



TEXTS ADOPTED

P9_TA(2022)0248

Carbon border adjustment mechanism *I**

Amendments adopted by the European Parliament on 22 June 2022 on the proposal for a regulation of the European Parliament and of the Council establishing a carbon border adjustment mechanism (COM(2021)0564 – C9-0328/2021 – 2021/0214(COD))¹

(Ordinary legislative procedure: first reading)

¹ The matter was referred back for interinstitutional negotiations to the committee responsible, pursuant to Rule 59(4), fourth subparagraph (A9-0160/2022).

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) The Commission has, in its communication on the European Green Deal³¹, set out a new growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy, where there are no net emissions (emissions after deduction of removals) of greenhouse gases ('GHG emissions') in 2050 and where economic growth is decoupled from resource use. The European Green Deal also aims to protect, conserve and enhance the EU's natural capital, and protect the health and well-being of citizens from environment-related risks and impacts. At the same time, that transformation must be just and inclusive, leaving no one behind. The Commission also announced in its EU Action Plan: Towards Zero Pollution for Air, Water and Soil³² the promotion of relevant instruments and incentives to better implement the polluter pays principle as set out in Article 191(2) of the Treaty on the Functioning of the European Union ('TFEU') and thus complete the phasing out of 'pollution for free' with a view to maximising synergies between decarbonisation and the zero pollution ambition.

³¹ Communication from the Commission of 11 December 2019 on the European Green Deal (COM(2019) 640 final).

³² Communication from the Commission of 12 May 2021 on Pathway to a Healthy Planet for All (COM(2021) 400).

Amendment 2

Amendment

(1) The Commission has, in its communication on the European Green Deal³¹, set out a new growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy, where there are no net emissions (emissions after deduction of removals) of greenhouse gases ('GHG emissions') in 2050 **at the latest** and where economic growth is decoupled from resource use. The European Green Deal also aims to protect, conserve and enhance the EU's natural capital, and protect the health and well-being of citizens from environment-related risks and impacts. At the same time, that transformation must be just and inclusive, leaving no one behind. The Commission also announced in its EU Action Plan: Towards Zero Pollution for Air, Water and Soil³² the promotion of relevant instruments and incentives to better implement the polluter pays principle as set out in Article 191(2) of the Treaty on the Functioning of the European Union ('TFEU') and thus complete the phasing out of 'pollution for free' with a view to maximising synergies between decarbonisation and the zero pollution ambition.

³¹ Communication from the Commission of 11 December 2019 on the European Green Deal (COM(2019) 640 final).

³² Communication from the Commission of 12 May 2021 on Pathway to a Healthy Planet for All (COM(2021) 400).

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) The Paris Agreement³³, adopted in December 2015 under the United Nations Framework Convention on Climate Change ('UNFCCC') entered into force in November 2016. The Parties to the Paris Agreement, in its Article 2, have agreed to hold the increase in the global average temperature well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels.

³³ OJ L 282, 19.10.2016, p.4.

Amendment

(2) The Paris Agreement³³, adopted in December 2015 under the United Nations Framework Convention on Climate Change ('UNFCCC'), entered into force in November 2016. The Parties to the Paris Agreement, in its Article 2, have agreed to hold the increase in the global average temperature well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels. ***Under the Glasgow Climate Pact, adopted on 13 November 2021, the Parties also recognised that limiting the increase in the global average temperature 1,5 °C above pre-industrial levels would significantly reduce the risks and impacts of climate change, and committed to strengthen the 2030 targets by the end of 2022 to close the ambition gap.***

³³ OJ L 282, 19.10.2016, p.4.

Amendment 3

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) Regulation (EU) 2021/1119 of the European Parliament and of the Council³⁵ has enshrined in legislation the target of economy-wide climate neutrality by 2050. That Regulation also establishes a binding Union reduction commitment of GHG emissions of at least 55 per cent below 1990 levels by 2030.

³⁵ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and

Amendment

(5) Regulation (EU) 2021/1119 of the European Parliament and of the Council³⁵ has enshrined in legislation the target of economy-wide climate neutrality by 2050 ***at the latest***. That Regulation also establishes a binding Union reduction commitment of GHG emissions of at least 55 per cent below 1990 levels by 2030.

³⁵ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and

amending Regulation (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

amending Regulation (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

Amendment 4

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) The Special Report of the Intergovernmental Panel on Climate Change (IPCC) on the impacts of global temperature increases of 1.5°C above pre-industrial levels and related global GHG emission pathways³⁶ provides a strong scientific basis for tackling climate change and illustrates the need to step up climate action. That report confirms that in order to reduce the likelihood of extreme weather events, GHG emissions need to be urgently reduced, **and that climate change needs to be limited to a global temperature increase of 1.5°C.**

³⁶ IPCC, 2018: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J.B.R. Matthews, Y. Chen, X. Zhou, M.I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, and T. Waterfield (eds.)].

Amendment

(6) The Special Report of the Intergovernmental Panel on Climate Change (IPCC) on the impacts of global temperature increases of 1.5°C above pre-industrial levels and related global GHG emission pathways³⁶ provides a strong scientific basis for tackling climate change and illustrates the need to step up climate action. That report confirms that ***the negative impacts of climate change and the need for adaptation measures will be significantly higher if the increase in global average temperature is above 1,5 °C, and that*** in order to reduce the likelihood of extreme weather events, GHG emissions need to be urgently reduced.

³⁶ IPCC, 2018: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J.B.R. Matthews, Y. Chen, X. Zhou, M.I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, and T. Waterfield (eds.)].

Amendment 5

Proposal for a regulation
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Around 27 % of global CO₂ emissions from fuel combustion currently relate to internationally traded goods and, while the Union has substantially reduced its domestic GHG emissions, the GHG emissions embedded in imports to the Union have been constantly increasing, thereby undermining the Union's efforts to reduce its global GHG footprint. The Union has a responsibility to continue playing a leading role in global climate action, in cooperation with all of the world's other economies, as it is only through actions by all Parties that it will be possible to achieve the objectives set out in the Paris Agreement.

Amendment 6

Proposal for a regulation
Recital 8

Text proposed by the Commission

Amendment

(8) As long as a significant number of the Union's international partners ***have policy approaches that*** do not ***result in*** the same level of climate ambition, there ***is*** a risk of carbon leakage. Carbon leakage occurs if, for reasons of costs related to climate policies, businesses in certain industry sectors or subsectors were to transfer production to other countries or imports from those countries would replace equivalent but less GHG emissions intensive products. That could lead to an increase in their total emissions globally, thus jeopardising the reduction of GHG emissions that is urgently needed if the world is to keep the global average temperature to well below 2 °C above pre-industrial levels.

(8) As long as a significant number of the Union's international partners do not ***achieve*** the same level of climate ambition, ***and as the Union increases its climate ambition,*** there ***could be*** a risk of carbon leakage. Carbon leakage occurs if, for reasons of costs related to climate policies, businesses in certain industry sectors or subsectors were to transfer production to other countries or imports from those countries would replace equivalent but less GHG emissions intensive products. That could lead to an increase in their total emissions globally ***while undermining the effectiveness of Union emission reduction policies,*** thus jeopardising the reduction of GHG emissions that is urgently needed if the world is to keep the global average temperature to well below 2 °C above pre-industrial levels.

Amendment 7

Proposal for a regulation Recital 9

Text proposed by the Commission

(9) The initiative for a carbon border adjustment mechanism ('CBAM') is a part of the 'Fit for 55 Package'. That mechanism is to serve as an essential element of the EU toolbox to meet the objective of a climate-neutral Union by 2050 in line with the Paris Agreement by **addressing risks of** carbon leakage resulting from the increased Union climate ambition.

Amendment

(9) The initiative for a carbon border adjustment mechanism ('CBAM') is a part of the 'Fit for 55 Package'. That mechanism is to serve as an essential element of the EU toolbox to meet the objective of a climate-neutral Union by 2050 **at the latest** in line with the Paris Agreement by **preventing** carbon leakage resulting from the increased Union climate ambition. **It can also contribute to establishing a level playing field for decarbonisation costs, to increasing the demand for low-carbon products and processes, as well as to avoiding distortions of competition and promoting fair trade.**

Amendment 8

Proposal for a regulation Recital 10

Text proposed by the Commission

(10) Existing mechanisms to address the risk of carbon leakage in sectors or sub-sectors at risk of carbon leakage are the transitional free allocation of EU ETS allowances and financial measures to compensate for indirect emission costs incurred from GHG emission costs passed on in electricity prices respectively laid down in Articles 10a(6) and 10b of Directive 2003/87/EC. However, free allocation under the EU ETS **weakens** the price signal that the system provides for the installations receiving **it** compared to full auctioning and thus **affects** the incentives for investment into further abatement of emissions.

Amendment

(10) Existing mechanisms to address the risk of carbon leakage in sectors or sub-sectors at risk of carbon leakage are the transitional free allocation of EU ETS allowances and financial measures to compensate for indirect emission costs incurred from GHG emission costs passed on in electricity prices respectively laid down in Articles 10a(6) and 10b of Directive 2003/87/EC. **Free allocation at the level of best performers has been a policy instrument for certain industrial sectors to address the risk of carbon leakage in the absence of a fair level playing field.** However, **both** free allocation under the EU ETS **and compensation for indirect emission costs weaken** the price signal that the system provides for the installations receiving

them, compared to full auctioning, and thus *reduce* the incentives for investment into further abatement of emissions.

Amendment 9

Proposal for a regulation Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Installations under the EU ETS are facing a rising carbon price and companies need long-term visibility, predictability and legal certainty to make their investment decisions. A clear pathway for the gradual inclusion of the remaining sectors and subsectors at risk of carbon leakage should therefore be established. This will strengthen the new legal framework to fight carbon leakage, provide the necessary time to ensure a smooth implementation of the CBAM and allow installations and companies make the necessary investments in the decarbonisation of industrial processes in a stable and predictable legal context.

Amendment 10

Proposal for a regulation Recital 12

Text proposed by the Commission

Amendment

(12) While the objective of the CBAM is to prevent the risk of carbon leakage, this Regulation would also encourage the use of more GHG emissions-efficient technologies by producers from third countries, so that less emissions per unit of output are generated.

(12) While the objective of the CBAM is to prevent the risk of carbon leakage, this Regulation would also encourage the use of more GHG emissions-efficient technologies by producers from third countries, so that less emissions per unit of output are generated. ***For that reason the CBAM could be an effective measure to lower emissions in third countries while ensuring a level playing field for Union industry.***

Amendment 11

Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) As an instrument to prevent carbon leakage and reduce GHG emissions the CBAM should ensure that imported products are subject to a regulatory system that applies carbon costs equivalent to the ones that otherwise would have been borne under the EU ETS. The CBAM is a climate measure which should prevent the risk of carbon leakage **and support the Union's increased ambition on climate mitigation**, while ensuring **WTO** compatibility.

Amendment

(13) As an instrument to prevent carbon leakage and reduce GHG emissions the CBAM should ensure that imported products are subject to a regulatory system that applies carbon costs equivalent to the ones that otherwise would have been borne under the EU ETS, **resulting in an equivalent carbon pricing for imports and domestic products and a level playing field**. The CBAM is a climate measure which should **support the reduction of emissions in the Union in line with the European Green Deal and Regulation (EU) 2021/1119** and prevent the risk of carbon leakage, while ensuring compatibility **with WTO rules**.

Amendment 12

Proposal for a regulation
Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) The Commission should analyse the administrative costs incurred by the CBAM, while ensuring that staff receive adequate training to perform their duties.

Amendment 13

Proposal for a regulation
Recital 15

Text proposed by the Commission

Amendment

(15) In order to exclude from the CBAM third countries or territories fully integrated into, or linked, to the EU ETS in the event of future agreements, the power to adopt acts in accordance with Article 290 of TFEU should be delegated to the Commission in respect of amending the list

(15) In order to exclude from the CBAM third countries or territories fully integrated into, or linked, to the EU ETS in the event of future agreements, the power to adopt acts in accordance with Article 290 of TFEU should be delegated to the Commission in respect of amending the list

of countries in Annex II. Conversely, those third countries or territories should be excluded from the list in Annex II and be subject to CBAM whereby they do not effectively charge the ETS price on goods exported to the Union.

of countries in Annex II. Conversely, those third countries or territories should be excluded from the list in Annex II and be subject to CBAM whereby they do not effectively charge the ETS price on goods exported to the Union. ***The Commission will monitor and address the possible practices of circumvention in third countries.***

Amendment 14

Proposal for a regulation Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) With a view to ensuring that the ecological transition in the outermost regions is accompanied by economic and social cohesion, an impact assessment should be carried out before the end of the transition period on the potential economic and social impacts specific to those regions. The Commission should ensure compliance with Article 349 TFEU and propose appropriate measures for the outermost regions in implementing the CBAM, in particular because of the specific customs and tax arrangements that apply to the outermost regions.

Amendment 15

Proposal for a regulation Recital 17

Text proposed by the Commission

Amendment

(17) The GHG emissions to be regulated by the CBAM should correspond to those GHG emissions covered by Annex I to the EU ETS in Directive 2003/87/EC, namely carbon dioxide ('CO₂') as well as, where relevant, nitrous oxide ('N₂O') and perfluorocarbons ('PFCs'). The CBAM should ***initially*** apply to direct emissions of those GHG from the production of goods up to the time of import into the customs

(17) The GHG emissions to be regulated by the CBAM should correspond to those GHG emissions covered by Annex I to the EU ETS in Directive 2003/87/EC, namely carbon dioxide ('CO₂') as well as, where relevant, nitrous oxide ('N₂O') and perfluorocarbons ('PFCs'). The CBAM should ***reflect future revisions of the EU ETS in terms of regulated GHG emissions. The CBAM should*** apply to

territory of the Union, ***and after the end of a transition period and upon further assessment***, as well to indirect emissions, mirroring the scope of the EU ETS.

direct emissions of those GHG from the production of goods up to the time of import into the customs territory of the Union as well to indirect emissions, mirroring the scope of the EU ETS. ***Coherence between the CBAM and the EU ETS is essential to respect the principles of the WTO.***

Amendment 16

Proposal for a regulation Recital 19

Text proposed by the Commission

(19) However, while the EU ETS sets an absolute cap on the GHG emissions from the activities under its scope and allows tradability of allowances (so called ‘cap and trade system’), the CBAM should not establish quantitative limits to import, so as to ensure that trade flows are not restricted. Moreover, while the EU ETS applies to installations based in the Union, the CBAM should be applied to certain goods imported into the customs territory of the Union.

Amendment

(19) However, while the EU ETS sets an absolute cap on the GHG emissions from the activities under its scope and allows tradability of allowances (so called ‘cap and trade system’), the CBAM should not establish quantitative limits to import, so as to ensure that trade flows are not restricted ***or disrupted***. Moreover, while the EU ETS applies to installations based in the Union, the CBAM should be applied to certain goods imported into the customs territory of the Union ***to ensure a level playing field and prevent the risk of carbon leakage while ensuring compatibility with WTO rules.***

Amendment 17

Proposal for a regulation Recital 20

Text proposed by the Commission

(20) The CBAM system has some specific features compared with the EU ETS, including on the calculation of the price of CBAM certificates, on the possibilities to trade certificates and on their validity over time. These are due to the need to preserve the effectiveness of the CBAM as a measure preventing carbon leakage over time and to ensure that the management of the system is not excessively burdensome

Amendment

(20) The CBAM system has some specific features compared with the EU ETS, including on the calculation of the price of CBAM certificates, on the possibilities to trade certificates and on their validity over time. These are due to the need to preserve the effectiveness of the CBAM as a measure preventing carbon leakage over time and to ensure that the management of the system is not excessively burdensome

in terms of obligations imposed on the operators and of resources for the administration, while at the same time preserving an equivalent level of flexibility available to operators under the EU ETS.

in terms of obligations imposed on the operators, ***in particular small and medium-sized enterprises (SMEs)***, and of resources for the administration, while at the same time preserving an equivalent level of flexibility available to operators under the EU ETS.

