



2021/0214(COD)

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*****I**

DRAFT REPORT

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))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Mohammed Chahim
Rapporteurs for the opinion (*):
Karlsbro Karin, Committee on International Trade
Fernandes José Manuel, Hayer Valérie, Committee on Budgets
Kloc Izabela-Helena, Committee on Industry, Research and Energy

(*) Associated committees – Rule 57 of the Rules of Procedure

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act**Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ***■*** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**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))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2021)0564),
 - having regard to Article 294(2) and Article 192(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0328/2021),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 8 December 2021¹,
 - having regard to the opinion of the Committee of the Regions of...²,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the opinions of the Committee on International Trade, the Committee on Budgets, the Committee on Industry, Research and Energy, the Committee on Development, the Committee on Economic and Monetary Affairs and the Committee on Agriculture and Rural Development,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety (A9-0000/2021),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C ... / Not yet published in the Official Journal.

² OJ C ... / Not yet published in the Official Journal.

Amendment 1

Proposal for a regulation Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Combating climate change and keeping global warming below 1,5 °C will require global action. The Union should not only lead by example, by eliminating its own emissions, including those embedded in imported products, but also cooperate with its partners to create an open, multilateral, cooperative global system that acts as a key enabler of the green transition.

Or. en

Amendment 2

Proposal for a regulation Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Article XX of the General Agreement on Tariffs and Trade (GATT) allows World Trade Organization (WTO) members to implement measures that are necessary to protect human, animal or plant life or health, or natural resources.

Or. en

Amendment 3

Proposal for a regulation Recital 10

Text proposed by the Commission

Amendment

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

(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.

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, **both** free allocation under the EU ETS **and compensations 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.

Or. en

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 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.

Amendment

(11) The CBAM **needs** to replace these existing mechanisms by addressing the risk of carbon leakage in a **better** way, namely by ensuring equivalent carbon pricing for imports and domestic products. To ensure a gradual **yet rapid** 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 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.

Or. en

Amendment 5

Proposal for a regulation Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) The gradual yet rapid transition from the current system of free allowances to the CBAM would occur by applying a factor that reduces the free allocation for the production of the products covered by CBAM ('CBAM factor'). The CBAM factor should be equal to 100 % for the period from 1 January 2023 until 31 December 2024, 90 % in 2025, 70 % in 2026, 40 % in 2027, and reach 0 % by 31 December 2028.

Or. en

Justification

The CBAM is a carbon leakage measure. To ensure WTO-compatibility and avoid double protection it must therefore replace the free allocation of allowances, which is the current carbon leakage measure within the EU ETS. To ensure a smooth transition for European industry, we need a gradual yet rapid transition. We need a speedier phase-out of free allowances than proposed by the Commission. Guaranteeing free allowances until 2036 is not in line with the Union's 2030 climate objective.

Amendment 6

Proposal for a regulation Recital 13

Text proposed by the Commission

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. The CBAM is a climate measure which should prevent the risk of carbon leakage ***and support the Union's increased ambition on climate mitigation,***

(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 ***support the reduction of emissions in the Union in line with the European Green Deal and***

while ensuring *WTO* compatibility.

Regulation (EU) 2021/1119 and prevent the risk of carbon leakage, while ensuring compatibility *with WTO rules*.

Or. en

Amendment 7

Proposal for a regulation Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) *There should be no exemptions or reductions granted to imports, based on implicit carbon pricing or other greenhouse gas emission reduction policies. However, the Commission should engage in climate diplomacy and find ways to cooperate with trade partners on decarbonisation policies, which should not replace the CBAM but instead exist next to it.*

Or. en

Justification

Implicit carbon pricing measures would anyway lead to having to buy less CBAM certificates for your products, because of decarbonisation. Only explicit carbon pricing should lead to exemptions from CBAM.

Amendment 8

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

(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.

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, as well to indirect emissions, mirroring the scope of the EU ETS. *Coherence between the CBAM and the EU ETS are essential to respect the principles of the WTO.*

Or. en

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 its effectiveness as a carbon leakage measure *and 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.

Or. en

Amendment 10

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.

deleted

Or. en

Amendment 11

Proposal for a regulation Recital 28

Text proposed by the Commission

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 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.

(28) The ultimate objective is that the CBAM will completely replace the free allocation of allowances as a carbon leakage measure within the EU ETS. The CBAM should therefore ultimately cover all products listed in Commission Delegated Decision (EU) 2019/708⁴². It would however be prudent to start with a selected number of sectors where there is a risk of carbon leakage.

⁴² Commission Delegated Decision (EU) 2019/708 of 15 February 2019 supplementing Directive 2003/87/EC of the European Parliament and of the Council concerning the determination of sectors and subsectors deemed at risk of carbon leakage for the period 2021 to 2030 (OJ L 120, 8.5.2019, p. 2).

⁴² Commission Delegated Decision (EU) 2019/708 of 15 February 2019 supplementing Directive 2003/87/EC of the European Parliament and of the Council concerning the determination of sectors and subsectors deemed at risk of carbon leakage for the period 2021 to 2030 (OJ L 120, 8.5.2019, p. 2).

Or. en

Amendment 12

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 and polymers**, and fertilisers.

