DRAFT OPINION

of the Committee on Economic and Monetary Affairs

for the Committee on the Environment, Public Health and Food Safety


Rapporteur for opinion: Damien Carême
In 2015 the European Union signed the Paris Agreement, in which countries made a commitment to limit the rise in temperatures to 1.5 °C. Six years on it is clear that global warming is triggering tipping points within ecosystems\(^1\) and that the EU’s target of a 55% reduction in net emissions by 2030 is not enough to stay on the pathway of the Paris Agreement: more ambitious measures are needed.

Since the effects of climate change are felt all over the planet and the climate emergency knows no borders, coordinated global action is required. This is one of the main objectives of the Carbon Border Adjustment Mechanism (CBAM): to encourage greater climate ambition internationally through a virtuous circle of pricing of carbon and other greenhouse gases. To live up to its promise, the mechanism must be designed to give industries in Europe and elsewhere a real incentive to reduce their emissions and accelerate their transition.

To act as an incentive to reduce emissions in the EU and worldwide, the CBAM must replace current protection measures against the risks of carbon leakage. The CBAM’s targets are incompatible with the maintenance until 2035 of allowances allocated free of charge to the sectors covered by the mechanism. Maintaining these allowances would not only hamper the application of the ‘polluter pays’ principle, but would also considerably weaken the incentive to take climate action within and outside the EU, given that more than 95% of industrial emissions\(^2\) are currently covered by free allowances. To respond to the climate emergency while taking account of the affected industries’ need to gather information and plan ahead, a two-year transition period should be provided for. The CBAM should come into force fully from 1 January 2025, in parallel with the phasing out of the free allowances.

Furthermore, as a tool of our climate policy, the CBAM should focus not only on the ETS sectors presenting the greatest risk of carbon leakage, but also and especially on the sectors that contribute the most to global warming. Although the Commission’s proposal includes a number of the most carbon-intensive sectors, others such as the chemical and plastics sectors are absent: a proposal that also covers the missing sectors and downstream products should be put forward before the end of the transitional period. In addition, as soon as the mechanism comes into force, its scope should be extended to indirect emissions because their inclusion would better reflect the carbon cost borne by European industry and would encourage third countries exporting to the EU to adopt production processes that generate lower emissions too.

It is essential to ensure that implementation of the CBAM is effective and fair. Consequently, any fraud should be carefully examined and severely punished. If necessary, the CBAM should be adapted to prevent and combat these practices. Closer coordination between the competent authorities of the Member States is also essential in this regard. The creation of a European CBAM Authority should be seriously examined to facilitate the mechanism’s implementation.

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\(^1\) Preliminary Findings of the Intergovernmental Panel on Climate Change (IPCC), June 2021.

\(^2\) https://ercst.org/2020-state-of-the-eu-ets-report/
and strengthen coordination between authorities: before the end of the transitional period, the Commission will have to provide a detailed examination of the question, accompanied by a legislative proposal on the matter, where relevant.

Finally, since the CBAM aims to encourage a greater climate ambition internationally, the implementation of this mechanism should be accompanied by multilateral and bilateral cooperation initiatives on the climate. With this in mind, at least a share of the revenues generated by the CBAM should be used to help support climate action in the least developed countries. This reinforces the coherence of the objectives of this mechanism and its compatibility with WTO principles. It should also be recognised that the impact of carbon pricing can be much greater for low-income countries. That is why countries designated by the UN as least developed countries should be exempted from some CBAM obligations, while giving the Commission responsibility for ensuring that this does not lead to circumventions.

The CBAM is essential to reduce emissions at European and global level while protecting industries from competition that is unfair and dangerous for the climate. However, it is vitally important to recognise that the CBAM will not be sufficient to decarbonise European industry and to secure global climate action that is finally in line with the Paris Agreement targets. At national, European and global level, the CBAM must be part of a much more extensive policy of decarbonising industry, reducing emissions and preserving biodiversity.