Amendment 18

Proposal for a regulation Recital 21

Text proposed by the Commission

(21) In order to preserve its effectiveness as a carbon leakage measure, the CBAM needs to reflect closely the EU ETS price. While on the EU ETS market the price of allowances is determined through auctions, the price of CBAM certificates should reasonably reflect the price of such auctions through averages calculated on a weekly basis. Such weekly average prices reflect closely the price fluctuations of the EU ETS and allow a reasonable margin for importers to take advantage of the price changes of the EU ETS while at the same ensuring that the system remains manageable for the administrative authorities.

Amendment

(21) In order to preserve its effectiveness as a carbon leakage measure ***and to ensure compatibility with WTO rules***, the CBAM needs to reflect closely the EU ETS price. While on the EU ETS market the price of allowances is determined through auctions, the price of CBAM certificates should reasonably reflect the price of such auctions through averages calculated on a weekly basis. Such weekly average prices reflect closely the price fluctuations of the EU ETS and allow a reasonable margin for importers to take advantage of the price changes of the EU ETS while at the same ensuring that the system remains manageable for the administrative authorities.

Amendment 19

Proposal for a regulation Recital 23

Text proposed by the Commission

(23) Given that the CBAM applies to imports of goods into the customs territory of the Union rather than to installations, certain adaptations and simplifications would also need to apply in the CBAM regime. One of those simplifications should consist in a declarative system where importers should report the total verified GHG emissions embedded in goods imported in a given calendar year. A

Amendment

(23) Given that the CBAM applies to imports of goods into the customs territory of the Union rather than to installations, certain adaptations and simplifications would also need to apply in the CBAM regime. One of those simplifications should consist in a ***simple and accessible*** declarative system where importers should report the total verified GHG emissions embedded in goods imported in a given

different timing compared to the compliance cycle of the EU ETS should also be applied to avoid any potential bottleneck resulting from obligations for accredited verifiers under this Regulation and the EU ETS.

calendar year. A different timing compared to the compliance cycle of the EU ETS should also be applied to avoid any potential bottleneck resulting from obligations for accredited verifiers under this Regulation and the EU ETS.

Amendment 20

Proposal for a regulation Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) Given the unique nature of the CBAM and the need for close coordination at Union level, a CBAM authority should be established to properly implement and monitor this Regulation.

Amendment 21

Proposal for a regulation Recital 24

Text proposed by the Commission

Amendment

(24) ***In terms of sanctions***, Member States should apply penalties to infringements of this Regulation and ensure that they are implemented. The amount of *those* penalties should be ***identical to penalties currently applied within the Union in case of infringement of EU ETS according to Article 16(3) and (4) of Directive 2003/87/EC.***

(24) ***The CBAM should be carefully designed and supervised by the CBAM authority and customs authorities, inter alia, to prevent, identify and penalise any type of practice of circumvention, including abuse or fraud. The CBAM authority and Member States, in accordance with their national law, should apply administrative or criminal penalties to infringements of this Regulation and ensure that they are implemented. The amount of the penalties for authorised declarants who fail to surrender, by 31 May each year, a number of CBAM certificates corresponding to the emissions embedded in goods imported during the previous year or who submit false information related to embedded emissions to the CBAM authority with a view to obtaining***

a favourable individual treatment should be equivalent to three times the average price of CBAM certificates in the previous year for each CBAM certificate that the authorised declarant did not surrender in accordance with Article 22. Payment of the penalty should not release the authorised declarant from the obligation to surrender the outstanding number of CBAM certificates to the CBAM authority.

Amendment 22

Proposal for a regulation Recital 26

Text proposed by the Commission

(26) The product coverage of the CBAM should reflect the activities covered by the EU ETS as that scheme is based on quantitative and qualitative criteria linked to the environmental objective of Directive 2003/87/EC and is the most comprehensive GHG emissions regulatory system in the Union.

Amendment

(26) The product coverage of the CBAM should reflect the activities covered by the EU ETS as that scheme is based on quantitative and qualitative criteria linked to the environmental objective of Directive 2003/87/EC and is the most comprehensive GHG emissions regulatory system in the Union. ***The Commission should establish a timeline for the gradual inclusion of all goods under the sectors covered by Directive 2003/87/EC by 1 January 2030. Priority should be given to goods that are most exposed to carbon leakage and are most carbon intensive.***

Amendment 23

Proposal for a regulation Recital 29

Text proposed by the Commission

(29) The goods under this Regulation should be selected after a careful analysis of their relevance in terms of cumulated GHG emissions and risk of carbon leakage in the corresponding EU ETS sectors while limiting complexity and administrative burden. In particular, the actual selection should take into account basic materials

Amendment

(29) The goods under this Regulation should be selected after a careful analysis of their relevance in terms of cumulated GHG emissions and risk of carbon leakage in the corresponding EU ETS sectors while limiting complexity and administrative burden ***for Union industry, companies and SMEs.*** In particular, the actual selection

and basic products covered by the EU ETS with the objective of ensuring that imports of energy intensive products into the Union are on equal footing with EU products in terms of EU ETS carbon pricing, and to mitigate risks of carbon leakage. Other relevant criteria to narrow the selection should be: firstly, relevance of sectors in terms of emissions, namely whether the sector is one of the largest aggregate emitters of GHG emissions; secondly, sector's exposure to significant risk of carbon leakage, as defined pursuant to Directive 2003/87/EC; thirdly, the need to balance broad coverage in terms of GHG emissions while limiting complexity and administrative effort.

should take into account basic materials and basic products covered by the EU ETS with the objective of ensuring that imports of energy intensive products into the Union are on equal footing with EU products in terms of EU ETS carbon pricing, and to mitigate risks of carbon leakage. Other relevant criteria to narrow the selection should be: firstly, relevance of sectors in terms of emissions, namely whether the sector is one of the largest aggregate emitters of GHG emissions; secondly, sector's exposure to significant risk of carbon leakage, as defined pursuant to Directive 2003/87/EC; thirdly, the need to balance broad coverage in terms of GHG emissions while limiting complexity and administrative effort. ***Specific attention should also be paid to avoid any risk of market distortions between the different sectors covered by the CBAM.***

Amendment 24

Proposal for a regulation

Recital 30

Text proposed by the Commission

(30) The use of the first criterion allows listing the following industrial sector in terms of cumulated emissions: iron and steel, refineries, cement, organic basic chemicals, and fertilisers.

Amendment

(30) The use of the first criterion allows listing the following industrial sector in terms of cumulated emissions: iron and steel, refineries, cement, ***aluminium,*** organic basic chemicals, ***hydrogen,*** ***polymers,*** and fertilisers.

Amendment 25

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) In particular, organic chemicals are not included in the scope of this Regulation due to technical limitations that do not allow to clearly define the embedded emissions of imported goods. For these goods the applicable benchmark under the EU ETS is a basic parameter,

Amendment

deleted

which does not allow for an unambiguous allocation of emissions embedded in individual imported goods. A more targeted allocation to organic chemicals will require more data and analysis.

Amendment 26

Proposal for a regulation Recital 33

Text proposed by the Commission

(33) **Similar** technical constraints apply to refinery products, for which it is not possible to unambiguously assign GHG emissions to individual output products. At the same time, the relevant benchmark in the EU ETS does not directly relate to specific products, such as gasoline, diesel or kerosene, but to all refinery output.

Amendment

(33) **Some** technical constraints apply to refinery products, for which it is not possible to unambiguously assign GHG emissions to individual output products. At the same time, the relevant benchmark in the EU ETS does not directly relate to specific products, such as gasoline, diesel or kerosene, but to all refinery output. ***In order to extend the scope of this Regulation in a timely manner, the Commission should develop a fair methodology to calculate embedded emissions from refinery products before the end of the transition phase.***

Amendment 27

Proposal for a regulation Recital 34

Text proposed by the Commission

(34) **However**, aluminium products should be included in the CBAM as they are highly exposed to carbon leakage. Moreover, in several industrial applications they are in direct competition with steel products because of characteristics closely resembling those of steel products. Inclusion of aluminium is also relevant as the scope of the CBAM ***may be extended to cover*** also indirect emissions ***in the future.***

Amendment

(34) Aluminium products should be included in the CBAM as they are highly exposed to carbon leakage. Moreover, in several industrial applications they are in direct competition with steel products because of characteristics closely resembling those of steel products. Inclusion of aluminium is also relevant as the scope of the CBAM also ***covers*** indirect emissions.

Amendment 28

Proposal for a regulation
Recital 36

Text proposed by the Commission

(36) Conversely, this Regulation should not apply to certain products whose production does not entail meaningful emissions like ferrous scrap (under CN code 7204), ferro-alloys (CN code 7202) and certain fertilisers (under CN code 3105 60 00).

Amendment

(36) Conversely, this Regulation should not apply **at a first stage** to certain products whose production does not entail meaningful emissions like ferrous scrap (under CN code 7204), ferro-alloys (CN code 7202) and certain fertilisers (under CN code 3105 60 00).

Amendment 29

Proposal for a regulation
Recital 40

Text proposed by the Commission

(40) An authorised declarant should be allowed to claim a reduction in the number of CBAM certificates to be surrendered corresponding to the carbon price already paid for those emissions in other jurisdictions.

Amendment

(40) An authorised declarant should be allowed to claim a reduction in the number of CBAM certificates to be surrendered corresponding to the **explicit** carbon price already paid for those emissions in other jurisdictions.

Amendment 30

Proposal for a regulation
Recital 45

Text proposed by the Commission

(45) The physical characteristics of electricity as a product, in particular the impossibility to follow the actual flow of electrons, justifies a slightly different design for the CBAM. **Default values should be used as a standard approach** and it should be possible for authorised declarants to claim the calculation of their CBAM obligations based on actual emissions. Electricity trade is different from trade in other goods, notably because it is traded via interconnected electricity grids, using power exchanges and specific forms of trading. Market coupling is a

Amendment

(45) The physical characteristics of electricity as a product, in particular the impossibility to follow the actual flow of electrons, justifies a slightly different design for the CBAM. It should be possible for authorised declarants to claim the calculation of their CBAM obligations based on actual **verified** emissions. **Default values should only be used if data on actual emissions is unavailable**. Electricity trade is different from trade in other goods, notably because it is traded via interconnected electricity grids, using power exchanges and specific forms of

densely regulated form of electricity trade which allows to aggregate bids and offers across the Union.

trading. Market coupling is a densely regulated form of electricity trade which allows to aggregate bids and offers across the Union.

Amendment 31

Proposal for a regulation Recital 46 a (new)

Text proposed by the Commission

Amendment

(46a) To reduce the risk of carbon leakage as well as to ensure a level playing field for Union industry, all practices of circumvention should be prohibited. The Commission should evaluate the risk of practices of circumvention in all sectors included in Annex I, especially the likelihood of transshipment, modified trade patterns towards downstream products, as well as resource shuffling, cost absorption, manipulation of emissions data, wrongful labelling of goods and slight modifications of the product so as to import a product under a different combined nomenclature ('CN') code. The Commission should be empowered to adopt, where appropriate, delegated acts to strengthen anti-circumvention measures.

Amendment 32

Proposal for a regulation Recital 49

Text proposed by the Commission

Amendment

(49) Once third countries will be closely integrated into the Union electricity market via market coupling, technical solutions should be found to ensure the application of the CBAM to electricity exported from such countries into the customs territory of the Union. If technical solutions cannot be found, third countries that are market coupled should benefit from a time limited exemption from the CBAM until at the

(49) Once third countries will be closely integrated into the Union electricity market via market coupling, technical solutions should be found to ensure the application of the CBAM to electricity exported from such countries into the customs territory of the Union. If technical solutions cannot be found, third countries that are market coupled should benefit from a time limited exemption from the CBAM until at the

latest 2030 with regard solely to the export of electricity, provided that certain conditions are satisfied. However, those third countries should develop a roadmap and commit to implement **a** carbon pricing mechanism providing for an equivalent price as the EU ETS, and should commit to achieving carbon neutrality by 2050 **[as well as?]** to align with Union legislation in the areas of environment, climate, competition and energy. That exemption should be withdrawn at any time if there are reasons to believe that the country in question does not fulfil its commitments or it has not adopted by 2030 an ETS equivalent to the EU ETS.

latest 2030 with regard solely to the export of electricity, provided that certain conditions are satisfied. However, those third countries should develop a roadmap and commit to implement **an explicit** carbon pricing mechanism providing for an equivalent price as the EU ETS, and should commit to achieving carbon neutrality by 2050 **at the latest** to align with Union legislation in the areas of environment, climate, competition and energy. That exemption should be withdrawn at any time if there are reasons to believe that the country in question does not fulfil its commitments or it has not adopted by 2030 an ETS equivalent to the EU ETS.

Amendment 34

Proposal for a regulation

Recital 51

Text proposed by the Commission

(51) To facilitate and ensure a proper functioning of the CBAM, the Commission should provide support to the competent authorities responsible for the application of this Regulation in carrying out their obligations.

Amendment

deleted

Amendment 35

Proposal for a regulation

Recital 51 a (new)

Text proposed by the Commission

(51a) It is necessary to ensure that parties affected by decisions made by the CBAM authority have access to the necessary remedies. An appropriate appeal mechanism should therefore be set up so that decisions of the CBAM authority can be subject to appeal to a Board of Appeal, the decisions of which can be subject to action before the Court of Justice of the European Union in accordance with the

Amendment

Amendment 36

Proposal for a regulation Recital 52

Text proposed by the Commission

(52) The Commission should evaluate the application of this Regulation **before the end of the transitional period** and report to the European Parliament and the Council. The **report** of the Commission should in particular focus on possibilities to enhance climate actions towards the objective of a climate neutral Union by 2050. The Commission should, as part of **that** evaluation, initiate collection of information necessary to possibly extend the scope **to indirect emissions, as well as** to other goods and services at risk of carbon leakage, and to develop methods of calculating embedded emissions based on the environmental footprint methods⁴⁷.

⁴⁷ Commission Recommendation 2013/179/EU of 9 April 2013 on the use of common methods to measure and communicate the life cycle environmental performance of products and organisations (OJ L 124, 4.5.2013, p. 1).

Amendment

(52) The Commission should **regularly** evaluate the application of this Regulation and report to the European Parliament and the Council. The **reports** of the Commission should in particular focus on possibilities to enhance climate actions towards the objective of a climate neutral Union by 2050. The Commission should, as part of **the first** evaluation, initiate collection of information necessary to possibly **further** extend the scope **of Annex I**, to other goods and services at risk of carbon leakage, **such as downstream products**, and to develop methods of calculating embedded emissions based on the environmental footprint methods⁴⁷. **The Commission should focus its subsequent evaluations on the impact on competitiveness of Union industry and downstream industry, impact on SMEs, possible disproportionate administrative burden, possible practices of circumvention, distortion in trade patterns and possibilities to enhance climate actions towards a climate neutral Union by 2050 and accompanying those evaluations, where appropriate, with legislative proposals.**

⁴⁷ Commission Recommendation 2013/179/EU of 9 April 2013 on the use of common methods to measure and communicate the life cycle environmental performance of products and organisations (OJ L 124, 4.5.2013, p. 1).