Or. en

Amendment 13

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, 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

deleted

Or. en

Justification

The chemical sector should be included in the CBAM from the beginning. Several basic products have the right characteristics to be covered by the CBAM. Those products are carbon intensive and heavily traded, and therefor belong in the CBAM. Next to this, it would be contradictory to include fertilizers but leave out chemicals. The Commission has the means to find technical solutions for the complexities.

Amendment 14

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) 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.

Or. en

Amendment 15

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.

Or. en

Amendment 16

Proposal for a regulation Recital 38

Text proposed by the Commission

(38) As importers of goods covered by this Regulation should not have to fulfil their CBAM obligations under this Regulation at the time of importation, specific administrative measures should be applied to ensure that the obligations are fulfilled at a later stage. Therefore, importers should only be entitled to import CBAM goods after they have been granted an authorisation by **competent authorities** responsible for the application of this Regulation.

Amendment

(38) As importers of goods covered by this Regulation should not have to fulfil their CBAM obligations under this Regulation at the time of importation, specific administrative measures should be applied to ensure that the obligations are fulfilled at a later stage. Therefore, importers should only be entitled to import CBAM goods after they have been granted an authorisation by **the CBAM authority** responsible for the application of this Regulation.

Or. en

Amendment 17

**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.

Or. en

Amendment 18

**Proposal for a regulation
Recital 44**

Text proposed by the Commission

(44) In order to give the authorised declarants flexibility in complying with their CBAM obligations and allow them to benefit from fluctuations in the price of EU

Amendment

(44) In order to give the authorised declarants flexibility in complying with their CBAM obligations and allow them to benefit from fluctuations in the price of EU

ETS allowances, the CBAM certificates should be valid for a period of two years from the date of purchase. The authorised declarant should be allowed to re-sell to the ***national*** authority a portion of the certificates bought in excess. The authorised declarant should build up during the year the amount of certificates required at the time of surrendering, with thresholds set at the end of each quarter.

ETS allowances, the CBAM certificates should be valid for a period of two years from the date of purchase. The authorised declarant should be allowed to re-sell to the ***CBAM*** authority a portion of the certificates bought in excess. The authorised declarant should build up during the year the amount of certificates required at the time of surrendering, with thresholds set at the end of each quarter.

Or. en

Amendment 19

Proposal for a regulation Recital 49

Text proposed by the Commission

(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.

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 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 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.

Amendment 20

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 **for two years**, during the period **from 1 January 2023 until 31 December 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. en

Justification

A transitional phase of two years will be sufficient since most of the necessary data is already available. The quicker the CBAM can come into force the better, to prevent the risk of carbon leakage and incentivize our trade partners to introduce carbon pricing.

Amendment 21

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 22

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 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 extend the scope to other *sectors, goods and downstream products of the goods listed in Annex I* 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 23

Proposal for a regulation Recital 53

Text proposed by the Commission

(53) In light of the above, *a* dialogue with third countries should continue and

Amendment

(53) In light of the above, dialogue with third countries should continue and there

there should be space for cooperation and ***solutions that*** could inform the specific choices that will be made on the details of the design of the measure during the implementation, in particular during the transitional period.

should be space for cooperation and ***finding common approaches to tackle carbon leakage and achieve deep decarbonisation of energy intensive industries, including through cooperation on regulatory measures. Such dialogues*** could ***also*** inform the specific choices that will be made on the details of the design of the measure during the implementation, in particular during the transitional period.

Or. en

Amendment 24

Proposal for a regulation Recital 53 a (new)

Text proposed by the Commission

Amendment

(53a) Alongside dialogue with third countries, the Commission should engage with all stakeholders of the sectors covered by this Regulation, including industry representatives, trade unions and civil society.

Or. en

Amendment 25

Proposal for a regulation Recital 54

Text proposed by the Commission

Amendment

(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

(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.

related implementing acts. It should also explore possibilities for concluding agreements to take into account their **explicit** carbon pricing mechanism.

Or. en

Amendment 26

Proposal for a regulation Recital 55 a (new)

Text proposed by the Commission

Amendment

(55a) To support least developed countries' efforts towards the de-carbonisation of their manufacturing industries, financial support should be provided, including through reinforcing climate spending in the Union budget's Instrument for Pre-Accession Assistance III established by Regulation (EU) 2021/1529 of the European Parliament and of the Council^{1a} and the relevant geographic and thematic programmes of the Neighbourhood, Development and International Cooperation Instrument established by Regulation (EU) 2021/947 of the European Parliament and of the Council^{1b}.

^{1a} Regulation (EU) 2021/1529 of the European Parliament and of the Council of 15 September 2021 establishing the Instrument for Pre-Accession assistance (IPA III) (OJ L 330, 20.9.2021, p. 1).

^{1b} 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

Or. en

Amendment 27

Proposal for a regulation Recital 58

Text proposed by the Commission

(58) ***In order to remedy circumvention of the provisions of this Regulation,*** the power to adopt acts in accordance with Article 290 of TFEU should be delegated to the Commission in respect of supplementing the list of goods in Annex I.

Amendment

(58) The power to adopt acts in accordance with Article 290 of TFEU should be delegated to the Commission in respect of supplementing the list of goods in Annex I ***in order to remedy circumvention of this Regulation, in respect of setting conditions for applying the CBAM , concerning the principles of verification , in respect of laying down the conditions for control and oversights of accredited verifiers, in order to establish the rules of procedure and the appointment procedures of the Board of Appeal , in respect of laying down a calculation methodology and to develop a calculation method for indirect emissions.***

Or. en

Amendment 28

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

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.

the customs territory of the Union, in order to prevent the risk of carbon leakage ***and incentivise the reduction of emissions in third countries.***

Or. en

Amendment 29

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*** 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.