**AMENDMENTS**

The Committee on Economic and Monetary Affairs calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to take into account the following amendments:

**Amendment 1**

*Proposal for a regulation*

**Recital 2 a (new)**

<table>
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<tr>
<th>Text proposed by the Commission</th>
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| *(2 a)* Subject to compliance with the specific measures set out in Article XX of the GATT, there is nothing to prevent the adoption or application by any WTO member of measures necessary to protect the health and life of people and animals and the preservation of plantlife, or related to the conservation of finite natural resources.* | }
Amendment 2
Proposal for a regulation
Recital 8

Text proposed by the Commission

(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.

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, 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, 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 3
Proposal for a regulation
Recital 10

Text proposed by the Commission

(10) Existing mechanisms to address the risk of carbon leakage in sectors or subsectors 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

Amendment

(10) Existing mechanisms to address the risk of carbon leakage in sectors or subsectors 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.

The free excess emissions allowances that industries initially received have even produced unreasonable windfall profits (more than EUR 25 billion between 2008 and 2015). Moreover, the free allowances under the ETS weaken the CBAM’s compatibility with WTO rules. The CBAM will therefore be introduced in parallel with the phasing out of the free allowances and state aid intended to compensate for indirect emission costs for the affected sectors.

Or. fr

Amendment 4

Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) The CBAM seeks to replace these existing mechanisms by addressing the risk of carbon leakage in a different way, namely by ensuring equivalent carbon pricing for imports and domestic products. To ensure a gradual transition from the current system of free allowances to the CBAM, the CBAM should be progressively phased in while free allowances in sectors covered by the CBAM are phased out. The combined and transitional application of EU ETS allowances allocated free of charge and of

Amendment

(11) The CBAM seeks to replace the existing carbon leakage mechanisms, by ending the exemptions to the application of the ‘polluter pays’ principle granted until now to European industry and by simultaneously creating fairness between the Union’s producers and those of third countries, by ensuring equivalent carbon pricing for imports and domestic products. The allocation of free allowances and the compensation of indirect emission costs should come to an end from the full application of the CBAM from 1 January...
the CBAM should in no case result in more favourable treatment for Union goods compared to goods imported into the customs territory of the Union.

2025.

Amendment 5
Proposal for a regulation
Recital 12

Text proposed by the Commission

(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.

Or. fr

Amendment

(12) The CBAM 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. It would also lead to a reduction in atmospheric pollution, since intensive industries are responsible for a large share of the total energy consumed worldwide (37%) and the majority of the atmospheric pollution produced, which has serious consequences for health. The CBAM is therefore also economically beneficial because atmospheric pollution has major economic costs, with an average annual cost for health of at least EUR 215 billion.

Or. fr

Amendment 6
Proposal for a regulation
Recital 12 a (new)

Text proposed by the Commission

(12 a) While the objective of the CBAM, combined with a revised ETS, is primarily to reduce greenhouse gas emissions inside and outside the Union in the pursuit of the Paris Agreement targets, this measure
could also bring other economic and climate benefits. By contributing to ensuring effective and meaningful carbon pricing, as part of a broader regulatory environment, this Regulation can act as an economic incentive to spur investments in the decarbonisation of the economies of the Union and the world. This Regulation can also act as an incentive for a greater regulatory ambition and promote multilateral dialogue with a view to setting a minimum carbon price globally.

Amendment 7
Proposal for a regulation
Recital 17

Text proposed by the Commission

(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 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.

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 apply to direct emissions of those GHG from the production of goods up to the time of import into the customs territory of the Union, and to indirect emissions, mirroring the scope of the EU ETS. If the ETS should cover additional gases such as methane, the CBAM should reflect this change and also be extended to these emissions.
Amendment 8
Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) The EU ETS and the CBAM have a common objective of pricing GHG emissions embedded in the same sectors and goods through the use of specific allowances or certificates. Both systems have a regulatory nature and are justified by the need to curb GHG emissions, in line with the environmental objective set out in Union and in the Paris Agreement.