Amendment 37

Proposal for a regulation
Recital 52 a (new)

Text proposed by the Commission

Amendment

(52a) In order to allow for a rapid and effective response to unforeseeable, exceptional and unprovoked circumstances that have destructive consequences for the economic and industrial infrastructure of one or more third countries subject to the CBAM, the Commission should put forward a legislative proposal, as appropriate, amending this Regulation. Such a legislative proposal should set out the measures that are most appropriate in light of the circumstances that the third country or countries are facing, while preserving the objectives of this Regulation. Those measures should be limited in time.

Amendment 38
Proposal for a regulation
Recital 53 a (new)

Text proposed by the Commission

Amendment

(53a) Alongside dialogue with third countries, the Commission should, at each stage after the entry into force of this Regulation, engage with all interested parties of the sectors covered by this Regulation, including industry representatives, trade unions and civil society.

Amendment 39
Proposal for a regulation
Recital 54 a (new)

Text proposed by the Commission

Amendment

(54a) The Commission should actively pursue the establishment of an international “Carbon club” in order to

ensure continuous exchange in good faith with the Union's trade partners. This should be an open non-exclusive international forum, which could be located under an appropriate multilateral organisation such as the WTO or the relevant and open body of the OECD for instance. Its objective should be to allow for the comparison and coordination of carbon pricing measures as well as non-carbon pricing measures with an impact on emission reduction. The Carbon club should also support the comparability of climate measures by ensuring the quality of climate monitoring, reporting and verification among its members. Membership of the club should be informal, open and on a voluntary basis for countries aiming at high climate ambition in line with the Paris Agreement. Given that the CBAM is a first-of-a-kind measure, which is meant to be a cooperative tool designed to fight carbon leakage, such a Carbon club will provide the means for engagement and transparency between the Union and its trade partners.

Amendment 40

Proposal for a regulation Recital 55

Text proposed by the Commission

(55) As the CBAM aims to encourage cleaner production processes, the EU stands ready to work with low and middle-income countries towards the decarbonisation of their manufacturing industries. Moreover, the Union should support less developed countries with the necessary technical assistance in order to facilitate their adaptation to the new obligations established by this regulation.

Amendment

(55) As the CBAM aims to encourage cleaner production processes, the EU stands ready to work with low and middle-income countries towards the decarbonisation of their manufacturing industries. Moreover, the Union should support less developed countries with the necessary technical assistance in order to facilitate their adaptation to the new obligations established by this regulation. ***While the revenues generated by the sale of CBAM certificates will enter the Union budget as general income and should not be assigned to any specific Union budget***

expenditure, in light of the universality principle governing the Union budget, the Union should finance least developed countries' efforts towards the de-carbonisation of their manufacturing industries with an annual amount corresponding at least to the level of revenues generated by the sale of CBAM certificates. Such funding should be provided through the financial support provided by the Union to international climate finance and the relevant geographic programmes and the thematic programme Global Challenges of the Neighbourhood, Development and International Cooperation Instrument established by Regulation (EU) 2021/947 of the European Parliament and of the Council^{1a}. The necessary adjustments to the budgetary appropriation of that instrument should be made through the Union annual budgetary procedure until 2027 and then included in the next multiannual financial framework.

^{1a} Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU of the European Parliament and of the Council and repealing Regulation (EU) 2017/1601 of the European Parliament and of the Council and Council Regulation (EC, Euratom) No 480/2009 (OJ L 209, 14.6.2021, p. 1).

Amendment 41

Proposal for a regulation Recital 57 a (new)

Text proposed by the Commission

Amendment

(57a) The Commission should regularly monitor any changes in trade flows from least developed countries attributable to

the CBAM in order to evaluate the efficiency of this Regulation, including its contribution to the prevention of carbon leakage and its impact on trade flows between the Union and least developed countries. The Commission should also regularly monitor the technical assistance provided to least developed countries in order to evaluate its effectiveness in contributing to the decarbonisation process in those countries.

Amendment 42
Proposal for a regulation
Recital 59

Text proposed by the Commission

(59) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at *expert* level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016⁵¹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

⁵¹ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

Amendment

(59) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at *the level of the relevant experts and industrial sectors*, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016⁵¹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

⁵¹ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

Amendment 43
Proposal for a regulation
Recital 61

Text proposed by the Commission

(61) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties.

Amendment

(61) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties.

According to Europol, carbon credit fraud has cost more than EUR 5 billion in lost government revenues. The CBAM should therefore introduce appropriate and effective mechanisms for avoiding losses of government revenues.

Amendment 44

**Proposal for a regulation
Recital 61 a (new)**

Text proposed by the Commission

Amendment

(61a) The CBAM authority should be funded in a way to guarantee its viable functioning, and enable sound financial management. Any costs of the establishment and operation of the authority should be borne by the general income of the Union budget.

Amendment 45

**Proposal for a regulation
Article 1 – paragraph 1**

Text proposed by the Commission

Amendment

1. This Regulation establishes a carbon border adjustment mechanism (the ‘CBAM’) for addressing greenhouse gas emissions embedded in the goods referred to in Annex I, upon their importation into the customs territory of the Union, in order to ***prevent the*** risk of carbon leakage.

1. This Regulation establishes a carbon border adjustment mechanism (the ‘CBAM’) for addressing greenhouse gas emissions embedded in the goods referred to in Annex I, upon their importation into the customs territory of the Union, in order to ***reduce global carbon emissions and support the implementation of the goals of the Paris Agreement by preventing any***

potential risk of carbon leakage from the Union and incentivise the reduction of emissions in third countries. For that purpose, the CBAM aims to equalise carbon pricing for imports and domestic products that are within the scope of this Regulation.

Amendment 46

Proposal for a regulation Article 1 – paragraph 3

Text proposed by the Commission

3. The mechanism **will** progressively **become an alternative to** the mechanisms established under Directive 2003/87/EC to prevent the risk of carbon leakage, notably the allocation of allowances free of charge in accordance with Article 10a of that Directive.

Amendment

3. The mechanism **is set to** progressively **replace** the mechanisms established under Directive 2003/87/EC to prevent the risk of carbon leakage, notably the allocation of allowances free of charge in accordance with Article 10a of that Directive.

Amendment 47

Proposal for a regulation Article 2 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. By 1 January 2030 this Regulation shall apply to all sectors covered by Directive 2003/87/EC.

The Commission is empowered to adopt a delegated act in accordance with Article 28 supplementing this Regulation by establishing a timeline for the gradual inclusion of all goods under the sectors covered by Directive 2003/87/EC. The Commission shall give priority in that delegated act to goods that are most exposed to carbon leakage and are most carbon intensive. That delegated act shall be adopted by 30 June 2025.

The Commission is empowered to adopt a delegated act in accordance with Article 28 supplementing Annex I by adding all goods under the sectors covered in the EU

ETS.

By... [three years after the date of entry into force of this Regulation] the Commission shall adopt a delegated act in accordance with Article 28 supplementing Annex I by adding downstream products of the goods listed in Annex I. Those downstream products shall contain a significant share of at least one of the goods listed in Annex I.

Amendment 48

Proposal for a regulation Article 2 – paragraph 6

Text proposed by the Commission

6. The Commission is empowered to adopt **implementing acts** in order to **determine** the conditions for applying the CBAM to goods referred to in paragraph 2. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).**

Amendment

6. The Commission is empowered to adopt **delegated acts in accordance with Article 28** in order to **supplement this Regulation by setting out** the conditions for applying the CBAM to goods referred to in paragraph 2.

Amendment 49

Proposal for a regulation Article 2 – paragraph 7 – point b

Text proposed by the Commission

(b) the national law in that third country or territory implements the main provisions of the Union electricity market legislation, including on the development of renewable energy sources **and** the coupling of electricity markets;

Amendment

(b) the national law in that third country or territory implements the main provisions of the Union electricity market legislation, including on the development of renewable energy sources, the coupling of electricity markets, **and implements the Union climate, environment and competition acquis, fully respecting agreed deadlines;**

Amendment 50

Proposal for a regulation Article 2 – paragraph 7 – point e

Text proposed by the Commission

(e) the third country or territory has, when implementing the roadmap pursuant to point (c), demonstrated substantial progress towards the alignment of domestic legislation with Union law in the field of climate action on the basis of that roadmap, including towards carbon pricing at an equivalent level as the Union at least insofar as the generation of electricity is concerned. The implementation of an emission trading system for electricity, with a price equivalent to the EU ETS, shall be finalised by 1 January **2030**;

Amendment 51

**Proposal for a regulation
Article 2 – paragraph 8**

Text proposed by the Commission

8. A third country or territory satisfying the conditions set out in paragraph 7, points (a) to (f), shall be listed in Annex II, Section B, of this Regulation, and shall submit **two** reports on the fulfilment of the conditions pursuant to paragraph 7, points (a) to (f), one before 1 July **2025** and another before 1 July 2029. By 31 December **2025** and by 31 December 2029, the Commission shall assess, notably on the basis of the roadmap pursuant to paragraph 7, point (c), and the reports received from the third country or territory, whether that third country or territory continues to respect the conditions set out in paragraph 7.

Amendment 52

**Proposal for a regulation
Article 2 – paragraph 9 – point b a (new)**

Amendment

(e) the third country or territory has, when implementing the roadmap pursuant to point (c), demonstrated substantial progress towards the alignment of domestic legislation with Union law in the field of climate action on the basis of that roadmap, including towards carbon pricing at an equivalent level as the Union at least insofar as the generation of electricity is concerned. The implementation of an emission trading system for electricity, with a price equivalent to the EU ETS, shall be finalised by 1 January **2028**;

Amendment

8. A third country or territory satisfying the conditions set out in paragraph 7, points (a) to (f), shall be listed in Annex II, Section B, of this Regulation, and shall submit **three comprehensive** reports on the fulfilment of the conditions pursuant to paragraph 7, points (a) to (f), one before 1 July **2024, one before 1 July 2027** and another before 1 July 2029. By 31 December **2024, by 31 December 2027** and by 31 December 2029, the Commission shall assess, notably on the basis of the roadmap pursuant to paragraph 7, point (c), and the reports received from the third country or territory, whether that third country or territory continues to respect the conditions set out in paragraph 7.

Text proposed by the Commission

Amendment

(ba) if the Commission has evidence that, as a result of increased exports of electricity to the Union, the emissions from electricity production in the country or territory have increased.

Amendment 53

Proposal for a regulation Article 2 – paragraph 12

Text proposed by the Commission

Amendment

12. The Union, may conclude agreements with third countries with a view to take account of carbon pricing mechanisms in these countries in the application of Article 9.

12. The Union, may conclude agreements with third countries with a view to take account of carbon pricing mechanisms in these countries in the application of Article 9. ***Such agreements shall not lead to undue preferential treatment of imports from the third countries as regards the CBAM certificates to be surrendered and shall take into account any carbon pricing mechanisms that are considered to be practices of circumvention within the meaning of Article 27(2).***

Amendment 54

Proposal for a regulation Article 3 – paragraph 1 – point 11

Text proposed by the Commission

Amendment

(11) ‘***competent*** authority’ means the authority, ***designated by each Member State*** in accordance with Article 11 of this Regulation;

(11) ‘***CBAM*** authority’ means the authority ***established*** in accordance with Article 11 of this Regulation;

Amendment 55

Proposal for a regulation Article 3 – paragraph 1 – point 15

Text proposed by the Commission

Amendment

(15) ‘direct emissions’ mean emissions from the production processes of goods over which the producer has direct control;

(15) ‘direct emissions’ mean emissions from the production processes of goods over which the producer has direct control, ***including emissions from the production of heating and cooling consumed during the production processes;***

Amendment 56

Proposal for a regulation

Article 3 – paragraph 1 – point 16

Text proposed by the Commission

Amendment

(16) ‘embedded emissions’ mean direct emissions released during the production of goods, calculated pursuant to the methods set out in Annex III;

(16) ‘embedded emissions’ mean direct ***and indirect*** emissions released during the production ***of goods and the electricity consumed during the production processes*** of goods, calculated pursuant to the methods set out in Annex III;

Amendment 57

Proposal for a regulation

Article 3 – paragraph 1 – point 18

Text proposed by the Commission

Amendment

(18) ‘CBAM certificate’ means a certificate in electronic format corresponding to one tonne of embedded emissions in goods;

(18) ‘CBAM certificate’ means a certificate, ***common to all Member States,*** in electronic format corresponding to one tonne of embedded emissions in goods;

Amendment 58

Proposal for a regulation

Article 3 – paragraph 1 – point 22

Text proposed by the Commission

Amendment

(22) ‘actual emissions’ mean the emissions calculated based on primary data from the production processes of goods;

(22) ‘actual emissions’ mean the emissions calculated ***and verified*** based on primary data from the production processes of goods ***and from the production of electricity consumed during the***

production processes of goods;

Amendment 59
Proposal for a regulation
Article 3 – paragraph 1 – point 23

Text proposed by the Commission

(23) ‘carbon price’ means the monetary amount paid in a third country in the form of a tax or emission allowances under a greenhouse gas emissions trading system, calculated on greenhouse gases covered by such a measure and released during the production of goods;

Amendment

(23) ‘carbon price’ means the monetary amount paid in a third country in the form of a tax, **fee** or emission allowances under a greenhouse gas emissions trading system, calculated on greenhouse gases covered by such a measure and released during the production of goods;

Amendment 60

Proposal for a regulation
Article 3 – paragraph 1 – point 28

Text proposed by the Commission

(28) ‘indirect emissions’ mean emissions from the production of electricity, **heating and cooling**, which is consumed during the production processes of goods.

Amendment

(28) ‘indirect emissions’ mean **greenhouse gas** emissions from the production **processes** of electricity which is consumed during the production processes of goods;

Amendment 61

Proposal for a regulation
Article 3 – paragraph 1 – point 28 a (new)

Text proposed by the Commission

Amendment

(28a) ‘least developed country’ means a country included in the list of such countries established by the United Nations Economic and Social Council;

Amendment 62

Proposal for a regulation
Article 3 – paragraph 1 – point 28 b (new)

Text proposed by the Commission

Amendment

(28b) 'CBAM factor' means a factor reducing the free allocation of allowances for the installations producing the goods covered in Annex I;

Amendment 63

Proposal for a regulation

Article 3 – paragraph 1 – point 28 c (new)

Text proposed by the Commission

Amendment

(28c) 'downstream products' means products produced by using goods as listed in Annex I.

Amendment 64

Proposal for a regulation

Article 4 – paragraph 1

Text proposed by the Commission

Amendment

Goods shall only be imported into the customs territory of the Union by a declarant that is authorised by the **competent** authority in accordance with Article 17 ('authorised declarant').

Goods shall only be imported into the customs territory of the Union by a declarant that is authorised by the **CBAM** authority in accordance with Article 17 ('authorised declarant').

(The designation 'CBAM authority' applies throughout the text. Adopting it will necessitate corresponding changes throughout)

Amendment 65

Proposal for a regulation

Article 5 – paragraph 1

Text proposed by the Commission

Amendment

1. Any declarant shall, prior to importing goods as referred to in Article 2, apply to the **competent** authority at the place where it is established, for an

1. Any declarant shall, prior to importing goods as referred to in Article 2, apply to the **CBAM** authority at the place where it is established, for an authorisation

authorisation to import those goods into the customs territory of the Union.

to import those goods into the customs territory of the Union.