Or. en

Amendment 30

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.

Or. en

Amendment 31

Proposal for a regulation

Article 3 – paragraph 1 – point 11

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 32

Proposal for a regulation

Article 3 – paragraph 1 – point 15

Text proposed by the Commission

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

Amendment

(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**;

Or. en

Amendment 33

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 **and its upstream products applying the principles laid down in Articles 7 and 8**, calculated pursuant to the methods set out in Annex III;

Or. en

Justification

We need to include indirect emissions (scope 2 emissions) to better reflect the carbon cost for European industry since the power sector is also included in the EU ETS and subject to full auctioning. To ensure WTO-compatibility we must make sure that indirect costs compensation is removed from EU ETS when we add indirect emissions to the scope of the CBAM.

Amendment 34

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;

Or. en

Amendment 35

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 36

Proposal for a regulation

Article 4 – paragraph 1

Text proposed by the Commission

Amendment

Goods shall only be imported into the

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').

customs territory of the Union by a declarant that is authorised by the **CBAM** authority in accordance with Article 17 ('authorised declarant').

Or. en

Amendment 37

Proposal for a regulation Article 5 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 38

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;

Or. en

Amendment 39

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.

Or. en

Amendment 40

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).

Or. en

Amendment 41

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

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 **CBAM** authority.

Or. en

Amendment 42

Proposal for a regulation
Article 7 – paragraph 4

Text proposed by the Commission

4. The authorised declarant shall keep records of the information required to calculate the embedded emissions in accordance with the requirements laid down in Annex IV. Those records shall be sufficiently detailed to enable verifiers accredited pursuant to Article 18 to verify the embedded emissions in accordance with Article 8 and Annex V and to enable the **competent** authority to review the CBAM declaration in accordance with Article 19(1).

Amendment

4. The authorised declarant shall keep records of the information required to calculate the embedded emissions in accordance with the requirements laid down in Annex IV. Those records shall be sufficiently detailed to enable verifiers accredited pursuant to Article 18 to verify the embedded emissions in accordance with Article 8 and Annex V and to enable the **CBAM** authority to review the CBAM declaration in accordance with Article 19(1).

Or. en

Amendment 43

Proposal for a regulation
Article 7 – paragraph 5

Text proposed by the Commission

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

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.

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). Those records shall be kept for the period during which the CBAM authority may review the CBAM declaration as referred to in Article 19(1).*

Or. en

Amendment 44

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

Amendment

6. The Commission is empowered to adopt implementing acts 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

Amendment 45

Proposal for a regulation

Article 8 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The CBAM authority is authorised to verify the accuracy of the information in the CBAM declaration.

Or. en

Amendment 46

Proposal for a regulation

Article 8 – paragraph 3

Text proposed by the Commission

Amendment

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

3. 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.

Or. en

Amendment 47

Proposal for a regulation Article 9 – title

Text proposed by the Commission

Carbon price paid in a country of origin

Amendment

Explicit carbon price paid in a country of origin

Or. en

Amendment 48

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

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

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

Or. en

Amendment 49

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

Amendment

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 ***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

been subject to an export rebate or any other form of compensation on exportation.

which should not have been subject to an export rebate or any other form of compensation on exportation.

Or. en

Amendment 50

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.

Or. en

Amendment 51

Proposal for a regulation Chapter III – title

Text proposed by the Commission

III **Competent authorities**

Amendment

The CBAM authority

Or. en

Justification

The Commission proposal foresees a decentralised system with 27 national authorities which could lead to an uneven implementation of the regulation by the 27 competent authorities, a difference in the pace of the implementation and ultimately a high risk of 'forum shopping' which could compromise the integrity of the single market. Therefore it would be more efficient and appropriate to install a centralised system with one European CBAM Authority to oversee the system.

Amendment 52

Proposal for a regulation Article 11 – title

Text proposed by the Commission

Amendment

Competent authorities

Appointment of the CBAM authority

Or. en

Justification

The Commission proposal foresees a decentralised system with 27 national authorities which could lead to an uneven implementation of the regulation by the 27 competent authorities, a difference in the pace of the implementation and ultimately a high risk of 'forum shopping' which could compromise the integrity of the single market. Therefore it would be more efficient and appropriate to install a centralised system with one European CBAM Authority to oversee the system.

Amendment 53

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 appoint the CBAM authority to perform the obligations under this Regulation.

Or. en

Amendment 54

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 authorities and publish this information

deleted

in the Official Journal of the European Union.

Or. en

Amendment 55

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*

Or. en

Amendment 56

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.

Or. en

Amendment 57

Proposal for a regulation Article 12 a (new)

Article 12a

Decisions taken by the CBAM authority

- 1. The CBAM authority shall, without delay, take any decision required 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 submit the required information to the CBAM authority without delay.***
- 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 takes a decision which adversely affects the addressee of the decision, it shall set out the grounds on which the decision is based and shall include 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 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 shall specify, by means of implementing acts, any further detailed arrangement or procedural rule concerning the decision-making of the CBAM authority. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Or. en

Amendment 58

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.