Amendment

(18) The EU ETS and the CBAM have a common objective of pricing GHG emissions embedded in the same sectors and goods through the use of specific allowances or certificates. Both systems have a regulatory nature and are justified by the urgent need to curb GHG emissions, in line with the environmental objective set out in Union and in the Paris Agreement.

Amendment 9
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 the CBAM’s effectiveness as a carbon leakage measure, its direct emissions price 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. The CBAM system should be carefully designed and supervised by the competent authorities to prevent, identify and punish all types of abuse or fraud.
Amendment 10

Proposal for a regulation
Recital 28

_text proposed by the Commission_

(28) Whilst the ultimate objective of the CBAM is a broad product coverage, it would be prudent to start with a selected number of sectors with relatively homogeneous products where there is a risk of carbon leakage. Union sectors deemed at risk of carbon leakage are listed in Commission Delegated Decision 2019/708⁴².

__Amendment__

(28) Whilst the ultimate objective of the CBAM is a broad product coverage, it would be prudent to start with a selected number of sectors that are responsible for the largest share of greenhouse gas emissions. Before the end of the transition period, the Commission should propose to extend the scope of this Regulation to other products than those listed in Annex I, including but not limited to oil, paper, glass, plastics, chemicals and downstream products, as well as the components of finished products that use products covered by this Regulation. The Commission should take account of the potential social impacts of extending the scope and propose measures to minimise these effects, where necessary.


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Amendment 11

Proposal for a regulation
Recital 34

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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 12
Proposal for a regulation
Recital 42

The system should allow operators of production installations in third countries to register in a central database and to make their verified embedded GHG emissions from production of goods available to authorised declarants. An operator should be able to choose not to have its name, address and contact details in the central database made accessible to the public.

Amendment 13
Proposal for a regulation
Recital 43

CBAM certificates differ from EU
ETS allowances for which daily auctioning is an essential feature. The need to set a clear price for CBAM certificates makes a daily publication excessively burdensome and confusing for operators, as daily prices risk becoming obsolete upon publication. Thus, the publication of CBAM prices on a weekly basis would accurately reflect the pricing trend of EU ETS allowances and pursue the same climate objective. The calculation of the price of CBAM certificates should therefore be set on the basis of a longer timeframe (on a weekly basis) than in the timeframe established by the EU ETS (on a daily basis). The Commission should be tasked to calculate and publish that average price.

Amendment 14
Proposal for a regulation
Recital 50

Text proposed by the Commission

(50) A transitional period should apply during the period 2023 until 2025. A CBAM without financial adjustment should apply, with the objective to facilitate a smooth roll out of the mechanism hence reducing the risk of disruptive impacts on trade. Declarants should have to report on a quarterly basis the actual embedded emissions in goods imported during the transitional period, detailing direct and indirect emissions as well as any carbon price paid abroad.

Amendment

(50) A transitional period should apply during the period 2023 until 2024. A CBAM without financial adjustment should apply, with the objective to facilitate a smooth roll out of the mechanism hence reducing the risk of disruptive impacts on trade. Declarants should have to report on a quarterly basis the actual embedded emissions in goods imported during the transitional period, detailing direct and indirect emissions as well as any carbon price paid abroad.

Or. fr
Amendment 15
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*

(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. Before the end of the transition period, the Commission should evaluate the governance system with a view to setting up a new European CBAM Authority that would coordinate the work of the competent authorities, help to centralise and exchange data, and serve as a single point of contact for operators, authorised declarants and any other interested parties, with all the relevant information concerning the implementation of this Regulation.

Or. fr

Amendment 16
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

*Amendment*

(52) Before the end of the transitional period, the Commission should collect information, evaluate the application of this Regulation and develop methods of calculating embedded emissions based on the environmental footprint methods, report on this to the European Parliament and the Council and, if appropriate, accompany the report with a legislative proposal. The report of the Commission should focus on enhancing climate actions towards the objective of a climate neutral Union by 2050. The Commission should,
carbon leakage, and to develop methods of calculating embedded emissions based on the environmental footprint methods.\textsuperscript{47}

\begin{itemize}
\item as part of that evaluation, also study the governance system with a view to setting up a European CBAM authority. The Commission should also evaluate the risks of circumvention and fraud identified and, where appropriate, propose measures to address them.
\end{itemize}

\textsuperscript{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).