Amendment 66

Proposal for a regulation

Article 5 – paragraph 3 – point e

Text proposed by the Commission

(e) declaration on honour that the declarant was not involved in any serious infringements or repeated infringements of customs legislation, taxation rules and market abuse rules during the five years preceding the year of the application, including that it has no record of **serious** criminal offences relating to **its** economic activity;

Amendment

(e) declaration on honour that **the declarant or, where applicable, a board member of** the declarant was not involved in any serious infringements or repeated infringements of customs legislation, taxation rules and market abuse rules during the five years preceding the year of the application, including that it has no record of criminal offences relating to **the declarant's** economic activity;

Amendment 67

Proposal for a regulation

Article 5 – paragraph 3 – point f

Text proposed by the Commission

(f) information necessary to demonstrate the declarant's financial and operational capacity to fulfil its obligations under this Regulation and, if decided by the **competent** authority on the basis of a risk assessment, supporting documents confirming that information, such as the profit and loss account and the balance sheet for up to the three last financial years for which the accounts were closed;

Amendment

(f) information necessary to demonstrate the declarant's financial and operational capacity to fulfil its obligations under this Regulation and, if decided by the **CBAM** authority on the basis of a risk assessment, supporting documents confirming that information, such as the profit and loss account and the balance sheet for up to the three last financial years for which the accounts were closed;

Amendment 68

Proposal for a regulation

Article 5 – paragraph 4

Text proposed by the Commission

4. The applicant may at any time

Amendment

4. The applicant may at any time

withdraw its application.

modify or withdraw its application.

Amendment 69

Proposal for a regulation

Article 5 – paragraph 5

Text proposed by the Commission

5. The authorised declarant shall inform the **competent** authority without delay of any changes of the information provided under paragraph 3, arising after the decision was taken, which may influence the decision taken pursuant to Article 17 or content of the authorisation in accordance with Article 17.

Amendment

5. The authorised declarant shall inform the **CBAM** authority without delay of any changes of the information provided under paragraph 3, arising after the decision was taken, which may influence the decision taken pursuant to Article 17 or content of the authorisation in accordance with Article 17.

Amendment 70

Proposal for a regulation

Article 5 – paragraph 6

Text proposed by the Commission

6. The Commission is empowered to adopt implementing acts, concerning the standard format of the application and the delays and procedure to be followed by the **competent** authority when processing applications for authorisation in accordance with paragraph 1 and the rules for identification by the **competent** authority of the declarants for the importation of electricity. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Amendment

6. The Commission is empowered to adopt implementing acts, concerning the standard format of the application and the delays and procedure to be followed by the **CBAM** authority when processing applications for authorisation in accordance with paragraph 1 and the rules for identification by the **CBAM** authority of the declarants for the importation of electricity. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Amendment 71

Proposal for a regulation

Article 6 – paragraph 1

Text proposed by the Commission

1. By 31 May of each year, each authorised declarant shall submit a

Amendment

1. By 31 May of each year, each authorised declarant shall submit a

declaration ('CBAM declaration'), for the calendar year preceding the declaration, to the *competent* authority.

declaration ('CBAM declaration'), for the calendar year preceding the declaration, to the *CBAM* authority.

Amendment 72

Proposal for a regulation Article 6 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) a copy of the verification report issued by the accredited verifier under Article 8 and Annex V.

Amendment 73

Proposal for a regulation Article 7 – paragraph 5

Text proposed by the Commission

Amendment

5. The authorised declarant shall keep those records of information referred to in paragraph 4, including the report of the verifier, until the end of the fourth year after the year in which the CBAM declaration has been or should have been submitted.

5. The authorised declarant shall keep those records of information referred to in paragraph 4, including the report of the verifier, until the end of the fourth year after the year in which the CBAM declaration has been or should have been submitted. ***Those records shall be sufficiently detailed to enable the accredited verifiers to verify the embedded emissions in accordance with Article 8 and to enable the CBAM authority to review the CBAM declaration in accordance with Article 19(1). The authorised declarant shall keep those records for the period referred to in Article 19(1) in which the CBAM authority may review the CBAM declaration.***

Amendment 74

Proposal for a regulation Article 7 – paragraph 6

Text proposed by the Commission

6. The Commission is empowered to adopt implementing acts concerning ***detailed rules regarding*** the elements of the calculation methods set out in Annex III, including determining system boundaries of production processes, emission factors, installation-specific values of actual emissions and default values and their respective application to individual goods as well as laying down methods to ensure the reliability of data on the basis of which the default values shall be determined, including the level of detail and the verification of the data. Where necessary, those acts shall provide that the default values can be adapted to particular areas, regions or countries to take into account specific objective factors such as geography, natural resources, market conditions, prevailing energy sources, or industrial processes. The implementing acts shall build upon existing legislation for the verification of emissions and activity data for installations covered by Directive 2003/87/EC, in particular Implementing Regulation (EU) No 2018/2067.

Amendment 75

Proposal for a regulation

Article 7 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

6. The Commission is empowered to adopt implementing acts concerning the elements of the calculation methods set out in Annex III, including determining system boundaries of production processes, emission factors, installation-specific values of actual emissions and default values and their respective application to individual goods as well as laying down methods to ensure the reliability of data on the basis of which the default values shall be determined, including the level of detail and the verification of the data. Where necessary, those acts shall provide that the default values can be adapted to particular areas, regions or countries to take into account specific objective factors such as geography, natural resources, market conditions, prevailing energy sources, or industrial processes. The implementing acts shall build upon existing legislation for the verification of emissions and activity data for installations covered by Directive 2003/87/EC, in particular Implementing Regulation (EU) No 2018/2067.

Amendment

7a. The Commission is empowered to adopt delegated acts in accordance with Article 28 supplementing this Regulation regarding the definition of a method to calculate embedded indirect emissions for simple and complex products and relevant default values, as well as a method to determine the CBAM price of indirect embedded emissions.

Amendment 76

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

1. The authorised declarant shall ensure that the total embedded emissions declared in the CBAM declaration submitted pursuant to **Article 6** are verified by a verifier accredited pursuant to Article 18, based on the verification principles set out in Annex V.

Amendment

1. The authorised **CBAM** declarant shall ensure that the total embedded emissions declared in the CBAM declaration submitted pursuant to **Articles 6 and 35, as well as the methodology and supporting data and documents**, are verified by a verifier accredited pursuant to Article 18, based on the verification principles set out in Annex V.

Amendment 77

Proposal for a regulation
Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The CBAM authority is authorised to verify the accuracy of the information provided in the CBAM declaration pursuant to this Article.

Amendment 78

Proposal for a regulation
Article 8 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Amendment

The Commission is empowered to adopt **implementing acts** concerning the principles of verification referred to in paragraph 1 as regards the possibility to waive the obligation for the verifier to visit the installation where relevant goods are produced and the obligation to set thresholds for deciding whether misstatements or non-conformities are material and concerning the supporting documentation needed for the verification report.

The Commission is empowered to adopt **delegated acts in accordance with Article 28 supplementing this Regulation** concerning the principles of verification referred to in paragraph 1 as regards the possibility to waive the obligation for the verifier to visit the installation where relevant goods are produced and the obligation to set thresholds for deciding whether misstatements or non-conformities are material and concerning the supporting documentation needed for the verification report. **The possibility to waive the obligation for the accredited verifier to**

visit the installation where relevant goods are produced may only be used in duly justified circumstances where the installation has a well-known standard profile regarding production and technology, allowing for a reliable estimation of embedded emissions. In any case, the CBAM authority shall remain authorised to verify the accuracy of the information provided in the CBAM declaration. The provisions laid down in such delegated acts shall be equivalent to those in Implementing Regulation (EU) 2018/2067.

Amendment 79

Proposal for a regulation Article 8 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 29(2).

deleted

Amendment 80

Proposal for a regulation Article 9 – title

Text proposed by the Commission

Amendment

Carbon price paid in a country of origin

Explicit carbon price paid in a country of origin

Amendment 81

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

Amendment

1. An authorised declarant may claim in its CBAM declaration a reduction in the number of CBAM certificates to be surrendered in order for the carbon price

1. An authorised declarant may claim in its CBAM declaration a reduction in the number of CBAM certificates to be surrendered in order for the *explicit* carbon

paid in the country of origin for the declared embedded emissions to be taken into account.

price paid in the country of origin for the declared embedded emissions to be taken into account. ***That reduction may also be 100 % if the carbon price paid in the country of origin is equivalent to or higher than the Union carbon price.***

Amendment 82

Proposal for a regulation Article 9 – paragraph 2

Text proposed by the Commission

2. The authorised declarant shall keep records of the documentation, certified by an ***independent person***, required to demonstrate that the declared embedded emissions were subject to ***a*** carbon price in the country of origin of the goods and keep evidence of the proof of the actual payment for that carbon price which should not have been subject to an export rebate or any other form of compensation on exportation.

Amendment

2. The authorised declarant shall keep records of the documentation, certified by an ***accredited verifier***, required to demonstrate that the declared embedded emissions were subject to ***an explicit*** carbon price in the country of origin of the goods and keep evidence of the proof of the actual payment for that carbon price which should not have been subject to an export rebate or any other form of ***direct or indirect*** compensation on exportation. ***The name and contact details of the accredited verifier shall appear on the documentation. The authorised declarant shall transmit such documentation to the CBAM authority.***

Amendment 83

Proposal for a regulation Article 9 – paragraph 4

Text proposed by the Commission

4. The Commission is empowered to adopt implementing acts establishing the methodology for calculating the reduction in the number of CBAM certificates to be surrendered, regarding the conversion of the carbon price paid in foreign currency into euro at yearly average exchange rate in accordance with paragraph 1, and regarding the qualifications of the ***independent person*** certifying the information as well as elements of proof of

Amendment

4. The Commission is empowered to adopt implementing acts establishing the methodology for calculating the reduction in the number of CBAM certificates to be surrendered, regarding the conversion of the carbon price paid in foreign currency into euro at yearly average exchange rate in accordance with paragraph 1, and regarding the qualifications of the ***accredited verifier*** certifying the information as well as elements of proof of

the carbon price paid and the absence of export rebates or other forms of compensation on exportation being applied as referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

the carbon price paid and the absence of export rebates or other forms of **direct and indirect** compensation on exportation being applied as referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Amendment 84

Proposal for a regulation Article 10 – paragraph 1

Text proposed by the Commission

1. The Commission shall, upon request by an operator of an installation located in a third country, register the information on that operator and on its installation in a **central database** referred to in Article 14(4).

Amendment

1. The Commission shall, upon request by an operator of an installation located in a third country, register the information on that operator and on its installation in a **CBAM registry** referred to in Article 14.

Amendment 85

Proposal for a regulation Article 10 – paragraph 6

Text proposed by the Commission

6. The records referred to in paragraph 5, point (c), shall be sufficiently detailed to enable the verification in accordance with paragraph 5, point (b), and to enable **any competent** authority to review, in accordance with Article 19(1), the CBAM declaration made by an authorised declarant to whom the relevant information was disclosed in accordance with paragraph 8.

Amendment

6. The records referred to in paragraph 5, point (c), shall be sufficiently detailed to enable the verification in accordance with paragraph 5, point (b), and to enable **the CBAM** authority to review **and verify**, in accordance with Article 19(1), the CBAM declaration made by an authorised declarant to whom the relevant information was disclosed in accordance with paragraph 8.

Amendment 86

Proposal for a regulation Article 10 – paragraph 7

Text proposed by the Commission

7. **An operator may disclose** the

Amendment

7. The information on **verified**

information on *the verification of* embedded emissions referred to in paragraph 5 *to an authorised declarant*. The authorised declarant shall be entitled to avail itself of that *disclosed* information to fulfil the obligation referred to in Article 8.

embedded emissions referred to in paragraph 5 *shall be publicly accessible via the CBAM registry*. The authorised declarant shall be entitled to avail itself of that information to fulfil the obligation referred to in Article 8.

Amendment 87

Proposal for a regulation Chapter III – title

Text proposed by the Commission

Amendment

Competent authorities

The CBAM authority

Amendment 88

Proposal for a regulation Article 11 – title

Text proposed by the Commission

Amendment

Competent authorities

The CBAM authority

Amendment 89

Proposal for a regulation Article 11 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

Each Member State shall designate the competent authority to carry out the obligations under this Regulation and inform the Commission thereof.

The Commission shall establish the CBAM authority to perform the obligations under this Regulation.

Amendment 90

Proposal for a regulation Article 11 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The Commission shall make available to the Member States a list of all competent

deleted

authorities and publish this information in the Official Journal of the European Union.

Amendment 91

Proposal for a regulation Article 11 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall require that competent authorities exchange any information that is essential or relevant to the exercise of their functions and duties.

deleted

Amendment 92

Proposal for a regulation Article 12

Text proposed by the Commission

Amendment

Article 12

deleted

Commission

The Commission shall assist the competent authorities in carrying out their obligations under this Regulation and coordinate their activities.

Amendment 93

Proposal for a regulation Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

Decisions of the CBAM authority

1. The CBAM authority shall, without delay, take decisions in order to implement this Regulation.

2. A decision of the CBAM authority shall take effect from the date of notification of that decision to the

addressee.

3. If the CBAM authority considers that it does not have all the necessary information to take a decision, it shall contact the addressee of the decision and specify what additional information is required. In such a case, the addressee of the decision shall, without delay, submit the required additional information to the CBAM authority.

4. The addressee of the decision shall inform the CBAM authority without delay of any changes to the information provided that arise after the decision was taken. In such a case, the CBAM authority shall reassess its decision in light of that information and confirm or modify that decision.

5. Where the CBAM authority proposes to take a decision which adversely affects the addressee of the decision, it shall set out the grounds on which the proposed decision is based and shall include in the decision a reference to the right of appeal provided for in Article 27a. Before such a decision is taken, the CBAM authority shall give the addressee of the proposed decision the opportunity to make its point of view known to the CBAM authority within a fixed period of time. Following the expiry of that period, the CBAM authority shall notify the addressee of the decision.

6. The CBAM authority may, at any time, annul, revoke or amend its decision following a reasoned request by the addressee of the decision or on its own initiative, if appropriate.

7. The Commission is empowered to adopt delegated acts to supplement this Regulation by specifying further detailed arrangements and procedural rules concerning this Article. Those delegated acts shall be adopted in accordance with Article 28.

Amendment 94

Proposal for a regulation
Article 13 – paragraph 1

Text proposed by the Commission

All information acquired by the **competent** authority in the course of performing its duty which is by its nature confidential or which is provided on a confidential basis shall be covered by an obligation of professional secrecy. Such information shall not be disclosed by the **competent** authority without the express permission of the person or authority that provided it. It may be shared with customs authorities, the Commission and the European Public Prosecutors Office and shall be treated in accordance with Council Regulation (EC) No 515/97.

Amendment

All information acquired by the **CBAM** authority in the course of performing its duty which is by its nature confidential or which is provided on a confidential basis shall be covered by an obligation of professional secrecy. Such information shall not be disclosed by the **CBAM** authority without the express permission of the person or authority that provided it. It may be shared with customs authorities, the Commission and the European Public Prosecutors Office and shall be treated in accordance with Council Regulation (EC) No 515/97.

Amendment 95

Proposal for a regulation
Article 14

Text proposed by the Commission

Article 14

National registries and central database

1. The competent authority of each Member State shall establish a national registry of declarants authorised in that Member State in the form of a standardised electronic database containing the data regarding the CBAM certificates of those declarants, and to provide for confidentiality in accordance with the conditions set out in Article 13.

2. The database referred to in paragraph 1 shall contain accounts with information about each authorised declarant, in particular:

- (a) the name and contact details of the authorised declarant;***
- (b) the EORI number of the authorised declarant;***
- (c) the CBAM account number;***

Amendment

deleted

(d) the number, the price of sale, the date of purchase, the date of surrender, or the date of re-purchase, or that of the cancellation by the competent authority, of CBAM certificates for each authorised declarant.

3. The information in the database referred to in paragraph 2 shall be confidential.

4. The Commission shall establish a central database accessible to the public containing the names, addresses and contact details of the operators and the location of installations in third countries in accordance with Article 10(2). An operator may choose not to have its name, address and contact details accessible to the public.