Or. en

Amendment 59

Proposal for a regulation Article 14

Article 14

deleted

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;***
 - (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.***

Or. en

Amendment 60

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 for the execution of 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 operator and of the installations in third country registered in accordance with Article 10.**
- 4. The information on the database shall be confidential other than the names of the authorised declarants and of the operator and of the third country installations included in the database which shall be accessible to the public.**
- 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 61

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.

Or. en

Justification

By establishing a centralised system with one CBAM authority, an extra central administrator becomes obsolete.

Amendment 62

Proposal for a regulation Article 16 – title

Text proposed by the Commission

Accounts in the *national registries*

Amendment

Accounts in the **CBAM** registry

Or. en

Amendment 63

Proposal for a regulation Article 16 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 64

Proposal for a regulation Article 16 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 65

Proposal for a regulation Article 16 – paragraph 3

Text proposed by the Commission

3. The **competent** 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.

Amendment

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.

Or. en

Amendment 66

**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.

Or. en

Amendment 67

**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:

Or. en

Amendment 68

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.

Or. en

Amendment 69

Proposal for a regulation Article 17 – paragraph 3

Text proposed by the Commission

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.

Amendment

3. If the **CBAM** 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.

Or. en

Amendment 70

Proposal for a regulation Article 17 – paragraph 4 – introductory part

Text proposed by the Commission

4. A decision of the **competent**

Amendment

4. A decision of the **CBAM** authority

authority authorising a declarant shall contain the following information

authorising a declarant shall contain the following information

Or. en

Amendment 71

Proposal for a regulation

Article 17 – paragraph 6 – subparagraph 1

Text proposed by the Commission

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.

Amendment

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.

Or. en

Amendment 72

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.

Or. en

Amendment 73

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.

Or. en

Amendment 74

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.

Or. en

Amendment 75

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 **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. en

Amendment 76

**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 **25a (2)** and any other relevant evidence, and on the basis of any audit deemed necessary, including at the premises of the authorised declarant.

Or. en

Amendment 77

**Proposal for a regulation
Article 19 – paragraph 2**

Text proposed by the Commission

2. Where a CBAM declaration in accordance with Article 6 has not been submitted, the **competent** authority *of the Member State of establishment of the*

Amendment

2. Where a CBAM declaration in accordance with Article 6 has not been submitted, the **CBAM** authority shall assess the CBAM obligations of that

authorised declarant shall assess the CBAM obligations of that declarant on the basis of the information at its disposal and calculate the total number of CBAM certificates due at the latest by the 31 December of the fourth year following that when the CBAM declaration should have been submitted.

declarant on the basis of the information at its disposal and calculate the total number of CBAM certificates due at the latest by the 31 December of the fourth year following that when the CBAM declaration should have been submitted.

Or. en

Amendment 78

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.

Or. en

Amendment 79

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

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 during the year of import.

surrendered in excess, calculated at the average price paid for CBAM certificates by the authorised declarant during the year of import.

Or. en

Amendment 80

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 declarants authorised at the price calculated in accordance with Article 21.

Or. en

Amendment 81

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.

Or. en

Amendment 82

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).

Or. en

Amendment 83

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.

Or. en

Amendment 84

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 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.

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 ***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.

Or. en

Amendment 85

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.

Or. en

Amendment 86

Proposal for a regulation
Article 23 – paragraph 1

Text proposed by the Commission

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

Amendment

1. The **CBAM** authority shall, on request by a declarant authorised, 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.

Or. en

Amendment 87

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**.

Or. en

Amendment 88

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 constitute internal assigned revenue in accordance with Article 21(3) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council^{1a}. They shall be assigned to cover the costs of the operation and maintenance of the CBAM authority. Any revenue remaining after covering those costs shall be assigned to the Union budget.***
- 2. To meet Union objectives and international commitments, such as those under WTO agreements and the Paris Agreement, financial support shall be provided to support least developed countries' efforts towards the de-carbonisation of their manufacturing industries, including through reinforcing climate spending in the Union budget's Instrument for Pre-Accession Assistance III and the relevant geographic and thematic programmes of the Neighbourhood, Development and International Cooperation Instrument. The additional financial support shall be at least equivalent in financial value to the 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 in financial value of those revenues from the previous year has been used and how this has contributed to tackling climate change in the least developed countries.***

^{1a} Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU)

No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

Or. en

Amendment 89

Proposal for a regulation Article 25

Text proposed by the Commission

Amendment

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).*

Or. en

Amendment 90

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.*

2. *The customs authorities shall periodically communicate to the CBAM authority information on the goods listed in Annex I that are declared for importation. The 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 as 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. As from the 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. Imports shall be made subject to registration following a request from the Union industry which contains sufficient evidence to justify such action. Imports may also be made subject to registration on the Commission's own initiative. Registration shall be introduced by a Commission regulation 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.

Or. en

Amendment 91

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.

Or. en

Amendment 92

Proposal for a regulation Article 26 a (new)

Text proposed by the Commission

Amendment

Article 26a

Penalties

1. An authorised declarant that 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 or submits to the authority false information related to actual emissions with a view to obtain a favourable individual treatment, shall be held 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 24. Payment of the penalty shall not release the authorised declarant from the obligation to surrender the outstanding number of CBAM certificates to the CBAM authority.