\section*{Amendment 17}

\textbf{Proposal for a regulation}

\textbf{Recital 54}

\textit{Text proposed by the Commission}

\textsuperscript{54} The Commission should strive to engage in an even handed manner and in line with the international obligations of the EU, with the third countries whose trade to the EU is affected by this Regulation, to explore possibilities for dialogue and cooperation with regard to the implementation of specific elements of the Mechanism set out this Regulation and related implementing acts. It should also explore possibilities for concluding agreements to take into account their carbon pricing mechanism.

\textbf{Amendment}

\textsuperscript{54} The Commission should strive to engage in an even handed manner and in line with the international obligations of the EU, with the third countries whose trade to the EU is affected by this Regulation, to explore possibilities for dialogue and cooperation with regard to the implementation of specific elements of the Mechanism set out this Regulation and related implementing acts. In particular, the Commission should maintain a permanent dialogue with the third countries that have set carbon pricing. It should also explore possibilities for concluding agreements to take into account their carbon pricing mechanism. The Commission should enter into negotiations with third countries that have the same climate ambitions in order to facilitate the trading of products covered by the CBAM, provided that the partner...
countries apply a carbon adjustment to other countries as the Union does. The Commission should also promote the adoption of a carbon pricing system globally, for example through discussions within the OECD Inclusive Framework, and in line with the Paris Agreement targets.

Amendment 18
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 and to provide them with the necessary technical assistance in order to facilitate their adaptation to the new obligations established by this regulation. **The least developed countries have a limited capacity to de-carbonise their industries, and compliance with all the CBAM obligations would be difficult for them. Moreover, their production capacities and associated emissions are currently negligible on a global scale. To avoid any unfair and disproportionate burden on these countries, and in accordance with the ‘common but differentiated responsibility’ principle, authorised declarants and operators in these countries should thus be exempt from certain obligations, particularly payment for CBAM certificates. However, to avoid circumvention, mainly through the relocation of production from countries covered by the CBAM to least developed countries (LDCs), the Commission should introduce a system**
for monitoring potential cases of circumvention and take measures where appropriate. In such cases of circumvention, the Commission should be able to propose the removal of the country concerned from the list of exempt countries.

Amendment 19
Proposal for a regulation
Recital 55 a (new)

Text proposed by the Commission

(55 a) The revenues from the CBAM should be paid into the European Union’s general budget. These new resources should contribute to supporting the decarbonisation of the European economy while ensuring a fair transition, particularly for the most vulnerable, and to increasing the Union’s contribution to the financing of climate action internationally and to aid for developing countries.

Amendment 20
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. According to Europol, carbon credit fraud has cost more than EUR 5 billion in lost government revenues. The CBAM system should therefore introduce appropriate and effective mechanisms for avoiding losses of government revenues.

Amendment 21
Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

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.

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 and to encourage the reduction of GHG emissions globally.

Amendment 22
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 will become an alternative to the mechanisms established under Directive 2003/87/EC to prevent the risk of carbon leakage, namely the allocation of allowances free of charge and compensation for indirect costs in accordance with Articles 10a and 10b of that Directive.
Amendment 23
Proposal for a regulation
Article 2 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Article 8, Article 10, paragraph 5 b and Chapter IV of this Regulation do not apply to authorised declarants and operators in LDCs.

Amendment 24
Proposal for a regulation
Article 2 – paragraph 9 – point b a (new)

Text proposed by the Commission

Amendment

(b a) if the Commission or the competent authorities have identified repeated and confirmed cases of fraud originating in that third country or territory.