Amendment 96

Proposal for a regulation Article 14 a (new)

Text proposed by the Commission

Amendment

Article 14a

CBAM registry

1. The CBAM authority shall set up a CBAM registry to execute processes relating to CBAM certificates, in accordance with Articles 20, 21 and 22.

2. The CBAM registry shall contain an electronic database with information about each authorised declarant, in particular:

(a) name and contact details;

(b) EORI number;

(c) CBAM account number;

(d) number, price and date of purchase of CBAM certificates held.

3. The CBAM registry shall also contain, in a separate section of the database, the names and additional details of the operators and of the installations in third countries that are registered in

accordance with Article 10. That section of the database shall in particular contain, where applicable, the verified emissions of the installations.

4. The information on the database shall be confidential except for the names of the authorised declarants and operators, the location and, where appropriate, the name of the installations in third countries and their verified emissions, which shall be accessible to the public in an interoperable format.

5. The Commission shall adopt implementing acts concerning the infrastructure and specific processes of the CBAM registry and the electronic databases containing the information referred to in paragraphs 2 and 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Amendment 97

Proposal for a regulation Article 15

Text proposed by the Commission

Amendment

Article 15

deleted

Central administrator

1. The Commission shall act as central administrator to maintain an independent transaction log recording the purchase of CBAM certificates, their holding, surrender, re-purchase and cancellation and ensure coordination of national registries.

2. The central administrator shall carry out risk-based controls on transactions recorded in national registries through an independent transaction log to ensure that there are no irregularities in the purchase, holding, surrender, re-purchase and cancellation of CBAM certificates.

3. If irregularities are identified as a

result of the controls carried out under paragraph 2, the Commission shall inform the Member State or Member States concerned for further investigation in order to correct the identified irregularities.

Amendment 98

Proposal for a regulation Article 16 – title

Text proposed by the Commission

Amendment

Accounts in the *national registries*

Accounts in the **CBAM registry**

Amendment 99

Proposal for a regulation Article 16 – paragraph 1

Text proposed by the Commission

Amendment

1. The **competent** authority shall assign to each authorised declarant a unique CBAM account number.

1. The **CBAM** authority shall assign to each authorised declarant a unique CBAM account number.

Amendment 100

Proposal for a regulation Article 16 – paragraph 2

Text proposed by the Commission

Amendment

2. Each authorised declarant shall be granted access to its account in the registry.

2. Each authorised declarant shall be granted access to its account in the **CBAM** registry.

Amendment 101

Proposal for a regulation Article 16 – paragraph 3

Text proposed by the Commission

Amendment

3. The **competent** authority shall set up the account as soon as the authorisation

3. The **CBAM** authority shall set up the account as soon as the authorisation

referred to in Article 17(1) is granted and notify the authorised declarant thereof.

referred to in Article 17(1) is granted and notify the authorised declarant thereof.

Amendment 102

Proposal for a regulation Article 16 – paragraph 4

Text proposed by the Commission

4. If the authorised declarant has ceased its economic activity or its authorisation was revoked, the **competent** authority shall close the account of that declarant.

Amendment

4. If the authorised declarant has ceased its economic activity or its authorisation was revoked, the **CBAM** authority shall close the account of that declarant.

Amendment 103

Proposal for a regulation Article 17 – paragraph 1 – introductory part

Text proposed by the Commission

1. The **competent** authority shall authorise a declarant who submits an application for authorisation in accordance with Article 5(1), if the following conditions are fulfilled:

Amendment

1. The **CBAM** authority shall authorise a declarant who submits an application for authorisation in accordance with Article 5(1), if the following conditions are fulfilled:

Amendment 104

Proposal for a regulation Article 17 – paragraph 2

Text proposed by the Commission

2. Where the **competent** authority finds that the conditions listed in paragraph 1 are not fulfilled, or where the applicant has failed to provide the information listed in Article 5(3), the authorisation of the declarant shall be refused.

Amendment

2. Where the **CBAM** authority finds that the conditions listed in paragraph 1 are not fulfilled, or where the applicant has failed to provide the information listed in Article 5(3), the authorisation of the declarant shall be refused.

Amendment 105

Proposal for a regulation Article 17 – paragraph 3

Text proposed by the Commission

Amendment

3. If the competent authority refuses to authorise a declarant, the declarant requesting the authorisation may, prior to an appeal, object to the relevant authority under national law, who shall either instruct the national administrator to open the account or uphold the refusal in a reasoned decision, subject to requirements of national law that pursue a legitimate objective compatible with this Regulation and are proportionate.

deleted

Amendment 106

Proposal for a regulation

Article 17 – paragraph 4 – introductory part

Text proposed by the Commission

Amendment

4. A decision of the **competent** authority authorising a declarant shall contain the following information

4. A decision of the **CBAM** authority authorising a declarant shall contain the following information

Amendment 107

Proposal for a regulation

Article 17 – paragraph 6 – subparagraph 1

Text proposed by the Commission

Amendment

The **competent** authority shall require the provision of a guarantee in order to authorise a declarant in accordance with paragraph 1, if the declarant was not established throughout the two financial years that precede the year when the application in accordance with Article 5(1) was submitted.

The **CBAM** authority shall require the provision of a guarantee in order to authorise a declarant in accordance with paragraph 1, if the declarant was not established throughout the two financial years that precede the year when the application in accordance with Article 5(1) was submitted.

Amendment 108

Proposal for a regulation

Article 17 – paragraph 6 – subparagraph 2

Text proposed by the Commission

The **competent** authority shall fix the amount of such guarantee at the maximum amount, as estimated by the **competent** authority, of the value of the CBAM certificates that the authorised declarant have to surrender, in accordance with Article 22.

Amendment

The **CBAM** authority shall fix the amount of such guarantee at the maximum amount, as estimated by the **CBAM** authority, of the value of the CBAM certificates that the authorised declarant have to surrender, in accordance with Article 22.

Amendment 109

Proposal for a regulation
Article 17 – paragraph 7

Text proposed by the Commission

7. The guarantee shall be provided as a bank guarantee, payable at first demand, by a financial institution operating in the Union or by another form of guarantee which provides equivalent assurance. Where the **competent** authority establishes that the guarantee provided does not ensure, or is no longer certain or sufficient to ensure the amount of CBAM obligations, it shall require the authorised declarant either to provide an additional guarantee or to replace the initial guarantee with a new guarantee, according to its choice.

Amendment

7. The guarantee shall be provided as a bank guarantee, payable at first demand, by a financial institution operating in the Union or by another form of guarantee which provides equivalent assurance. Where the **CBAM** authority establishes that the guarantee provided does not ensure, or is no longer certain or sufficient to ensure the amount of CBAM obligations, it shall require the authorised declarant either to provide an additional guarantee or to replace the initial guarantee with a new guarantee, according to its choice.

Amendment 110

Proposal for a regulation
Article 17 – paragraph 8

Text proposed by the Commission

8. The **competent** authority shall release the guarantee immediately after 31 May of the second year in which the authorised declarant has surrendered CBAM certificates in accordance with Article 22.

Amendment

8. The **CBAM** authority shall release the guarantee immediately after 31 May of the second year in which the authorised declarant has surrendered CBAM certificates in accordance with Article 22.

Amendment 111

Proposal for a regulation
Article 17 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. *The CBAM authority may verify the accuracy and completeness of the information given by the applicant in accordance with Article 5(3) and the existence, authenticity, accuracy and validity of any supporting document. The CBAM authority may carry out such controls at the premises of the applicant.*

Amendment 112

Proposal for a regulation
Article 17 – paragraph 9

Text proposed by the Commission

Amendment

9. The **competent** authority shall revoke the authorisation for a declarant who no longer meets the conditions laid down in paragraph 1, or who fails to cooperate with that authority.

9. The **CBAM** authority shall revoke the authorisation for a declarant who no longer meets the conditions laid down in paragraph 1, or who fails to cooperate with that authority, **or who has been found to repeatedly or seriously infringe this Regulation.**

Amendment 113

Proposal for a regulation
Article 17 – paragraph 9 a (new)

Text proposed by the Commission

Amendment

9a. *The Commission shall, by means of implementing acts, adopt the practical arrangements for the application of the criteria referred to in paragraph 1 and for guarantees referred to in paragraph 6. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).*

Amendment 114

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission

1. Any person accredited pursuant to Implementing Regulation (EU) No 2018/2067 shall be regarded as an accredited verifier under this Regulation.

Amendment

1. Any **legal** person accredited pursuant to Implementing Regulation (EU) No 2018/2067 shall be regarded as an accredited verifier under this Regulation.

Amendment 115

Proposal for a regulation
Article 18 – paragraph 2

Text proposed by the Commission

2. ***In addition to paragraph 1, a national accreditation body may on request accredit a person as a verifier under this Regulation after checking the documentation attesting its capacity to apply the verification principles referred to Annex V to perform the obligations of control of the embedded emissions established in Articles 8, 10 and 38.***

Amendment

deleted

Amendment 116

Proposal for a regulation
Article 18 – paragraph 3

Text proposed by the Commission

3. The Commission is empowered to adopt delegated acts in accordance with Article 28 for the accreditation referred to in paragraph 2, specifying conditions for the control and oversight of accredited verifiers, for the withdrawal of accreditation and for mutual recognition and peer evaluation of the accreditation bodies.

Amendment

3. The Commission is empowered to adopt delegated acts in accordance with Article 28 for the accreditation referred to in paragraph **1**, specifying conditions for the control and oversight of accredited verifiers, for the withdrawal of accreditation and for mutual recognition and peer evaluation of the accreditation bodies.

Amendment 117

Proposal for a regulation
Article 19 – paragraph 1

Text proposed by the Commission

1. The **competent** authority may review the CBAM declaration within the period ending with the fourth year after the year in which the declaration should have been submitted. The review may consist in verifying the information provided in the CBAM declaration on the basis of the information communicated by the customs authorities in accordance with Article 25(2) and any other relevant evidence, and on the basis of any audit deemed necessary, including at the premises of the authorised declarant.

Amendment

1. The **CBAM** authority may review the CBAM declaration within the period ending with the fourth year after the year in which the declaration should have been submitted. The review may consist in verifying the information provided in the CBAM declaration on the basis of the information communicated by the customs authorities in accordance with Article 25(2) and any other relevant evidence, and on the basis of any audit deemed necessary, including at the premises of the authorised declarant.

Amendment 118

Proposal for a regulation
Article 19 – paragraph 3

Text proposed by the Commission

3. Where the **competent** authority has established that the declared number of CBAM certificates to be surrendered is incorrect, or that no CBAM declaration has been submitted pursuant to paragraph 2, it shall adjust the number of CBAM certificates due by the authorised declarant. The **competent** authority shall notify the authorised declarant of the adjustment and request that the authorised declarant shall surrender the additional CBAM certificates within one month.

Amendment

3. Where the **CBAM** authority has established that the declared number of CBAM certificates to be surrendered is incorrect, or that no CBAM declaration has been submitted pursuant to paragraph 2, it shall adjust the number of CBAM certificates due by the authorised declarant. The **CBAM** authority shall notify the authorised declarant of the adjustment and request that the authorised declarant shall surrender the additional CBAM certificates within one month.

Amendment 119

Proposal for a regulation
Article 19 – paragraph 4

Text proposed by the Commission

4. ***The recipient of the notification referred to in paragraph 3 may lodge an appeal of the notification. The recipient of the notification shall be provided with information regarding the procedure to be***

Amendment

deleted

followed in the event of an appeal.

Amendment 120

Proposal for a regulation

Article 19 – paragraph 5

Text proposed by the Commission

5. Where CBAM certificates have been surrendered in excess of the number due, the **competent** authority shall, without delay, reimburse the authorised declarant the value of CBAM certificates surrendered in excess, calculated at the average price paid for CBAM certificates by the authorised declarant **during the year of import**.

Amendment

5. Where CBAM certificates have been surrendered in excess of the number due, the **CBAM** authority shall, without delay, reimburse the authorised declarant the value of CBAM certificates surrendered in excess, calculated at the average price paid for CBAM certificates by the authorised declarant **for those certificates at the time of purchase**.

Amendment 121

Proposal for a regulation

Article 20 – paragraph 1

Text proposed by the Commission

1. The **competent** authority **of each Member State** shall sell CBAM certificates to **declarants** authorised **in that Member State** at the price calculated in accordance with Article 21.

Amendment

1. The **CBAM** authority shall sell CBAM certificates to authorised **declarants** at the price calculated in accordance with Article 21.

Amendment 122

Proposal for a regulation

Article 20 – paragraph 2

Text proposed by the Commission

2. The **competent** authority shall ensure that each CBAM certificate is assigned a unique unit identification code upon its creation and shall register the unique unit identification number, the price and date of sale of the certificate in the **national** registry in the account of the authorised declarant purchasing it.

Amendment

2. The **CBAM** authority shall ensure that each CBAM certificate is assigned a unique unit identification code upon its creation and shall register the unique unit identification number, the price and date of sale of the certificate in the **CBAM** registry in the account of the authorised declarant purchasing it.

Amendment 123

Proposal for a regulation Article 21 – paragraph 3

Text proposed by the Commission

3. The Commission is empowered to adopt implementing acts to **further define** the methodology to calculate the average price of CBAM certificates and practical arrangements for the publication of the price. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Amendment

3. The Commission is empowered to adopt implementing acts to **implement** the methodology, **provided for in paragraph 1**, to calculate the average price of CBAM certificates and **the** practical arrangements for the publication of the price. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Amendment 124

Proposal for a regulation Article 22 – paragraph 1

Text proposed by the Commission

1. By 31 May of each year, the authorised declarant shall surrender a number of CBAM certificates to the **competent** authority that corresponds to the embedded emissions declared in accordance with Article 6(2)(c) and verified in accordance with Article 8 for the calendar year preceding the surrender

Amendment

1. By 31 May of each year, the authorised declarant shall surrender a number of CBAM certificates to the **CBAM** authority that corresponds to the embedded emissions **calculated in accordance with Annex IIIa and** declared in accordance with Article 6(2)(c) and verified in accordance with Article 8 for the calendar year preceding the surrender.

Amendment 125

Proposal for a regulation Article 22 – paragraph 2

Text proposed by the Commission

2. For the purposes of paragraph 1, the authorised declarant shall ensure that the required number of CBAM certificates is available on its account in the **national** registry. In addition, the authorised declarant shall ensure that the number of

Amendment

2. For the purposes of paragraph 1, the authorised declarant shall ensure that the required number of CBAM certificates is available on its account in the **CBAM** registry. In addition, the authorised declarant shall ensure that the number of

CBAM certificates on its account in the **national** registry at the end of each quarter corresponds to at least 80 per cent of the embedded emissions, determined by reference to default values in accordance with the methods set out in Annex III, in all goods it has imported since the beginning of the calendar year.

CBAM certificates on its account in the **CBAM** registry at the end of each quarter corresponds to at least 80 per cent of the embedded emissions, determined by reference to default values in accordance with the methods set out in Annex III, in all goods it has imported since the beginning of the calendar year.

Amendment 126

Proposal for a regulation Article 22 – paragraph 3

Text proposed by the Commission

3. Where the **competent** authority finds that the number of CBAM certificates in the account of an authorised declarant is not in compliance with the obligations pursuant to paragraph 2, second sentence, that authority shall notify the adjustment and request that the authorised declarant surrenders the additional CBAM certificates within one month.

Amendment

3. Where the **CBAM** authority finds that the number of CBAM certificates in the account of an authorised declarant is not in compliance with the obligations pursuant to paragraph 2, second sentence, that authority shall notify the adjustment and request that the authorised declarant surrenders the additional CBAM certificates within one month.

