning of the National System for monitoring and reporting of greenhouse gas emissions and other information relevant to climate change. The DG 1277/2018 transposes at the national level the Regulation (EU) No 525/2013. The GD 1277/2018 approves the following:

- Regulation on the establishment and functioning of the National System for monitoring and reporting of greenhouse gas emissions and other information relevant to climate change. It designates the Environmental Agency as the competent authority for the implementation of the MRV system. It establishes also the components of the system, reporting instruments, as well as their format and structure, deadlines for submitting the reports to the UNFCCC Secretariat and similar.
- A list of authorities and institutions which are part of the National System for monitoring and reporting of greenhouse gas emissions and other information relevant to climate change.
- A list of GHGs and their GWPs which are taken into consideration within the National System for monitoring and reporting of GHG emissions.

GD 1277/2018 has been recently reviewed based on the Enhanced Transparency Framework. The respective amendments to the GD 1277/2018 have been approved by the Government.

Moldova has been a Contract Party to the Energy Community since 2010. Under the EnC Treaty and the Chapter 14 “Energy Cooperation” of the Association Agreement RM-EU, Moldova has been developing its energy related legislation.

Moldova, as an economy in transition, has demonstrated progress in transposing the energy-related EU Directives and meeting the Association Agreements & Energy Community commitments. With support of various development partners and being closely guided by the Energy Community Secretariat, Moldova continues to develop policies and regulatory measures to improve energy efficiency, promote renewable energy use and improve electricity market.

Moldova is slowly but steadily advancing in development of its National Energy and Climate Action Plan (NECP) and support for timely finalization of this paper, aimed to become the main national policy document in energy security, energy efficiency, decarbonization, internal energy market, as well as research, innovation and competitiveness areas. In addition, after its completion the NECP will be used in drafting of the National Energy Strategy by 2030 (in line with the EU Directives and climate targets).

Moldova has fully transposed the third Energy Package acquis into the primary legislation. At the same time, the National Agency for Energy Regulation of the Republic of Moldova has approved the secondary legislation drafted in line with the provisions of the energy package regarding the functioning of the electricity and natural gas market.

During the 2021 Energy Community Ministerial Council, Moldova has committed to transpose by 31 December 2022 a series of directives and regulations of the Clean Energy for all Europeans package, which addresses the energy performance of buildings, renewable energy, energy efficiency, governance and electricity market design.

The introduction of CBAM by the EU will have a high impact on operation of the national industry and energy sector of the Republic of Moldova. As a result, a comprehensive analysis of threats and opportunities of CBAM regulation for the economy of the Republic of Moldova is required.

### **3. OBJECTIVES AND EXPECTED OUTPUTS**

The objective of the assignment is to provide support to the Government of the Republic of Moldova in analysis of vulnerability of its industry and energy sector to CBAM regulation of the EU, namely:

- to analyze the legal framework of CBAM regulation;
- to assess interrelation of CBAM and EU ETS mechanisms;

- to develop recommendations for mitigation of impact of CBAM regulation on the economy of the Republic of Moldova;
- to arrange public consultations with stakeholders on impact of CBAM regulation on the economy of the Republic of Moldova and identify key actions needed to mitigate it.

Being supervised by the EU4Climate National Coordinator, and in close cooperation with national consultant and the staff of the relevant ministries and authorities of the Republic of Moldova, the international consultant is expected to provide the following deliverables:

1. To provide an overview of the legal framework of CBAM regulation (scope of industrial products included into CBAM; description of key provisions and recommendations for improvement of the current version of CBAM regulations; description of discussed draft policy papers, legal documents and recommendations concerning CBAM introduction and implementation by non-EU member states, including countries signed Association Agreements with the EU).

2. Assessment of interrelation of CBAM and EU ETS mechanisms (in terms of scope of sectoral regulations, approaches for GHG emission sectoral benchmark values, key milestones and timeframes of regulations adopted or drafted, analysis of proposed institutional framework of carbon regulation relevant for non-EU member states, including countries signed Association Agreements with the EU).

3. With support of the hired national consultant on analysis of export of goods subject to CBAM regulation from the Republic of Moldova to the EU to develop a roadmap with recommendations for mitigation of impact of CBAM regulation on the economy of the Republic of Moldova;

4. To conduct public consultations with stakeholders (representatives of ministries, authorities, international organizations, international financial institutions, business, research institutions, non-governmental organizations) on impact of CBAM regulation on the economy of the Republic of Moldova (including legal, organizational, institutional, capacity building and technical assistance measures required) and identify key actions needed to mitigate it.