Amendment 25
Proposal for a regulation
Article 2 – paragraph 12

Text proposed by the Commission

Amendment

12. The Commission must initiate regular dialogue with the authorities in the third countries responsible for collecting the carbon price. 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.

Amendment 26

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

Text proposed by the Commission

(3) ‘emissions’ mean the release of greenhouse gases into the atmosphere from the production of goods;

Amendment

(3) ‘emissions’ mean the release of greenhouse gases into the atmosphere from the production of goods and the energy consumed for the production of goods;

Amendment 27

Proposal for a regulation
Article 3 – paragraph 1 – point 16

Text proposed by the Commission

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

Amendment

(16) ‘embedded emissions’ mean direct and indirect emissions released during the production of goods, calculated pursuant to the methods set out in Annex III, and during the production of the energy consumed by the producer of goods pursuant to the methods to be defined by the Commission in accordance with Article 7(7a);

Amendment 28

Proposal for a regulation
Article 3 – paragraph 1 – point 22
(22) ‘actual emissions’ mean the emissions calculated based on primary data from the production processes of goods; and from the production of energy consumed during the production processes of goods;

Amendment 29

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

(23) ‘carbon price’ means the sum of 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, and the monetary amount paid in a third country for the greenhouse gases emitted during the production of the energy consumed during the production processes of goods;

Amendment 30

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

(28 a) ‘least developed country’ means a low-income country facing severe structural impediments to sustainable development and included on the United
Nations list of least developed countries.

Amendment 31
Proposal for a regulation
Article 5 – paragraph 5 a (new)

Text proposed by the Commission

5 a. In the event of repeated failure by an authorised declarant to meet the obligations laid down in this Regulation, the competent authority in the Member State concerned shall withdraw the authorisation granted to the declarant.

Amendment

Or. fr

Amendment 32
Proposal for a regulation
Article 6 – paragraph 2 – point c

Text proposed by the Commission

(c) the total number of CBAM certificates corresponding to the total embedded emissions, to be surrendered, after the reduction due on the account of the carbon price paid in a country of origin in accordance with Article 9 and the adjustment necessary of the extent to which EU ETS allowances are allocated free of charge in accordance with Article 31.

(c) the total number of CBAM certificates corresponding to the total embedded emissions, to be surrendered, after the reduction due on the account of the carbon price paid in a country of origin in accordance with Article 9.

Or. fr
Amendment 33
Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission
1. Embedded emissions in goods shall be calculated pursuant to the methods set out in Annex III.

Amendment
1. Direct embedded emissions in goods shall be calculated pursuant to the methods set out in Annex III.

Or. fr

Amendment 34
Proposal for a regulation
Article 7 – paragraph 2

Text proposed by the Commission
2. Embedded emissions in goods other than electricity shall be determined based on the actual emissions in accordance with the methods set out in Annex III, points 2 and 3. When actual emissions cannot be adequately determined, the embedded emissions shall be determined by reference to default values in accordance with the methods set out in Annex III, point 4.1.

Amendment
2. Direct embedded emissions in goods other than electricity shall be determined based on the actual emissions in accordance with the methods set out in Annex III, points 2 and 3. When actual emissions cannot be adequately determined, the embedded emissions shall be determined by reference to default values in accordance with the methods set out in Annex III, point 4.1.

Or. fr

Amendment 35
Proposal for a regulation
Article 7 – paragraph 7 a (new)

Text proposed by the Commission
7 a. The Commission is empowered to adopt delegated acts in accordance with Article 28 regarding the definition of a method of calculating indirect embedded emissions for simple and complex

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

Amendment 36
Proposal for a regulation
Article 7 – paragraph 7 c (new)

Text proposed by the Commission

Amendment

7 c. The Commission shall adopt the implementing acts and the delegated acts referred to in paragraphs 6 and 7a by 31 December 2023, with a view to ensuring their application from 1 January 2024.

Amendment 37
Proposal for a regulation
Article 8 – paragraph 3 – subparagraph 1

Text proposed by the Commission

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.