Amendment 127

Proposal for a regulation Article 22 – paragraph 4

Text proposed by the Commission

4. ***The recipient of the notification referred to in paragraph 3 may lodge an appeal of the notification. The recipient of the notification shall be provided with information regarding the procedure to be followed in the event of an appeal.***

Amendment

deleted

Amendment 128

Proposal for a regulation Article 23 – paragraph 1

Text proposed by the Commission

1. The **competent** authority ***of each***

Amendment

1. The **CBAM** authority shall, on

Member State shall, on request by *a declarant* authorised *in that Member State*, re-purchase the excess of CBAM certificates remaining on the account of the declarant in the *national* registry after the certificates have been surrendered in accordance with Article 22. The request to re-purchase shall be submitted by 30 June of each year when CBAM certificates were surrendered.

request by *an* authorised *declarant*, re-purchase the excess of CBAM certificates remaining on the account of the declarant in the *CBAM* registry after the certificates have been surrendered in accordance with Article 22. The request to re-purchase shall be submitted by 30 June of each year when CBAM certificates were surrendered.

Amendment 129

Proposal for a regulation Article 24 – paragraph 1

Text proposed by the Commission

By 30 June of each year, the *competent* authority *of each Member State* shall cancel any CBAM certificates that were purchased during the year before the previous calendar year and that remained in the accounts in the *national* registry of the declarants authorised *in that Member State*.

Amendment

By 30 June of each year, the *CBAM* authority shall cancel any CBAM certificates that were purchased during the year before the previous calendar year and that remained in the accounts in the *CBAM* registry of the *authorised* declarants *and shall inform the authorised declarants concerned of this without undue delay*.

Amendment 130

Proposal for a regulation Article 24 a (new)

Text proposed by the Commission

Amendment

Article 24a

Revenues generated by the sale of CBAM certificates

- 1. The revenues generated by the sale of CBAM certificates shall not constitute assigned revenue. This Regulation shall not prevent revenues generated by the sale of CBAM certificates from being defined as own resources in accordance with Article 311 TFEU and entered in the Union budget as general income.*
- 2. To ensure that the CBAM fulfils its aim to reduce global carbon emissions and help meet the Union's climate*

objectives and international commitments, including the Paris Agreement, Union financial support is provided to support climate mitigation and adaptation in least developed countries' including their efforts towards the de-carbonisation and transformation of their manufacturing industries without prejudice to paragraph 1. Such funding is made available through the Union budget in order to contribute to international climate finance by facilitating the adaptation of the industries concerned to the new obligations established by this Regulation and complemented by technical assistance, subject to the full implementation and enforcement of internationally recognised labour and social rights such as the ILO core labour standards in the recipient country.

The new financial support from the Union budget should be provided under the relevant geographic and thematic programme of the Neighbourhood, Development and International Cooperation Instrument established by Regulation (EU) 2021/947 and an amount determined on a yearly basis, which should correspond at least to the level of revenues generated by the sale of CBAM certificates.

3. To ensure transparency of the use of revenues generated by the sale of CBAM certificates the Commission shall, on a yearly basis, report to the European Parliament and to the Council on how the equivalent amount in financial value of those revenues from the previous year has been used and how this has contributed to the decarbonisation of the manufacturing industry in the least developed countries.

Amendment 131

**Proposal for a regulation
Article 25**

4.7.2022 / 24317

Article 25

deleted

Procedures at the border when goods are imported

- 1. The customs authorities shall not allow the importation of goods unless the declarant is authorised by a competent authority at the latest at the release for free circulation of the goods.***
- 2. The customs authorities shall periodically communicate information on the goods declared for importation, which shall include the EORI number and the CBAM account number of the declarant, the 8-digit CN code of the goods, the quantity, the country of origin, the date of declaration and the customs procedure, to the competent authority of the Member State where the declarant has been authorised.***
- 3. The custom authorities shall carry out controls on the goods in accordance with Article 46 of Regulation (EU) No 952/2013, including the 8-digit CN code, the quantity and the country of origin of the imported goods. The Commission shall include the risks relating to CBAM in the design of the common risk criteria and standards pursuant to Article 50 of Regulation (EU) No 952/2013.***
- 4. The customs authorities may communicate in accordance with Article 12(1) of Regulation (EU) No 952/2013, confidential information acquired by the customs authorities in the course of performing their duty or provided on a confidential basis, to the competent authority of the Member State where the declarant has been authorised. The competent authorities of the Member States shall treat and exchange this information in accordance with Council Regulation (EC) No 515/97.***
- 5. The Commission is empowered to adopt implementing acts defining the information, the timing and the means for communicating the information pursuant***

to paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Amendment 132

Proposal for a regulation Article 25 a (new)

Text proposed by the Commission

Amendment

Article 25a

Procedures at the border when goods are imported

- 1. The customs authorities shall ensure that the declarant of the goods is registered with the CBAM authority when the goods are declared for importation and at the latest when the goods are released for free circulation.**
- 2. The customs authorities shall periodically communicate to the CBAM authority specific information on the goods listed in Annex I that are declared for importation. That information shall include at least the quantity, country of origin and declarant of the goods. The customs authorities may communicate confidential information, as referred to in Article 12(1) of Regulation (EU) No 952/2013, to the CBAM authority for the purpose of this Regulation.**
- 3. Imported products shall be considered as originating in third countries in accordance with the rules on non-preferential origin of goods referred to in Article 59 of Regulation (EU) No 952/2013.**
- 4. The Commission shall lay down, by means of implementing acts, the periodicity and the information referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).**
- 5. From the date of initiation of an**

action under Article 26a or 27, and after having informed the Member States in due time, the Commission may direct the customs authorities to take the appropriate steps to register imports, so that measures may subsequently be applied against those imports from the date of such registration. The Commission may make imports subject to registration following a request from the Union industry which contains sufficient evidence to justify such action or at the Commission's own initiative. Registration shall be introduced by a Commission decision which shall specify the purpose of the action and, if appropriate, the estimated amount of possible future liability. Imports shall not be made subject to registration for a period longer than nine months.

Amendment 133

Proposal for a regulation Article 26

Text proposed by the Commission

Amendment

Article 26

deleted

Penalties

1. An authorised declarant who fails to surrender, by 31 May of each year, a number of CBAM certificates corresponding to the emissions embedded in goods imported during the previous year shall be liable to a penalty identical to the excess emissions penalty set out in Article 16(3) of Directive 2003/87/EC, increased pursuant to Article 16(4) of that Directive, in the year of importation of the goods, for each CBAM certificate that the authorised declarant should have surrendered.

2. Any person other than an authorised declarant, introducing goods into the customs territory of the Union without surrendering CBAM certificates according to this Regulation shall be liable to the penalty referred to in

paragraph 1 in the year of introduction of the goods, for each CBAM certificate that the person should have surrendered.

3. Payment of the penalty shall in no case release the authorised declarant from the obligation to surrender the outstanding number of CBAM certificates in a given year to the competent authority of the Member State where the declarant has been authorised.

4. If the competent authority determines that an authorised declarant has failed to comply with the obligation to surrender CBAM certificates as specified in paragraph 1, or that a person has introduced goods into the customs territory of the Union as specified in paragraph 2, the competent authority shall impose the penalty and notify the authorised declarant or, in the situation under paragraph 2, the person:

- (a) that the competent authority has concluded that the authorised declarant or the person fails to comply with the obligation of surrendering CBAM certificates for a given year;**
- (b) of the reasons for its conclusion;**
- (c) of the amount of the penalty imposed on the authorised declarant or on the person;**
- (d) of the date from which the penalty is due;**
- (e) of the action the competent authority considers the authorised declarant or the person should take to comply with its obligation under point (a) depending on the facts and circumstances of the case; and**
- (f) of the right of the authorised declarant or of the person to appeal under national rules.**

5. Member States may apply administrative or criminal sanctions for failure to comply with the CBAM legislation in accordance with their national rules in addition to penalties referred to in paragraph 2. Such

sanctions shall be effective, proportionate and dissuasive.

Amendment 134

Proposal for a regulation Article 26 a (new)

Text proposed by the Commission

Amendment

Article 26a

Penalties

1. An authorised declarant who fails to surrender, by 31 May of each year, the number of CBAM certificates corresponding to the emissions embedded in goods imported during the previous year or who submits to the authority false information related to actual emissions with a view to obtaining a favourable individual treatment, shall be liable for the payment of a penalty.

2. The amount of the penalty shall be equivalent to three times the average price of CBAM certificates in the previous year for each CBAM certificate that the authorised declarant did not surrender in accordance with Article 22. The payment of the penalty shall not release the authorised declarant from the obligation of surrendering the outstanding number of CBAM certificates to the CBAM authority.

3. In the case of repeated offences, the CBAM authority may decide to suspend the CBAM account of the authorised declarant.

4. In addition to the penalty referred to in paragraph 2, Member States shall apply administrative or criminal penalties for failure to comply with the CBAM in accordance with their national law. Such penalties shall be effective, proportionate and dissuasive.

5. If the CBAM authority determines that an authorised declarant has failed to comply with the obligation to surrender

CBAM certificates or has submitted false information to the authority, the CBAM authority shall impose the penalty referred to in paragraph 2 and notify the authorised declarant:

(a) that the CBAM authority has concluded that the authorised declarant fails to comply with the obligation of surrendering CBAM certificates for a given year in accordance with Article 22 or has submitted false information to the authority;

(b) of the reasons for its conclusion;

(c) of the amount of the penalty imposed on the authorised declarant;

(d) of the date from which the penalty is due;

(e) of the action the competent authority considers the authorised declarant should take to comply with its obligations under point (a) depending on the facts and circumstances of the case; and

(f) of the right of the authorised declarant to appeal under national law.

Amendment 135

Proposal for a regulation Article 27 – paragraph 2

Text proposed by the Commission

2. Practices of circumvention ***include situations where a change in the pattern of trade in relation to goods included in the scope of*** this Regulation has insufficient due cause or economic justification other than avoiding obligations as laid down in this Regulation and consist ***in replacing those goods with slightly modified products, which are not included in the list of goods in Annex I but belong to a sector included in the scope of this Regulation.***

Amendment

2. Practices of circumvention ***shall be any measures that have the objective of avoiding any of the obligations laid down in this Regulation. Those shall be situations which stem from a practice, process or work which*** has insufficient due cause or economic justification other than avoiding ***or mitigating*** obligations as laid down in this Regulation and ***may*** consist of, ***but*** are not ***limited to:***

Amendment 136

Proposal for a regulation Article 27 – paragraph 2 – point a (new)

Text proposed by the Commission

Amendment

(a) direct and indirect subsidies, such as favourable tax arrangements, energy pricing, export rebates or other forms of compensation on exportation, for goods covered by this Regulation in order to absorb parts or the entirety of the costs linked to a CO₂ price paid in the third country;

Amendment 137

Proposal for a regulation Article 27 – paragraph 2 – point b (new)

Text proposed by the Commission

Amendment

(b) a CO₂ price paid in a third country placed only on goods to be exported to the Union;

Amendment 138

Proposal for a regulation Article 27 – paragraph 2 – point c (new)

Text proposed by the Commission

Amendment

(c) replacing those goods with slightly modified products, which are not included in the list of goods in Annex I but belong to a sector included in the scope of this Regulation;

Amendment 139

Proposal for a regulation Article 27 – paragraph 2 – point d (new)

Text proposed by the Commission

Amendment

(d) the outsourcing of production of downstream products that contain one or more of the goods listed in Annex I with the objective of avoiding the payment of the CO2 price in the Union;

Amendment 140

Proposal for a regulation

Article 27 – paragraph 2 – point e (new)

Text proposed by the Commission

Amendment

(e) the shipment of the product concerned via third countries where no or more favourable obligations apply; or

Amendment 141

Proposal for a regulation

Article 27 – paragraph 2 – point f (new)

Text proposed by the Commission

Amendment

(f) the reorganisation by exporters or producers of their patterns and channels of sale and production, or any other kinds of dual production and dual sale practices.

Amendment 142

Proposal for a regulation

Article 27 – paragraph 3

Text proposed by the Commission

Amendment

3. A Member State or any party affected or benefitted by the situations described in paragraph 2 may notify the Commission if it is confronted, ***over a two-month period compared with the same period in the preceding year with a significant decrease in the volume of imported goods included in the scope*** of

3. A Member State or any party affected or benefitted by ***any of*** the situations described in paragraph 2 may notify the Commission if it is confronted ***with practices of circumvention. Interested parties other than directly affected parties, such as environmental organisations and non-governmental***

this Regulation **and an increase of volume of imports of slightly modified products, which are not included in the list of goods in Annex I.** The Commission shall continually monitor **any significant change of pattern of trade of goods and slightly modified products at Union level.**

organisations, which find concrete evidence of the circumvention of this Regulation, **may also notify the Commission.** The Commission shall continually monitor **with a view to identifying practices of circumvention, including by way of market surveillance or on the basis of any relevant source of information, such as submissions by and reporting from civil society organisations.**

Amendment 143

Proposal for a regulation Article 27 – paragraph 4

Text proposed by the Commission

4. The notification referred to in paragraph 3 shall state the reasons on which it is based and shall include relevant data and statistics **regarding the goods and products** referred to in paragraph 2.

Amendment

4. The notification referred to in paragraph 3 shall state the reasons on which it is based and shall include relevant data and statistics **to support the claim of circumvention of this Regulation. The Commission shall initiate an investigation into such a claim set out in a notification by a Member State, an affected party or an interested party, provided that the notification meets the requirements referred to in this paragraph, or where the Commission itself determines that such an investigation is necessary. In carrying out the investigation, the Commission may be assisted by the competent authorities and customs authorities. The Commission shall conclude the investigation within nine months from the date of notification. Where an investigation has been initiated, the Commission shall notify all competent authorities.**

Amendment 144

Proposal for a regulation Article 27 – paragraph 5

Text proposed by the Commission

5. Where the Commission, taking into account the relevant data, reports and

Amendment

5. Where the Commission, taking into account the relevant data, reports and

statistics, including when provided by the customs authorities of Member States, has sufficient reasons to believe that the circumstances referred to in paragraph 3 are occurring in one or more Member States, it is empowered to adopt delegated acts in accordance with Article 28 to supplement the scope of this Regulation in order to include slightly modified products for anti-circumvention purposes.

statistics, including when provided by the customs authorities of Member States, has sufficient reasons to believe that the circumstances referred to in paragraph 2 are occurring in one or more Member States, it is empowered to adopt delegated acts in accordance with Article 28, to supplement the scope of this Regulation in order to include slightly modified products ***or downstream products that contain one or more of the goods as listed in Annex I in excess of a minimum threshold*** for anti-circumvention purposes.

Amendment 145

Proposal for a regulation Article 27 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The Commission shall publish all cases of investigations of circumvention and the results thereof in an annual report. The report shall also include information on the status of ongoing appeal procedures against penalties and aggregated information on the emission intensity per country of origin for the different goods listed in Annex I.