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

4. The Commission shall adopt implementing acts concerning the procedures referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Or. en

Amendment 93

Proposal for a regulation Chapter VI a (new)

Text proposed by the Commission

Amendment

Chapter VIa

Appeals

Or. en

Amendment 94

Proposal for a regulation Article 27 a (new)

Text proposed by the Commission

Amendment

Article 27a

Appeals against decisions taken by the CBAM authority

- 1. 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 as from the date of expiration of the appeal period of two months. The filing of the appeal shall have suspensive effect. The products concerned by an appeal shall be subject to registration in accordance with Article 25a(5).***
- 2. 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.***
- 3. The Board of Appeal shall be set up and consist of three full 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.***
- 4. 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 95

**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(2), 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 Authority.***
- 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 line of reasoning 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 as 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, as 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 96

**Proposal for a regulation
Article 27 c (new)**

Text proposed by the Commission

Amendment

Article 27c

Actions before the Court of Justice

- 1. Actions may be brought before the General Court against decisions of the Board of Appeal in relation to appeals.***
- 2. Actions may be brought before the General Court against any decision of the CBAM authority. In such a case, an administrative appeal under Article 27 b shall be inadmissible.***
- 3. The action may be brought on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the TFEU, infringement of this Regulation or of any rule of law relating to their application or misuse of power.***
- 4. The General Court shall have jurisdiction to annul or to alter the contested decision.***
- 5. The action shall be open to any party to proceedings before the Board of Appeal that is adversely affected by its decision.***
- 6. The action shall be brought before the General Court within two months of the date of notification of the decision of the Board of Appeal in case of action under paragraph 1, and within two months of the date of the notification of the decision of the CBAM authority in case of actions under paragraph 2.***
- 7. The CBAM authority shall 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.*

Or. en

Amendment 97

Proposal for a regulation Article 28 – paragraph 2

Text proposed by the Commission

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.

Amendment

2. The power to adopt delegated acts referred to in Articles **2(6)**, 2(10), 2(11), **8(3), 18(3), 27(5), 27a (4), 31(2) and 35(6)** shall be conferred on the Commission for an indeterminate period of time.

Or. en

Amendment 98

Proposal for a regulation Article 28 – paragraph 3

Text proposed by the Commission

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.

Amendment

3. The delegation of power referred to in Articles **2(6)**, 2(10), 2(11), **8(3), 18(3), 27(5), 27a (4), 31(2) and 35(6)** may be revoked at any time by the European Parliament or by the Council.

Or. en

Amendment 99

Proposal for a regulation Article 28 – paragraph 7

Text proposed by the Commission

7. A delegated act adopted pursuant to

Amendment

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.

Articles **2(6), 2(10), 2(11), 8(3), 18(3), 27(5), 27a (4), 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.

Or. en

Amendment 100

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 the information necessary with a view to extending the scope of this Regulation to **sectors** and goods other than those listed in Annex I, **such as downstream products using goods covered by this Regulation, and to** develop methods of calculating embedded emissions based on environmental footprint methods.

Or. en

Amendment 101

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

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, 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.

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 other ***sectors and*** goods at risk of carbon leakage than those already covered by this ***Regulation, such as downstream products using goods 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.

Or. en

Amendment 102

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 extend the scope of this Regulation as set out in paragraphs 1 and 2.***

Or. en

Amendment 103

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

Text proposed by the Commission

Amendment

3a. By 31 December 2026, the Commission shall present a report to the

European Parliament and the Council on the impact of this Regulation on exports from the Union in sectors covered by the EU ETS. That report shall contain, in particular, the assessment of the impact of this Regulation on the competitiveness of the export of goods within the scope of Annex I.

Or. en

Amendment 104

Proposal for a regulation

Article 30 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. *Where the report referred to in paragraph 3a concludes that this Regulation has a significantly negative impact on the competitiveness of the export of goods within the scope of Annex I and that there is a risk of carbon leakage on those exports, the report by the Commission shall, if appropriate, be accompanied by a legislative proposal to eliminate such effect and risk. Such a legislative proposal shall respect WTO rules, in particular the legal principles of non-discrimination, and shall not cause distortions in existing trading patterns to the Union's advantage.*

Or. en

Amendment 105

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 in Article 36(3).

By way of derogation from the first subparagraph, until 31 December 2028, the production of those products shall benefit from free allocation in reduced amounts except for the categories of cement referred to in Annex I. 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 2024, 90 % in 2025, 70 % in 2026, 40 % in 2027, and reach 0 % by the end of 2028.

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.

Or. en

Justification

The CBAM is a carbon leakage measure. To ensure WTO-compatibility and avoid double protection it must therefore replace the free allocation of allowances, which is the current carbon leakage measure within the EU ETS. To ensure a smooth transition for European industry, we need a gradual yet rapid transition. We need a speedier phase-out of free allowances than proposed by the Commission. Guaranteeing free allowances until 2036 is not in line with Union's 2030 climate objective. Cement however represents a specific case that should be treated differently. Cement is the sector with the lowest trade intensity among goods covered by the CBAM. The risk of carbon leakage is low and a speedier implementation is warranted. Therefore a 0% CBAM factor would apply for cement as early as 1 January 2025.

Amendment 106

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 ***as defined in Annex IIIa***, for the reduction referred to in paragraph 1.

Or. en

Amendment 107

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

Text proposed by the Commission

Amendment

2a. 50 % of the allowances resulting from the reduction of free allocation shall be made available to support innovation in accordance with Article 10a(8) of Directive 2003/87/EC.