Amendment

The Commission is empowered to adopt delegated 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.
Amendment 38
Proposal for a regulation
Article 8 – paragraph 3 – subparagraph 2

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

Amendment
The delegated acts referred to in the first subparagraph shall be adopted in accordance with Article 28 of this Regulation.

Or. fr

Amendment 39
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 and send to the competent authorities 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.

Or. fr

Amendment 40
Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission
2. Member States shall require that competent authorities exchange any

Amendment
2. The competent authorities shall exchange any information that is essential
information that is essential or relevant to the exercise of their functions and duties. or relevant to the exercise of their functions and duties. A competent authority shall respond without delay to any request from the competent authority of another Member State and shall send any documents relevant to the exercise of that competent authority’s functions and duties.

Amendment 41
Proposal for a regulation
Article 12 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

At least twice a year, the Commission shall organise a meeting between the competent authorities to exchange information and feedback on the application of this Regulation.

Amendment 42
Proposal for a regulation
Article 14 – paragraph 4

Text proposed by the Commission

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

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 address and its contact details accessible to the public, but this information shall still be made available to the competent authorities.
Amendment 43

Proposal for a regulation
Article 17 – paragraph 1 – point a a (new)

Text proposed by the Commission

(a a) the declarant has not been involved in an infringement of this Regulation that has led to the withdrawal of its authorisation by the competent authority of another Member State, in accordance with Article 5(5a);

Amendment

Or. fr

Amendment 44

Proposal for a regulation
Article 17 – paragraph 9

Text proposed by the Commission

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.

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. The competent authority shall immediately inform the Commission and the other competent authorities thereof.

Or. fr

Amendment 45

Proposal for a regulation
Article 21 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The Commission shall calculate the price

Amendment

The Commission shall calculate the price
of CBAM certificates as the average price of the closing prices of EU ETS allowances on the common auction platform in accordance with the procedures laid down in Commission Regulation (EU) No 1031/2010\(^{54}\) for each calendar week.


**Amendment 46**

**Proposal for a regulation**

**Article 21 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

For those calendar weeks in which there are no auctions scheduled on the common auction platform, the price of *CBAM certificates* shall be the average price of the closing prices of EU ETS allowances of the last week in which auctions on the common auction platform took place.

*Amendment*

For those calendar weeks in which there are no auctions scheduled on the common auction platform, the price of *direct emissions* shall be the average price of the closing prices of EU ETS allowances of the last week in which auctions on the common auction platform took place.

**Amendment 47**

**Proposal for a regulation**

**Article 21 – paragraph 3**

*Text proposed by the Commission*

of CBAM certificates as the *sum of the price of direct and indirect emissions*. The *price of direct emissions shall correspond to the* average price of the closing prices of EU ETS allowances on the common auction platform in accordance with the procedures laid down in Commission Regulation (EU) No 1031/2010\(^{54}\) for each calendar week.

*Amendment*

Or. fr
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 price of indirect emissions shall be determined in the delegated acts referred to in Article 7(7a). The Commission is also 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).

Or. fr

Amendment 48
Proposal for a regulation
Article 26 – paragraph 2

Text proposed by the Commission

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.

Amendment

2. In addition to the administrative and criminal sanctions referred to in paragraph 5, 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.

Or. fr

Amendment 49
Proposal for a regulation
Article 26 – paragraph 4 a (new)
4 a. In the event of repeated failure by an authorised declarant to meet the obligations of this Regulation, the competent authorities in the Member States concerned shall withdraw the declarant's import authorisation in accordance with Article 5(5a) of this Regulation.

Or. fr

Amendment 50
Proposal for a regulation
Article 26 – paragraph 5

Text proposed by the Commission

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

5. In addition to the penalties referred to in paragraph 1, Member States may apply administrative or criminal sanctions for failure to comply with the CBAM legislation in accordance with their national rules. In all cases the Member States shall apply administrative or criminal sanctions to any person, other than an authorised declarant, introducing goods into the customs territory of the Union without surrendering CBAM certificates. Such sanctions shall be effective, proportionate and dissuasive.