Amendment 146

Proposal for a regulation Chapter VI a (new)

Text proposed by the Commission

Amendment

Chapter VIa

Appeals

Amendment 147

Proposal for a regulation Article 27 a (new)

Article 27a

***Appeals against decisions taken by the
CBAM authority***

- 1. An appeal may be brought against decisions taken by the CBAM authority. An appeal shall lie from decisions of the CBAM authority that adversely affect any interested person, including decisions on penalties, circumvention and actual emission values. Those decisions shall take effect only from the date of expiration of the appeal period of two months.***
- 2. An appeal lodged pursuant to paragraph 1 shall have suspensive effect.***
- 3. The products concerned by an appeal shall be subject to registration in accordance with Article 25a(5).***
- 4. Any party to proceedings adversely affected by a decision may appeal. Any other parties to the proceedings shall be parties to the appeal proceedings as of right.***
- 5. The Board of Appeal shall be set up and consist of three full members, a chair and two alternate members. The European Parliament, the Council and the Commission shall each appoint a member. The Council shall appoint the chair. The European Parliament and the Council shall each appoint an additional alternate member.***
- 6. The Commission shall adopt delegated acts in accordance to Article 28 supplementing this Regulation in order to establish the composition, the appointment and the rules of procedure of the Board of Appeal, with a view to assure the independence of its members, including during the transitional period. During the transitional period the Commission holds the functions of the Board of Appeal.***

Amendment 148

Proposal for a regulation Article 27 b (new)

Text proposed by the Commission

Amendment

Article 27b

Examination of appeals

- 1. The Board of Appeal shall examine whether an appeal is admissible.*
- 2. In the examination of an appeal, the Board of Appeal shall invite the parties referred to in Article 27a(4), as often as necessary, to file observations, within a period to be fixed by the Board of Appeal, in relation to submissions made by the other parties to the appeal or to communications issued by the Board of Appeal.*
- 3. Following the examination of the admissibility of an appeal, the Board of Appeal shall decide on the appeal. The Board of Appeal may either exercise any power within the competence of the CBAM authority or remit the case to the latter for further action.*
- 4. If the Board of Appeal remits the case to the CBAM authority for further action, the latter shall be bound by the conclusions of the Board of Appeal, in so far as the facts are the same.*
- 5. A decision of the Board of Appeal shall take effect only from the date of expiry of a period of two months after the communication of the decision or, if an action has been brought before the General Court within that period, from the date of dismissal of such action or of any appeal filed with the Court of Justice against the decision of the General Court.*

Amendment 149

Proposal for a regulation Article 27 c (new)

4.7.2022 / 24317

Text proposed by the Commission

Amendment

Article 27c

Actions before the Court of Justice

- 1. An action may be brought before the General Court or the Court of Justice, in accordance with Article 263 TFEU, contesting a decision taken by the Board of Appeal.***
- 2. Should the Board of Appeal fail to take a decision, proceedings for failure to act may be brought before the General Court or the Court of Justice in accordance with Article 265 TFEU.***
- 3. The CBAM authority shall be required to take the necessary measures to comply with the judgment of the General Court or, in the event of an appeal against that judgment, the Court of Justice.***

Amendment 150

**Proposal for a regulation
Article 28 – paragraph 2**

Text proposed by the Commission

Amendment

2. The power to adopt delegated acts referred to in Articles 2(10), 2(11), 18(3) **and** 27(5) shall be conferred on the Commission for an indeterminate period of time.

2. The power to adopt delegated acts referred to in Articles **2(1a), 2(6), 2(10), 2(11), 7(7a), 8(3), 12a(7), 18(3), 27(5), 27a(6), 31(2) and 35(6)** shall be conferred on the Commission for an indeterminate period of time.

Amendment 151

**Proposal for a regulation
Article 28 – paragraph 3**

Text proposed by the Commission

Amendment

3. The delegation of power referred to in Articles 2(10), 2(11), 18(3) **and** 27(5) may be revoked at any time by the European Parliament or by the Council.

3. The delegation of power referred to in Articles **2(1a), 2(6), 2(10), 2(11), 7(7a), 8(3), 12a(7), 18(3), 27(5), 27a(6), 31(2) and 35(6)** may be revoked at any time by the European Parliament or by the Council.

Amendment 152

Proposal for a regulation Article 28 – paragraph 7

Text proposed by the Commission

7. A delegated act adopted pursuant to Articles 2(10), 2(11), 18(3) **and** 27(5) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Amendment

7. A delegated act adopted pursuant to Articles **2(1a), 2(6),** 2(10), 2(11), **7(7a), 8(3), 12 a(7)** 18(3), 27(5), **27a(6), 31(2) and 35(6)** shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Amendment 153

Proposal for a regulation Article 30 – paragraph 1

Text proposed by the Commission

1. The Commission shall collect the information necessary ***with a view to extending*** the scope of this Regulation ***to indirect emissions and goods other than those listed in Annex I, and develop*** methods of calculating embedded emissions based on environmental footprint methods.

Amendment

1. The Commission shall collect, ***in consultation with relevant stakeholders,*** the information necessary ***for the extension of*** the scope ***to other sectors and to downstream products laid down in Article 2(1a)*** of this Regulation, ***and for the development of*** methods of calculating embedded emissions based on environmental footprint methods.

Amendment 260

Proposal for a regulation Article 30 – paragraph 2

Text proposed by the Commission

2. Before the end of the transitional period, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation. The report shall ***contain, in particular, the assessment of the possibilities to further extend the scope of embedded emissions to indirect emissions and to other goods at risk of carbon leakage than those already covered by this Regulation, as well as an assessment of the governance system. It shall also contain the assessment of the possibility to further extend the scope to embedded emissions of transportation services as well as to goods further down the value chain and services that may be subject to the risk of carbon leakage in the future.***

Amendment

2. Before the end of the transitional period, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation. The ***first*** report shall in particular ***focus on*** possibilities to ***enhance*** this Regulation ***towards the objective of a climate-neutral Union by 2050 at the latest, and*** shall ***assess*** the possibility to further extend the scope to embedded emissions of transportation services. ***It shall furthermore evaluate the technical specificities of calculating embedded emissions for organic chemicals and polymers, their value chains and the ability of the mechanism to sufficiently address the risk of carbon leakage for those sectors. Based on the report, the Commission may, if appropriate, put forward a legislative proposal to adjust the CBAM factor referred to in Article 31 or to defer the entry into force of Article 36(3), point (d), with regard to those goods.***

Amendment 157

**Proposal for a regulation
Article 30 – paragraph 3**

Text proposed by the Commission

3. ***The report by the Commission shall, if appropriate, be accompanied by a legislative proposal.***

Amendment

3. ***After 2028, the Commission shall monitor the functioning of CBAM and submit a report every two years to the European Parliament and to the Council on the functioning of CBAM based on the elements laid down in paragraph 2a.***

Amendment 158

**Proposal for a regulation
Article 30 – paragraph 3 a (new)**

Text proposed by the Commission

Amendment

3a. Where an unforeseeable, exceptional and unprovoked event outside the control of one or more third countries subject to CBAM has occurred, and that event has destructive consequences on the economic and industrial infrastructure of the countries concerned, the Commission shall assess the situation and submit to the European Parliament and to the Council a legislative proposal, as appropriate, amending this Regulation, to set out the necessary provisional measures to address those exceptional circumstances.

Amendment 261

Proposal for a regulation Article 31 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. No free allocation shall be given in relation to the production within the Union of products listed in Annex I as from the date of application of the CBAM, as provided for in Article 36(3).

By way of derogation from the first subparagraph, until 2032, the production of those products shall benefit from free allocation in reduced amounts. A CBAM factor reducing the allocation for the production of these products shall be applied. The CBAM factor shall be equal to 100 % for the period from 1 January 2023 until 31 December 2026 and contingent upon application of Article 36(3), point (d), of this Regulation, 93 % in 2027, 84 % in 2028, 69 % in 2029, 50 % in 2030, 25 % in 2031, and reach 0 % in 2032.

The CBAM factor for goods included in this Regulation after...[the date of entry into force of this Regulation], in

accordance with the timeline set out under Article 2(1a) shall be equal to 100% the first year, 93 % the second year, 84 % the third year, 69 % the fourth year, 50 % the fifth year, 25 % the sixth year and reach 0 % after 6 years.

The reduction of free allocation shall be calculated annually as the average share of the demand for free allocation for the production of products listed in Annex I compared to the calculated total free allocation demand for all installations, for the relevant period referred to in Article 11(1) of Directive 2003/87/EC, and the CBAM factor shall be applied.

Amendment 262

Proposal for a regulation Article 31 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. In order to ensure a level playing field, by way of derogation from paragraph 1 (a), first and second subparagraphs, the production in the Union of products listed in Annex I to this Regulation shall continue to receive free allocation, provided such products are produced for export to third countries without carbon pricing mechanisms similar to the EU ETS.

By 31 December 2025, the Commission shall present a report to the European Parliament and to the Council in which it shall provide a detailed assessment of the effects of the EU ETS and CBAM on the production in the Union of products listed in Annex I to this Regulation that are produced for export to third countries and on the development of global emissions, as well as an assessment of the WTO compatibility of the derogation laid down in the first subparagraph.

The Commission shall, where appropriate, accompany that report with a legislative proposal providing for a protection against the risk of carbon

leakage that equalises carbon pricing for the production in the Union of products listed in Annex I to this Regulation that are produced for export to third countries without carbon pricing mechanisms similar to the EU ETS in a way that is WTO compatible by 31 December 2026, assessing in particular potential export adjustment mechanisms for installations belonging to the 10 % most efficient installations as laid down in Article 10a of Directive 2003/87/EC, in the light of WTO compatibility or any other proposals the Commission deems appropriate.

Amendment 160

Proposal for a regulation Article 31 – paragraph 2

Text proposed by the Commission

2. The Commission is empowered to adopt **implementing acts** laying down a calculation methodology for the reduction referred to in paragraph 1. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).**

Amendment

2. The Commission is empowered to adopt **delegated acts in accordance with Article 28 supplementing this Regulation** by laying down a calculation methodology for the reduction referred to in paragraph 1.

Amendment 161

Proposal for a regulation Article 31 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Each year from 2025, as part of its annual report to the European Parliament and to the Council pursuant to Article 10(5) of Directive 2003/87/EC, the Commission shall assess the effectiveness of the CBAM in addressing the carbon leakage risk for goods produced in the Union for export to third countries which do not apply the EU ETS or a similar carbon pricing mechanism. The report shall in particular assess the development of Union exports in CBAM sectors and

the developments as regards trade flows and the embedded emissions of those goods on the global market. Where the report concludes that there is a carbon leakage risk for goods produced in the Union for export to such third countries which do not apply the EU ETS or a similar carbon pricing mechanism, the Commission shall, where appropriate, present a legislative proposal to address that carbon leakage risk in a manner that is compliant with WTO rules and takes into account the decarbonisation of installations in the Union.

Amendment 162

Proposal for a regulation Article 33 – paragraph 3

Text proposed by the Commission

3. The customs authorities shall, by means of the surveillance mechanism established pursuant to Article 56(5) of Regulation (EU) No 952/2013, communicate to the **competent authority of the Member State of importation** information on imported goods, including processed products resulting from the outward processing procedure. Such information shall include the EORI number of the declarant, the 8-digit CN code, the quantity, the country of origin and the declarant of the goods, the date of declaration and the customs procedure.

Amendment

3. The customs authorities shall, by means of the surveillance mechanism established pursuant to Article 56(5) of Regulation (EU) No 952/2013, communicate to the **CBAM** authority information on imported goods, including processed products resulting from the outward processing procedure. Such information shall include the EORI number of the declarant, the 8-digit CN code, the quantity, the country of origin and the declarant of the goods, the date of declaration and the customs procedure.

Amendment 163

Proposal for a regulation Article 35 – paragraph 1

Text proposed by the Commission

1. Each declarant shall, for each quarter of a calendar year, submit a report ('CBAM report') containing information on the goods imported during that quarter, to the **competent authority of the Member**

Amendment

1. Each declarant shall, for each quarter of a calendar year, submit a report ('CBAM report') containing information on the goods imported during that quarter, to the **CBAM** authority, no later than one

State of importation or, if goods have been imported to more than one Member State, to the competent authority of the Member State at the declarant's choice, no later than one month after the end of each quarter.

month after the end of each quarter.

Amendment 164

Proposal for a regulation Article 35 – paragraph 2 – point c

Text proposed by the Commission

(c) the actual total embedded indirect emissions, expressed in tonnes of CO₂e emissions per tonne of each type of other goods than electricity, calculated in accordance with a method set out in ***an implementing*** act referred to in paragraph 6;

Amendment

(c) the actual total embedded indirect emissions, expressed in tonnes of CO₂e emissions per tonne of each type of other goods than electricity, calculated in accordance with a method set out in ***a delegated*** act referred to in paragraph 6;

Amendment 165

Proposal for a regulation Article 35 – paragraph 3

Text proposed by the Commission

3. The ***competent*** authority shall communicate the information referred to in paragraph 2 to the Commission at the latest two months after the end of the quarter covered by a report.

Amendment

3. The ***CBAM*** authority shall communicate the information referred to in paragraph 2 to the Commission at the latest two months after the end of the quarter covered by a report.

Amendment 166

Proposal for a regulation Article 35 – paragraph 4

Text proposed by the Commission

4. The ***competent*** authority shall impose a proportionate and dissuasive penalty on declarants who fail to submit a CBAM report.

Amendment

4. The ***CBAM*** authority shall impose a proportionate and dissuasive penalty on declarants who fail to submit a CBAM report.

Amendment 167

Proposal for a regulation

Article 35 – paragraph 5 – introductory part

Text proposed by the Commission

5. If the **competent** authority determines that a declarant has failed to comply with the obligation to submit a CBAM report as specified in paragraph 1, the **competent** authority shall impose the penalty and notify the declarant:

Amendment

5. If the **CBAM** authority determines that a declarant has failed to comply with the obligation to submit a CBAM report as specified in paragraph 1, the **CBAM** authority shall impose the penalty and notify the declarant:

Amendment 168

Proposal for a regulation

Article 35 – paragraph 5 – point a

Text proposed by the Commission

(a) that the **competent** authority has concluded that the declarant fails to comply with the obligation of submitting a report for a given quarter;

Amendment

(a) that the **CBAM** authority has concluded that the declarant fails to comply with the obligation of submitting a report for a given quarter;

Amendment 169

Proposal for a regulation

Article 35 – paragraph 5 – point e

Text proposed by the Commission

(e) of the action the **competent** authority considers the declarant should take to comply with its obligation under point (a) depending on the facts and circumstances of the case; and

Amendment

(e) of the action the **CBAM** authority considers the declarant should take to comply with its obligation under point (a) depending on the facts and circumstances of the case; and

Amendment 170

Proposal for a regulation

Article 35 – paragraph 6

Text proposed by the Commission

6. The Commission is empowered to adopt implementing acts concerning the

Amendment

6. The Commission is empowered to adopt implementing acts concerning the

information to be reported, the procedures for communicating the information referred to in paragraph 3 and the conversion of the carbon price paid in foreign currency into euro at yearly average exchange rate. The Commission is also empowered to adopt implementing acts to further define the necessary elements of the calculation method set out in Annex III, including determining system boundaries of production processes, emission factors, installation-specific values of actual emissions and their respective application to individual goods as well as laying down methods to ensure the reliability of data, including the level of detail and the verification of this data. The Commission is further empowered to adopt **implementing acts** to develop a calculation method for indirect emissions embedded in imported goods.

information to be reported, the procedures for communicating the information referred to in paragraph 3 and the conversion of the carbon price paid in foreign currency into euro at yearly average exchange rate. The Commission is also empowered to adopt implementing acts to further define the necessary elements of the calculation method set out in Annex III, including determining system boundaries of production processes, emission factors, installation-specific values of actual emissions and their respective application to individual goods as well as laying down methods to ensure the reliability of data, including the level of detail and the verification of this data. The Commission is further empowered to adopt **delegated acts in accordance with Article 28 supplementing this Regulation** to develop a calculation method for indirect emissions embedded in imported goods.

Amendments 198, 216 and 263

Proposal for a regulation Article 36 – paragraph 3 – point a

Text proposed by the Commission

(a) Articles 32 to 34 shall apply until 31 December **2025**.