The other 50 % shall be auctioned by the Commission pursuant to Article 10(4) of that Directive and the revenues earned from the auction shall be transferred to the Union budget.

Or. en

Justification

The increasing price in EU ETS and the speedier phase-out of free allowances will provide higher revenues within EU ETS. The extra revenues gained through auctioning the allowances that are no longer used as free allowances because of CBAM, should be used twofold: half of the revenues should go to the Innovation Fund to support industry and the other half should flow back in the EU Budget and help to repay NextGenerationEU.

Amendment 108

**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.

Or. en

Amendment 109

**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 **CBAM** authority, no later than one month after the end of each quarter.

Or. en

Amendment 110

**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.

Or. en

Amendment 111

**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.

Or. en

Amendment 112

**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:

Or. en

Amendment 113

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;

Or. en

Amendment 114

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

Or. en

Amendment 115

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 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

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.

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.

Or. en

Amendment 116

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. en

Amendment 117

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**.

Amendment 118

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 119

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 120

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 ⁽³⁾.

³ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on

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
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

the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

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 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
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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

Amendment

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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 ⁽⁴⁾.
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

⁴ 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).

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, 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	Carbon dioxide

similarly closed), of iron or steel	
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 (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

Chemicals

CN code	Greenhouse gas
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29 - Organic Chemicals	Carbon dioxide
2804 10 000 - Hydrogen	Carbon dioxide
2814 10 000 - Anhydrous ammonia	Carbon dioxide
2814 20 00 - Ammonia in aqueous solution	Carbon dioxide

Polymers

CN code	Greenhouse gas
39 - Plastics and articles thereof	carbon dioxide and nitrous oxide

Or. en

Amendment 121

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

Text proposed by the Commission

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

Amendment

2. Determination of actual embedded emissions for simple goods

Or. en

Amendment 122

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

Or. en

Amendment 123

Proposal for a regulation

Annex III – point 2 – paragraph 3 – introductory part

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:

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:

Or. en

Amendment 124

Proposal for a regulation

Annex III – point 2 – paragraph 3 – subparagraph 1

Text proposed by the Commission

$$AttrEm_g = DirEm$$

Amendment

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

Or. en

Amendment 125

Proposal for a regulation

Annex III – point 2 – paragraph 4

Text proposed by the Commission

Where DirEm are the direct emissions, resulting from the production process, expressed in tonnes of CO₂e, within the system boundaries referred to in the implementing act pursuant to Article 7(6).

Amendment

Where DirEm are the direct emissions, resulting from the production process, expressed in tonnes of CO₂e, within the system boundaries referred to in the implementing act pursuant to Article 7(6).

Em_{el} are the indirect emissions accounted for electricity consumed within the system boundaries of the process, including any

electricity consumed from the relevant power grid from which the installation is supplied.

$Em_{el,exp}$ are emission equivalents of electricity exported from the process system boundaries.

Em_{el} is to be calculated using the emission factor for electricity given in the implementing act pursuant to Article 7.

Where offsite power is consumed, the annual average emissions intensity of the marginal or other price-setting generator in the relevant electricity market shall be used. Where such data are not available, the average emissions intensity of fossil-fuel based generation plants in the relevant power market supplying the producing installation shall be used instead.

Or. en

Amendment 126

Proposal for a regulation

Annex III a (new) - methodology for calculating the reduction of CBAM certificates due to free allocation under EU ETS