Or. fr

Amendment 51
Proposal for a regulation
Article 26 – paragraph 5 a (new)

Text proposed by the Commission

5 a. The Commission, in cooperation
with the competent authorities, shall provide guidelines for the Member States aimed at fostering an effective, proportionate and dissuasive harmonised system of administrative and criminal sanctions.

Amendment 52
Proposal for a regulation
Article 27 – title

Text proposed by the Commission  
Circumvention  

Amendment
Fraud and circumvention

Amendment 53
Proposal for a regulation
Article 27 – paragraph 1

Text proposed by the Commission  
1. The Commission shall take action, based on relevant and objective data, in accordance with this Article, to address practices of circumvention of this Regulation.

Amendment
1. The Commission shall take action, based on relevant and objective data, in accordance with this Article, to address practices of fraud and circumvention of this Regulation.

Amendment 54
Proposal for a regulation
Article 27 – paragraph 2

Text proposed by the Commission  
2. Practices of circumvention include

Amendment
2. Practices of fraud and
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 55**

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) situations that 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;</td>
<td></td>
</tr>
</tbody>
</table>

**Amendment 56**

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) situations that consist in replacing these goods with goods with a lower carbon content than that of the products normally produced in the exporting country, with the sole aim of export to the European Union;</td>
<td></td>
</tr>
</tbody>
</table>
Amendment 57

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

Text proposed by the Commission

Amendment

(c) situations that consist in sending these goods to a country or region referred to in Article 2(3) of this Regulation or to any other intermediate country or region prior to their importation to the EU market, with the aim of avoiding or reducing the obligations of this Regulation.

Or. fr

Amendment 58

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

Text proposed by the Commission

Amendment

2 a. If the volumes of imports of goods covered by this Regulation into one of the LDAs where authorised declarants and operators are exempt from the obligations in Article 8 to Article 10(5)(b), and in Chapter IV of this Regulation, increase such that this could indicate that the exemption is being abused, the Commission shall conduct an investigation and, where appropriate, propose the removal of the country from the list of exempt countries, by way of derogation from Article 2(3) of this Regulation.

Or. fr
Amendment 59

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

*Text proposed by the Commission*

Amendment

2 b. Where the Commission identifies cases of fraud or circumvention as described in paragraph 2 of this article, it shall notify the relevant national competent authorities with the aim of adopting, where appropriate, the penalties provided for in Article 26 of this Regulation.

Or. fr

Amendment 60

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 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.

Or. fr
Amendment 61

Proposal for a regulation
Article 27 – paragraph 3 a (new)

Text proposed by the Commission  

3 a. Any interested party other than those referred to in paragraph 3 which finds concrete evidence of fraud or circumvention practices as described in paragraph 2 may inform the Commission thereof and provide it with any relevant information.

Amendment

Or. fr

Amendment 62

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 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.

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 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 for anti-circumvention purposes, and to propose to the European Parliament and the Council a review of this Regulation if necessary.

Or. fr
Amendment 63
Proposal for a regulation
Article 27 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. Every two years, the Commission shall present a report to the European Parliament and the Council on the main fraud and circumvention practices identified, accompanied where relevant by a proposal for a legislative amendment to prevent and mitigate these practices.

Or. fr

Amendment 64
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), 7(7a), 8(3), 18(3) and 27(5) shall be conferred on the Commission for an indeterminate period of time.

Or. fr

Amendment 65
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), 7(7a), 8(3), 18(3) and 27(5) may be revoked at any time by the European Parliament or by the Council.

Or. fr
Amendment 66

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(10), 2(11), 7(7a), 8(3), 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.