Amendment

(a) Articles 32 to 34 shall apply until 31 December **2026**.

Amendments 199 and 217

Proposal for a regulation Article 36 – paragraph 3 – point b

Text proposed by the Commission

(b) Article 35 shall apply until 28 February **2026**.

Amendment

(b) Article 35 shall apply until 28 February **2027**.

Amendment 264

Proposal for a regulation
Article 36 – paragraph 3 – point c

Text proposed by the Commission

(c) Articles 5 and 17 shall apply from 1 September **2025**.

Amendment

(c) Articles 5 and 17 shall apply from 1 September **2026**.

Amendments 200, 218 and 265

Proposal for a regulation
Article 36 – paragraph 3 – point d

Text proposed by the Commission

(d) Articles 4, 6, 7, 8, 9, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 31 shall apply from 1 January **2026**.

Amendment

(d) Articles 4, 6, 7, 8, 9, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 31 shall apply from 1 January **2027**.

Amendment 175

Proposal for a regulation
Annex I

Text proposed by the Commission

List of goods and greenhouse gases

1. For the purpose of the identification of goods, this Regulation shall apply to goods listed in the following sectors currently falling under the combined nomenclature ('CN') codes listed below, and shall be those of Council Regulation (EEC) No 2658/87 ⁽¹⁾.
2. For the purposes of this Regulation, the greenhouse gases relating to goods falling in the sectors listed below, shall be those listed below for each type of goods.

Cement

CN code	Greenhouse gas
2523 10 00 – Cement clinkers	Carbon dioxide
2523 21 00 – White Portland cement, whether or not artificially coloured	Carbon dioxide
2523 29 00 – Other Portland cement	Carbon dioxide
2523 90 00 – Other hydraulic cements	Carbon dioxide

Electricity

CN code	Greenhouse gas
2716 00 00 – Electrical energy	Carbon dioxide

Fertilisers

CN code	Greenhouse gas
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2808 00 00 – Nitric acid; sulphonitric acids	Carbon dioxide and nitrous oxide
2814 – Ammonia, anhydrous or in aqueous solution	Carbon dioxide
2834 21 00 - Nitrates of potassium	Carbon dioxide and nitrous oxide
3102 – Mineral or chemical fertilisers, nitrogenous	Carbon dioxide and nitrous oxide
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

Iron and Steel

CN code	Greenhouse gas
72 – Iron and steel Except: 7202 – Ferro-alloys 7204 – Ferrous waste and scrap; remelting scrap ingots and steel	Carbon dioxide
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
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
7303 00 – Tubes, pipes and hollow profiles, of cast iron	Carbon dioxide
7304 – Tubes, pipes and hollow profiles, seamless, of iron (other than cast iron) or steel	Carbon dioxide
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
7306 – Other tubes, pipes and hollow profiles (for example, open seam or welded, riveted or similarly closed), of iron or steel	Carbon dioxide
7307 – Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel	Carbon dioxide
7308 – Structures (excluding prefabricated buildings of heading 9406) and parts of	Carbon dioxide

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	
7309 – 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
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
7311 – Containers for compressed or liquefied gas, of iron or steel	Carbon dioxide

Aluminium

CN code	Greenhouse gas
7601 – Unwrought aluminium	Carbon dioxide and perfluorocarbons
7603 – Aluminium powders and flakes	Carbon dioxide and perfluorocarbons
7604 – Aluminium bars, rods and profiles	Carbon dioxide and perfluorocarbons
7605 – Aluminium wire	Carbon dioxide and perfluorocarbons
7606 – Aluminium plates, sheets and strip, of a thickness exceeding 0,2 mm	Carbon dioxide and perfluorocarbons
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
7608 – Aluminium tubes and pipes	Carbon dioxide and perfluorocarbons
7609 00 00 – Aluminium tube or pipe fittings (for example, couplings, elbows, sleeves)	Carbon dioxide and perfluorocarbons

¹ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

Amendment

List of goods and greenhouse gases

- For the purpose of the identification of goods, this Regulation shall apply to goods listed in the following sectors currently falling under the combined nomenclature ('CN') codes listed below, and shall be those of Council Regulation (EEC) No 2658/87 (¹).
- For the purposes of this Regulation, the greenhouse gases relating to goods falling in the sectors listed below, shall be those listed below for each type of goods.

Cement

CN code	Greenhouse gas
2523 30 00 – <i>Aluminous cement</i>	<i>Carbon dioxide</i>
2523 10 00 – Cement clinkers	Carbon dioxide
2523 21 00 – White Portland cement, whether or not artificially coloured	Carbon dioxide
2523 29 00 – Other Portland cement	Carbon dioxide
2523 90 00 – Other hydraulic cements	Carbon dioxide

Electricity

CN code	Greenhouse gas
2716 00 00 – Electrical energy	Carbon dioxide

Fertilisers

CN code	Greenhouse gas
2808 00 00 – Nitric acid; sulphonitric acids	Carbon dioxide and nitrous oxide
2814 – Ammonia, anhydrous or in aqueous solution	Carbon dioxide
2834 21 00 - Nitrates of potassium	Carbon dioxide and nitrous oxide
3102 – Mineral or chemical fertilisers, nitrogenous	Carbon dioxide and nitrous oxide
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

Iron and Steel

CN code	Greenhouse gas
72 – Iron and steel Except: 7202 – Ferro-alloys 7204 – Ferrous waste and scrap; remelting scrap ingots and steel	Carbon dioxide
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
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,	Carbon dioxide

bedplates, ties and other material specialised for jointing or fixing rails	
7303 00 – Tubes, pipes and hollow profiles, of cast iron	Carbon dioxide
7304 – Tubes, pipes and hollow profiles, seamless, of iron (other than cast iron) or steel	Carbon dioxide
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
7306 – Other tubes, pipes and hollow profiles (for example, open seam or welded, riveted or similarly closed), of iron or steel	Carbon dioxide
7307 – Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel	Carbon dioxide
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
7309 – 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
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
7311 – Containers for compressed or liquefied gas, of iron or steel	Carbon dioxide

Aluminium

CN code	Greenhouse gas
7601 – Unwrought aluminium	Carbon dioxide and perfluorocarbons
7603 – Aluminium powders and flakes	Carbon dioxide and perfluorocarbons
7604 – Aluminium bars, rods and profiles	Carbon dioxide and perfluorocarbons
7605 – Aluminium wire	Carbon dioxide and perfluorocarbons
7606 – Aluminium plates, sheets and strip, of a thickness exceeding 0,2 mm	Carbon dioxide and perfluorocarbons
7607 – Aluminium foil (whether or not printed or backed with paper, paper-board, plastics or similar backing materials) of a thickness	Carbon dioxide and perfluorocarbons

(excluding any backing) not exceeding 0,2 mm	
7608 – Aluminium tubes and pipes	Carbon dioxide and perfluorocarbons
7609 00 00 – Aluminium tube or pipe fittings (for example, couplings, elbows, sleeves)	Carbon dioxide and perfluorocarbons

Chemicals

<i>CN code</i>	<i>Greenhouse gas</i>
29 - Organic Chemicals	Carbon dioxide
2804 10 000 - Hydrogen	Carbon dioxide
2814 10 000 - Anhydrous amonia	Carbon dioxide
2814 20 00 - Amonia in aqueous solution	Carbon dioxide

Polymers

<i>CN code</i>	<i>Greenhouse gas</i>
39 - Plastics and articles thereof	carbon dioxide and nitrous oxide

¹ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

Amendment 176

Proposal for a regulation Annex III – point 2 – title

Text proposed by the Commission

Amendment

2. Determination of actual **direct** embedded emissions for simple goods

2. Determination of actual embedded emissions for simple goods

Amendment 177

Proposal for a regulation Annex III – point 2 – introductory part

Text proposed by the Commission

Amendment

For determining the specific actual embedded emissions of simple goods produced in a given installation, **only** direct emissions shall be accounted for. For this purpose, the following equation is to be applied:

For determining the specific actual embedded emissions of simple goods produced in a given installation, **both** direct **and indirect** emissions shall be accounted for. For this purpose, the following equation is to be applied:

Amendment 178

Proposal for a regulation
Annex III – point 2 – paragraph 3

Text proposed by the Commission

‘Attributed emissions’ mean the part of the installation’s **direct** emissions during the reporting period that are caused by the production process resulting in goods g when applying the system boundaries of the process defined by the implementing acts adopted pursuant to Article 7(6). The attributed emissions shall be calculated using the following equation:

$$AttrEm_g = DirEm$$

Amendment

‘Attributed emissions’ mean the part of the installation’s emissions during the reporting period that are caused by the production process resulting in goods g when applying the system boundaries of the process defined by the implementing acts adopted pursuant to Article 7(6). The attributed emissions shall be calculated using the following equation:

$$Attr_g = DirEm + Em_{el} - Em_{el,exp}$$

Amendment 179

Proposal for a regulation
Annex III – point 3 – title

Text proposed by the Commission

3. Determination of actual **direct** embedded emissions for complex goods

Amendment

3. Determination of actual embedded emissions for complex goods

Amendment 180

Proposal for a regulation
Annex III – point 4 – paragraph 2

Text proposed by the Commission

For the purpose of determining default values, only actual values shall be used for the determination of embedded emissions. In the absence of actual data, literature values may be used. The Commission shall publish guidance for the approach taken to correct for waste gases or greenhouse gases used as process input, before collecting the data required to determine the relevant default values for each type of goods listed in Annex I. Default values shall be determined based on the best available data. **They** shall be revised periodically through implementing acts based on the

Amendment

For the purpose of determining default values, only actual values **from the country where actual emissions took place**, shall be used for the determination of embedded emissions. In the absence of actual data **or when the use of actual data would lead to low default values favouring free-riding behaviour**, literature values may be used. The Commission shall publish guidance for the approach taken to correct for waste gases or greenhouse gases used as process input, before collecting the data required to determine the relevant default values for each type of goods listed in Annex I.

most up-to-date and reliable information, including on the basis of information provided by a third country or group of third countries.

Default values shall be determined based on the best available data. ***Best available data shall be based, to the extent possible, on reliable and publicly available information on the type of technology and processes used, plant design, origin of input materials and simple goods used in the production process, energy source and other data.*** Default values shall be revised periodically through implementing acts referred to in Article 7(6) based on the most up-to-date and reliable information, including on the basis of information provided by a third country or group of third countries.

Amendment 181

Proposal for a regulation

Annex III – point 4 – point 4.1 – paragraph 1

Text proposed by the Commission

When actual emissions cannot be adequately determined by the authorised declarant, default values shall be used. These values shall be set at the average emission intensity of each exporting country and for each of the goods listed in Annex I other than electricity, increased by a mark-up, the latter to be determined in the implementing acts of this Regulation. When reliable data for the exporting country cannot be applied for a type of goods, the default values shall be based on the average emission intensity of the **10** per cent worst performing EU installations for that type of goods.

Amendment

When actual emissions cannot be adequately determined by the authorised declarant, default values shall be used. These values shall be set at the average emission intensity of ***the 10% worst performing installations in*** each exporting country and for each of the goods listed in Annex I other than electricity, increased by a mark-up, the latter to be determined in the implementing acts of this Regulation. When reliable data for the exporting country cannot be applied for a type of goods, the default values shall be based on the average emission intensity of the **5** per cent worst performing EU installations for that type of goods. ***Under no circumstances shall default values be lower than the likely embedded emissions and the exporter shall not benefit from the failure to provide reliable data on actual emissions so that default values are used.***

Amendment 182

Proposal for a regulation

Annex III – point 4 – point 4.2 – point 4.2.1 – paragraph 1

Text proposed by the Commission

Specific default values shall be based on the ***best data available to the Commission determining the average CO₂ emission factor in tonnes of CO₂ per megawatt-hour of price-setting sources*** in the third country, group of third countries or region within a third country.

Amendment

Specific default values shall be based on the ***10% worst performing installations producing electricity*** in the third country, group of third countries or region within a third country.

Amendment 183

**Proposal for a regulation
Annex III a (new)**

Text proposed by the Commission

Amendment

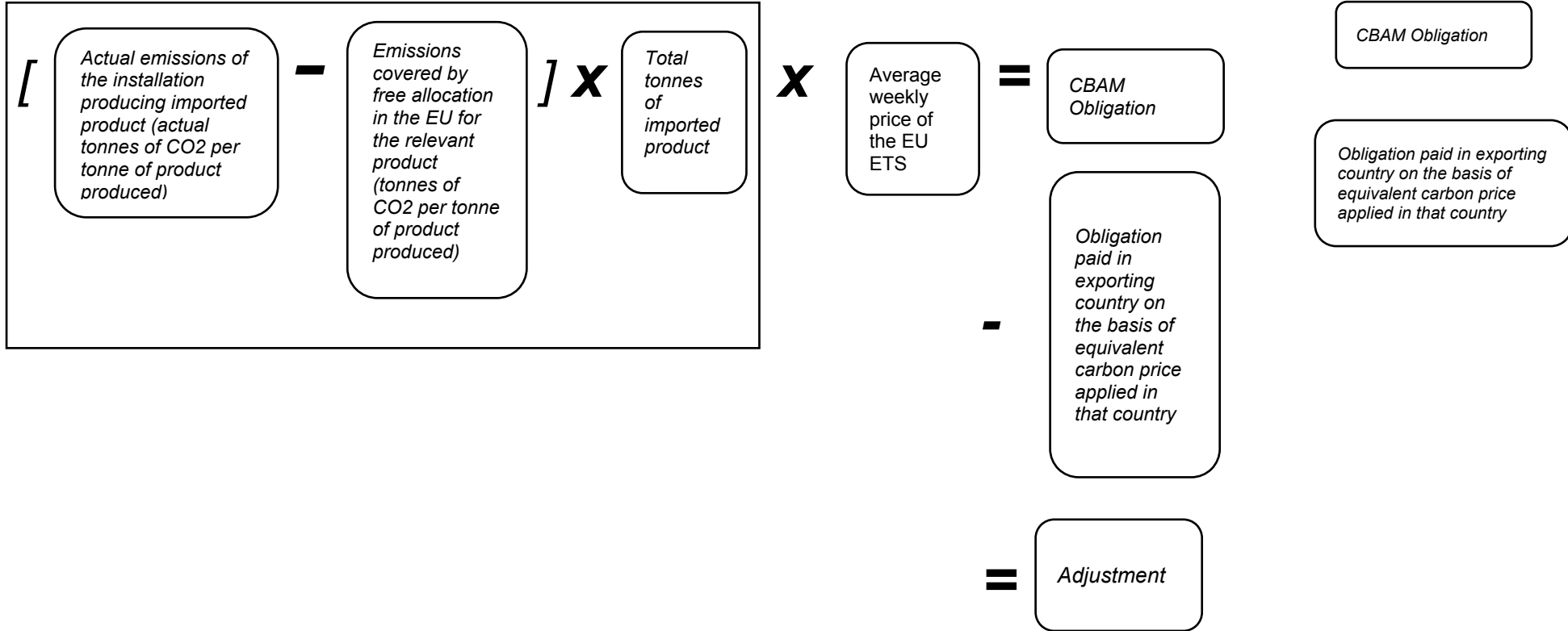
Annex IIIa

Methodology for calculating the reduction of CBAM certificates due to free allocation under EU ETS

Number of certificates

Price of certificates

Obligation and adjustment



Amendment 184

Proposal for a regulation Annex V – Part 1 – paragraph 1 – point c

Text proposed by the Commission

(c) installation visits by the verifier shall be mandatory except where specific criteria for waiving the installation visit are met;

Amendment

(c) installation visits by the verifier shall be mandatory except where the specific criteria for waiving the installation visit ***under Article 8(3)*** are met;