Text proposed by the Commission

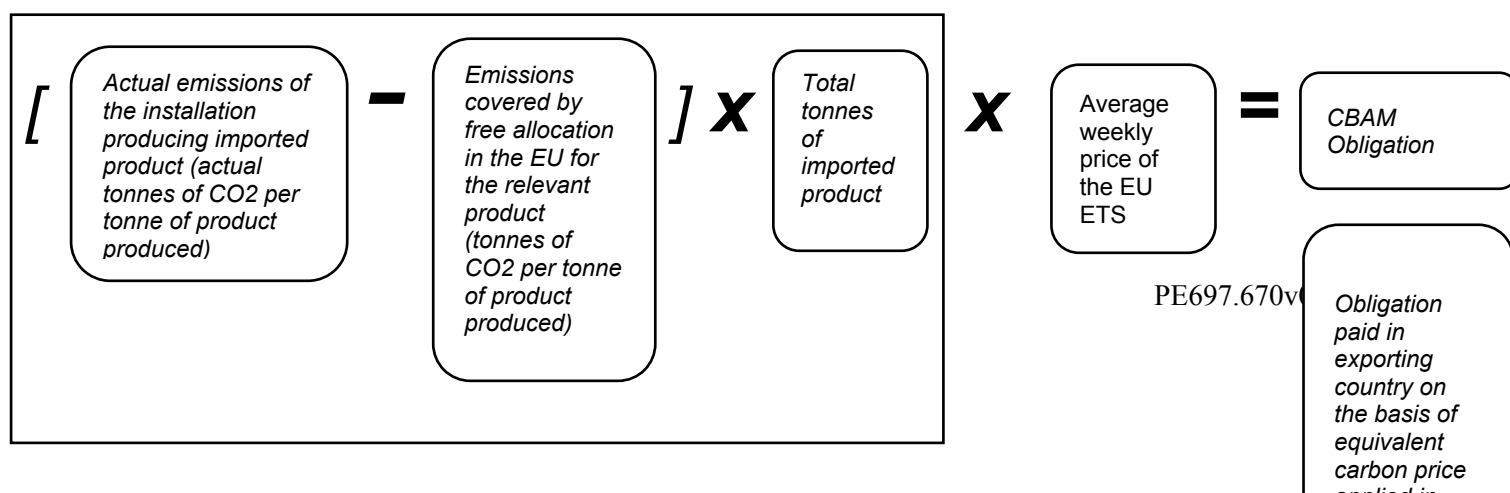
Amendment

Annex IIIa

Number of certificates

Price of certificates

Obligation and adjustment



-

=

Adjustment

Or. en

Amendment 127

Proposal for a regulation

Annex IV – Part 1 – point 1 – point b

Text proposed by the Commission

(b) the unique identifier assigned by the *competent national* authority;

Amendment

(b) the unique identifier assigned by the **CBAM** authority;

Or. en

Amendment 128

Proposal for a regulation

Annex V – Part 1 – paragraph 1 – point d – subparagraph 2

Text proposed by the Commission

For parameters for which no such

Amendment

For parameters for which no such

thresholds are defined, the verifier shall use expert judgement to whether misstatements, individually or when aggregated with other misstatements, justified by their size and nature, have to be considered material, i.e. and could affect the use of the report by the intended users, in particular the *competent national authorities*.

thresholds are defined, the verifier shall use expert judgement to whether misstatements, individually or when aggregated with other misstatements, justified by their size and nature, have to be considered material, i.e. and could affect the use of the report by the intended users, in particular the ***CBAM authority***.

Or. en

EXPLANATORY STATEMENT

Successful carbon pricing policies are essential for the Union to achieve its 2030 climate objectives and become climate neutral by 2050. The correct pricing of greenhouse gases means that the negative externalities produced by carbon intensive industries are paid for by the polluter rather than by nature and society as a whole (the polluter pays principle). Correct carbon pricing also guarantees that there are sufficient incentives for industry to innovate and invest in sustainable solutions. Ensuring that companies, in the Union and in third countries, pay the correct carbon price to access the single market is first and foremost an environmental and climate objective, but one that will also produce social and economic benefits in the Union and globally.

The COP 26 Climate Conference in Glasgow recognised the centrality of carbon pricing in climate mitigation policies and advanced on the rules to establish a global carbon market and how to govern bilateral carbon trading. Yet progress on global measures remains slow. The novel proposal on a Carbon Border Adjustment Mechanism (CBAM) can play a pivotal role in nudging third countries in applying an explicit carbon price. CBAM, well before its entry into force, has already shifted the attitude of a number of Union's partners. We must use the momentum to morph carbon pricing into a global trend.

An ambitious and efficient CBAM would produce a fourfold benefit with respect to climate mitigation policies: (1) it would strengthen the price signal of the EU Emission Trading System, (2) it would replace free allowances for the sectors at risk of carbon leakage thus enlarging the number of installations genuinely covered by the system, (3) it would effectively ensure carbon pricing for the concerned products imported in the Union and, finally, (4) it would continue to prevent carbon leakage.

A CBAM designed as a purely climate and environmental measure is compatible with the principles of the World Trade Organization (WTO). The rapporteur is of the opinion that free allocations and CBAM cannot exist in parallel once CBAM becomes fully operational. Free allocations for the CBAM sectors will need to progressively yet rapidly decline as the mechanism is being phased-in.

The rapporteur welcomes the overall design of the mechanism by the Commission and considers it a solid starting point for the legislative process. The rapporteur nevertheless aims to further strengthen its climate ambition, its long-term effectiveness and its governance through a number of targeted amendments.

Firstly, the rapporteur intends to broaden the scope of the proposal to cover organic chemicals, hydrogen and polymers, as well as indirect emissions in all sectors covered by CBAM.

Secondly, the rapporteur proposes an incremental and speedier phase-in of CBAM so that the system becomes an alternative to free allowances and fully operational as of 1 January 2029, bringing it in sync with the Union's 2030 climate objective.

Thirdly, the rapporteur considers that a central CBAM authority would be the most efficient,

transparent and cost-effective instrument to ensure the proper implementation of the regulation as opposed to a decentralised system with 27 competent authorities. Fourthly, the rapporteur wants CBAM to be an instrument that incentivises cooperation rather than confrontation with the Union's partners, notably with least developed countries (LDCs) and proposes that the system contributes to their decarbonisation efforts.

Fifthly, the rapporteur considers that the empowerments sought by the Commission are too broad and not sufficiently well framed and proposes changes in that regard.

An ambitious and fit-for-purpose CBAM

Considering the current climate emergency, the rapporteur considers that CBAM should be endowed with the highest possible ambition from the beginning to ensure that the free allowances are phased-out as speedily as possible. Several basic products have the right characteristics to be covered by CBAM according to the criteria of carbon intensity and exposure to risk of carbon leakage. Carbon intensive products that are heavily traded belong in CBAM. Whilst the rapporteur understands that further technical work is necessary to ensure that the correct value of embedded emissions is defined for specific sectors, this should not in itself warrant their exclusion from the mechanism. In particular the rapporteur considers that organic chemicals, hydrogen and polymers should be included given their carbon and trade intensity.