Or. fr

Amendment 67

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 information to develop methods of calculating embedded emissions based on environmental footprint methods. Before the end of the transitional period, the Commission shall present a legislative proposal to extend the scope of this Regulation to other products than those listed in Annex I, including but not limited to oil, paper, glass, plastics, chemicals and downstream products, as well as the components of finished products that use products covered by this Regulation.
Amendment 68

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 report shall contain, in particular:

- an assessment of the social impacts of extending the CBAM to other goods than those listed in Annex I, with measures designed to minimise these effects;
- an assessment of the governance system with a view to setting up a new European CBAM Authority to be given the tasks of coordinating the competent authorities, centralising data and serving as a single point of contact for operators, authorised declarants and any other interested parties;
- an identification of circumvention and fraud practices and possible measures to address these;
- an assessment of the possibility to further extend the scope to embedded emissions of transportation services and services that
may be subject to the risk of carbon leakage in the future.

Amendment 69
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. The report by the Commission shall, if appropriate, be accompanied by a legislative proposal to introduce the necessary changes based on the information in the report, notably regarding the setting up of a European CBAM authority.

Amendment 70
Proposal for a regulation
Chapter IX – title

Text proposed by the Commission

IX Coordination with free allocation of allowances under the EU ETS

Amendment

Coordination with the phasing out of the free allocation of allowances under the EU ETS

Amendment 71
Proposal for a regulation
Article 31 – title

Text proposed by the Commission

Free allocation of allowances under the EU ETS and obligation to surrender CBAM certificates

Amendment

Phasing out of the free allocation of allowances under the EU ETS
Amendment 72
Proposal for a regulation
Article 31 – paragraph 1

Text proposed by the Commission

1. The CBAM certificates to be surrendered in accordance with Article 22 shall be adjusted to reflect the extent to which EU ETS allowances are allocated free of charge in accordance with Article 10a of Directive 2003/87/EC to installations producing, within the Union, the goods listed in Annex I.

Amendment

1. The CBAM certificates to be surrendered in accordance with Article 22 shall reflect the price paid by the installations producing within the Union under Directive XXXXXXX (revised ETS), taking account of the phasing out of the free allocation of allowances from the date referred to in Article 36(3)(d) of this Regulation.

Amendment 73
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 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.

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 competent authority of the Member State of importation or, if goods have been imported to more than one Member State, to each competent authority of the Member States into which the declarant imports goods, no later than one month after the end of each quarter.
Amendment 74
Proposal for a regulation
Article 35 – paragraph 2 – point b

Text proposed by the Commission

(b) the actual total embedded emissions, expressed in tonnes of CO$_2$e emissions per megawatt-hour of electricity or for other goods in tonne of CO$_2$e emissions per tonne of each type of goods, calculated in accordance with the method set out in Annex III;

Amendment

(b) the actual total embedded direct emissions, expressed in tonnes of CO$_2$e emissions per megawatt-hour of electricity or for other goods in tonne of CO$_2$e emissions per tonne of each type of goods, calculated in accordance with the method set out in Annex III;

Or. fr

Amendment 75
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 CO$_2$e 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 CO$_2$e emissions per tonne of each type of other goods than electricity, calculated in accordance with a method set out in the delegated acts referred to in Article 7(7a);

Or. fr

Amendment 76
Proposal for a regulation
Article 35 – paragraph 6

Text proposed by the Commission

6. The Commission is empowered to adopt implementing acts concerning the information to be reported, the procedures for communicating the information

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.

Amendment 77
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 2024.

Or. fr

Amendment 78
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 2025.

Or. fr
Amendment 79

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 2024.

Amendment 80

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 2025.

Amendment 81

Proposal for a regulation
Annex III – part 2 – point 1 – introductory part

Text proposed by the Commission
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:

Amendment
For determining the specific actual embedded direct emissions of simple goods produced in a given installation, the following equation is to be applied:
Amendment 82

Proposal for a regulation
Annexe V – part 2 – paragraph 1 – point h

*Text proposed by the Commission*

(h) direct emissions of the installation
during the reporting period;

*Amendment*

(h) direct *and indirect* emissions of the
installation during the reporting period;

Or. fr