#### **4. KEY DELIVERABLES AND TIMEFRAME**

The international consultant on CBAM regulation is expected to deliver the following outputs per the below identified timeline and anticipated workload:

<b>Key Deliverables and the Anticipated Workload</b>	<b>Tentative Timetable/Deadline</b>
<b>Deliverable 1:</b> A detailed Work Plan and Implementation Schedule (up to 1 working day).	By early June 2022
<b>Deliverable 2:</b> A draft report with an overview of the legal framework of CBAM regulation (as per task #1 above) (up to 4 working days)	By mid June 2022
<b>Deliverable 3:</b> A draft report with assessment of interrelation of CBAM and EU ETS mechanisms and a roadmap with recommendations for mitigation of impact of CBAM regulation on the economy of the Republic of Moldova (as per tasks#2-3 above) (up to 15 working days)	By mid-July 2022
<b>Deliverable 4:</b> A 1-day public consultation conducted (as per task #3 above) (up to 2 working day)	By end July 2022
<b>Deliverable 5:</b> A consolidated final report on the execution of the assignment, covering all the above-mentioned aspects under the deliverables 1 to 4 (up to 3 working days).	By early August 2022

**Note:** Deliverables and the final timeline can be amended or specified for the purpose of the assignment.

## **5. INSTITUTIONAL ARRANGEMENTS**

This is a part-time consultancy. The timeframe for the work is June– August 2022.

The international consultant on CBAM regulation will be given access to relevant information and data necessary for execution of the tasks under this assignment. The consultant will work in close collaboration with the EU4Climate Project's National Coordinator - for substantive aspects of the assignment, and national consultant on analysis of export of goods subject to CBAM regulation from the Republic of Moldova to the EU. The consultant will also closely cooperate with the relevant stakeholders from the Government of the Republic of Moldova in order to ensure that the final products reflect also their comments. The UNDP will provide the administrative and logistical support in organization the respective consultations.

## **6. FINANCIAL ARRANGEMENTS**

The contract assignment will be for a fixed timeline. Payments will be provided in three instalments. The first disbursement will be made upon the presentation of the deliverables 1 and 2. The second disbursement will be issued upon submission and approval of deliverable 3, and certification by the EU4Climate Project's National Coordinator that the services have been satisfactorily performed, and the last installment upon submission of deliverables 4-5.

## **7. SKILLS AND EXPERIENCE REQUIRED**

I.Education:

- Master degree in economics, or international law, or engineering, or environmental management, or business administration, or other related fields;

II.Experience:

- At least 5 years of proven professional experience in EU environmental policy research, sectoral decarbonization or sustainable development policy analysis, EU ETS mechanisms, GHG monitoring, reporting and verification regulations;
- At least 5 years of proven professional experience in writing analytical reports, articles or implementation of consultancy projects focused on EU environmental policy research, sectoral decarbonization or sustainable development policy analysis, EU ETS mechanisms, GHG monitoring, reporting and verification regulations.
- Excellent knowledge of EU CBAM regulations and EU ETS.
- Experience in providing consultancy services to UNDP or other international organizations/international financial institutions is an asset.

III.Competencies:

- Strong knowledge of the EU low carbon development policies and regulations;
- Strong knowledge of the sectoral decarbonization approaches and options relevant to the Republic of Moldova or other developing countries in CEE region;
- Strong analytical and report-writing skills demonstrated by previous assignments;
- Strong interpersonal and communication skills, ability to work in a team, demonstrated by previous assignments;
- Ability to work with Government representatives;
- Excellent knowledge of English.
- Working knowledge of Romanian is an asset.

The UNDP Moldova is committed to the workforce diversity. Women, persons with disabilities, Roma and other ethnic or religious minorities, persons living with HIV, as well as refugees and

other non-citizens legally entitled to work in the Republic of Moldova, are particularly encouraged to apply.

#### **8. PERFORMANCE EVALUATION**

Contractors' performance will be evaluated against timeliness, responsibility, initiative, creativity, communication, accuracy, and overall quality of the delivered products.

#### **9. DOCUMENTS TO BE INCLUDED WHEN SUBMITTING THE PROPOSALS**

Interested individual consultants must submit the following documents/information to demonstrate their qualifications:

1. Proposal, explaining why he/she is most suitable for the work, including past experience in similar assignments, providing a brief information on above qualifications and methodology on how he/she will approach and conduct the work (if applicable).
2. [\*\*OFFEROR'S LETTER TO UNDP CONFIRMING INTEREST AND AVAILABILITY FOR THE INDIVIDUAL CONTRACTOR \(IC\) ASSIGNMENT\*\*](#)
3. CV with at least three names for a reference check.