Furthermore the Commission's proposal would at this stage only apply to direct emissions released during the production process of the covered goods. Indirect emissions, such as emissions generated from electricity used for manufacturing, heating or cooling would not form part of CBAM. The rapporteur considers it necessary to extend CBAM to indirect emissions already at this stage to heighten the climate ambition of the proposal.

Phase-in of CBAM and the end of free allowances

Together with an enlarged scope, a speedier implementation of CBAM would also contribute to the climate objective of the proposal. According to the Commission planned phase-in, CBAM would become fully operational only at the beginning of 2036, some 15 years after the initial proposal. Given the climate emergency and the Union's own 2030 objective, the rapporteur considers this pace of implementation too slow.

The rapporteur suggests to shorten the transitional period by one year and bring it to an end on 31 December 2024. Furthermore he suggests an incremental pace for the phasing-in of the system for all sectors with the exception of cement. A 'CBAM factor' reducing the free allocation for the production of these products will be applied. The CBAM factor shall be equal to 90 % in 2025, 70 % in 2026, 40% in 2027, and will reach 0% by the end of 2028.

The rapporteur considers that cement represents a specific case that should be treated differently. Cement is the sector with the lowest trade intensity (10,1%) among the goods covered by CBAM. The risk of carbon leakage is thus low and a speedier implementation is warranted. A 0% CBAM factor would thus apply for cement as early as 1 January 2025.

One central CBAM authority for a swift, coherent and cost-effective implementation

The Commission proposal foresees a decentralised hybrid system with 27 CBAM authorities in charge of managing the system. These competent authorities would be charged with a number of new tasks ranging from setting-up national registries for authorised declarants to selling CBAM certificates.

The rapporteur is of the opinion that such a decentralised system would lead to an uneven implementation of the regulation by the 27 competent authorities, a difference in the pace of the implementation and ultimately a high risk of ‘forum shopping’ which would be detrimental to the integrity of the single market. For example when different competent authorities are speedier in their review of the CBAM declarations and their repurchasing of the surplus CBAM certificates, this could lead to importers choosing to import through one competent authority rather than another. These discrepancies could ultimately lead to trade distortions.

Moreover, CBAM will rely on a number of complex non-legislative measures, implementing and delegated acts which would need to be thoroughly communicated and explained to the 27 national authorities. The risk of an uneven implementation and diverging communication to stakeholders is higher in a decentralised system and this would only add to the complexity of the mechanism.

The rapporteur believes that setting up one centralised CBAM authority would offer economies of scale and would represent a lower cost for EU taxpayers.

A mechanism that promotes cooperation

CBAM should be a system that fosters cooperation rather than confrontation with respect to climate policies and trade. The mechanism offers a clear path for the avoidance of the CBAM charge when the importer can show that an explicit carbon price equivalent to the one that applies in the EU has been paid.

The rapporteur considers that explicit export rebates are not in line with the principles of the WTO. To ensure however that there is no extra carbon leakage on exports of European sectors covered in CBAM, the rapporteur adds this to the review clause. The Commission should assess during the first two years if a legislative proposal - to deal with the negative impact of CBAM on European exports - is appropriate.

The rapporteur is of the opinion that LDC’s should be better supported by the system both because historically these countries are least responsible for the climate emergency and because of the need to leapfrog to the forefront of sustainable innovation. The rapporteur suggests the Union provides financial support to LDC’s to stimulate decarbonisation of their industry. This financial support should at least be the equivalent of yearly revenues generated to the sale of CBAM certificates. This would be compatible and without prejudice to the own resource proposal for the financing of the NextGenerationEU.

Ensuring the right level of empowerment

The text proposed by the Commission leaves a number of elements to be defined through

implementing acts. The rapporteur believes that whilst some of these empowerments are warranted some others are not sufficiently well-framed, are too vague and far-reaching, for example with respect to the detailed rules regarding the elements of the calculation methods set out in Annex III. With his proposed amendments, the rapporteur aims to ensure a greater balance between delegated and implementing acts based on a legal and factual assessment. He also further wishes to better define the scope of the empowerments granted to the Commission to ensure that the co-legislators remain responsible for the essential elements of the regulation.

ANNEX: LIST OF ENTITIES OR PERSONS FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities or persons in the preparation of the draft report:

Entity and/or person
AEGIS Europe
AFEP - French Association of Large Companies
Agora Energiewende
AGPB/FNSEA
APPLiA Europe
ArcelorMittal
CAN Europe
Carbon Market Watch
Cem'in'EU
Cembureau
Confederation of Finnish Industries - EK
Copa-Cogeca
CPME
Denso
DOW
E3G
Ecocem
EEB
ERCST
Eurelectric
Eurofer
Eurometax
Euromines
Europe Jacques Delors
European Automobile Manufacturers' Association
European Chemical Industry Council
European Express Association
european-aluminium.eu
ExxonMobil Petroleum & Chemical BVBA
Fertilizers Europe
France Industrie
Fuels Europe
German Watch
Heidelberg cement
Honda Motor Europe
Hydrogen Europe
IEEP

IG Metall
Industriall
IOGP - International Association of Oil & Gas Producers
LKAB
Meststoffen Nederland
Mission of Ukraine to the European Union
National Grid Ventures
NLMK International
Norsk Hydro
OCI
Oxfam
TIC Council
Ukrainian Business and Trade Association
University of Cambridge Institute for Sustainability Leadership (CISL)
WindEurope
WWF EPO
YARA