



2021/0214(COD)

10.1.2022

DRAFT OPINION

of the Committee on Industry, Research and Energy

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

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))

Rapporteur for opinion: Izabela-Helena Kloc

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

PA_Legam

SHORT JUSTIFICATION

The draft of the legislative proposal on the Carbon Border Adjustment Mechanism (CBAM) published by the Commission in July 2020 is an important answer to many questions raised by the “Fit for 55” package. The preliminary idea of CBAM has been resonating during discussions and introduced in a several non-legislative reports by the European Parliament in the past years, and thus, at the occasion of the legislative proposal by the Commission, it is an opportunity to make an important step forward by achieving an effective, transparent and at the same time a robust mechanism that will prevent the risk of carbon leakage and contribute to supporting the competitiveness of the European industry towards third countries, also encouraging emission reductions in third countries which are important to lower EU import emissions, while ensuring the WTO compatibility.

In parallel, the rapporteur is of the opinion that the proposed text by the Commission still brings an incomplete solution, believes at the same time that a number of points of the legislative proposal should be addressed in order to make CBAM fit to its purpose and to respond to existing challenges linked with achieving the ambitious climate and energy objectives.

Firstly, the rapporteur highlights in her draft opinion the interlinkage between the EU Emission Trading System with CBAM and thus underlines that the newly established mechanism can complement the existing carbon leakage prevention mechanisms under ETS. This is particularly important given the rapidly increasing price of EU ETS, which has already surpassed simulations in the Impact Assessment, which risks underestimating the negative impact that withdrawal of free allowances can have on survival of EU energy-intensive industries.

As the Impact Assessment confirms that withdrawal of free allowance will reduce EU export competitiveness, resulting in a drop of EU exports for CBAM sectors, the rapporteur believes that the phase out of free allowances under ETS should start only once the Commission establishes a mechanism to prevent such carbon leakage on export markets. Until there is a solution for exports, existing carbon leakage measures are the only tool ensuring prevention of carbon leakage from a drop in EU exports in both CBAM and downstream sectors.

Secondly, the rapporteur leaves the timeframe of the transitional period as originally proposed thus 2023-2025, but emphasizes the importance of the report by the Commission which should properly analyse the acquired data during the transitional period in order to assess the possible impact of CBAM on the downstream sector and also to extend the scope of embedded emissions to indirect emissions with a particular focus on energy-intensive sectors.

Thirdly, it is of the utmost importance that CBAM should not be circumvented and any forms of circumvention must be duly addressed to ensure the compactness of CBAM, and compliance with CBAM obligations, as well as application of default values needs to be strengthened.

Finally, the rapporteur proposes to strengthen the system for registration of third country installations, as well as increasing the system’s transparency.

AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation

Recital 8

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 2

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) The initiative for a carbon border

Amendment

(9) The initiative for a carbon border

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

adjustment mechanism ('CBAM') is a part of the 'Fit for 55 Package'. That mechanism is to serve as an essential element of the EU toolbox to meet the objective of a climate-neutral Union by 2050 in line with the Paris Agreement by **preventing** carbon leakage resulting from the increased Union climate ambition **on internal market, export markets as well as investment leakage**.

Or. en

Amendment 3

Proposal for a regulation

Recital 10

Text proposed by the Commission

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

Amendment

(10) Existing mechanisms to address the risk of carbon leakage in sectors or sub-sectors at risk of carbon leakage are the transitional free allocation of EU ETS allowances and financial measures to compensate for indirect emission costs incurred from GHG emission costs passed on in electricity prices respectively laid down in Articles 10a(6) and 10b of Directive 2003/87/EC.

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 seeks to **complement** these existing mechanisms by addressing **certain aspects** of carbon leakage in a different way, namely by ensuring equivalent carbon pricing for imports and domestic products **on the internal market, but without addressing carbon leakage on export markets**. To ensure a gradual transition from the current system of free allowances to the CBAM, the CBAM **could** be progressively phased in while free allowances in sectors covered by the CBAM **were** phased out **once the problem of preventing carbon leakage on export markets is adequately resolved in a WTO-compatible way**. 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) To ensure that during the transitional co-existence of free allowances and CBAM, non-EU producers are treated in a non-discriminatory and WTO-compatible manner, the number of CBAM allowances due on imports should be reduced by an adequate number corresponding to the number of free allowances obtained by Union producers of like goods to ensure that non-EU producers are not treated less favourably

than Union producers.

Or. en

Amendment 6

Proposal for a regulation Recital 11 b (new)

Text proposed by the Commission

Amendment

(11b) The Commission has concluded that the CBAM, accompanied by a gradual withdrawal of existing measures for preventing the risk of carbon leakage, would lead to a decrease in exports for sectors covered by CBAM, and a decrease in exports is a constituent element of carbon leakage, therefore existing measures for preventing the risk of carbon leakage cannot be withdrawn without jeopardising the main stated purpose of CBAM (avoiding the risk carbon leakage) unless measures preventing such decrease in exports are also introduced. For that purpose, by the end of the third year following the end of the transitional period, the Commission should submit a report describing, inter alia, any measures that would prevent such a decrease in exports. That report could be accompanied by a legislative proposal introducing such measures. Upon the adoption of such a proposal, the Commission may propose to begin withdrawing existing measures to prevent the risk of carbon leakage for sectors covered by CBAM.

Or. en

Amendment 7

Proposal for a regulation Recital 12

Text proposed by the Commission

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

Amendment

(12) While the objective of the CBAM is to prevent the risk of carbon leakage ***from the internal market, export markets, and investment leakage***, this Regulation would ***at the same time*** encourage the use of more GHG emissions-efficient technologies by producers from third countries, so that less emissions per unit of output are generated. ***Reducing emissions in third countries is the most effective way of avoiding the risk of carbon leakage.***

Or. en

Amendment 8

Proposal for a regulation Recital 17

Text proposed by the Commission

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

Amendment

(17) The GHG emissions to be regulated by the CBAM should correspond to those GHG emissions covered by Annex I to the EU ETS in Directive 2003/87/EC, namely carbon dioxide ('CO₂') as well as, where relevant, nitrous oxide ('N₂O') and perfluorocarbons ('PFCs'). The CBAM should 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 ***transitional*** period and upon further assessment, as well to indirect emissions, mirroring the scope of the EU ETS, ***once impact on all aspects of carbon leakage for energy-intensive sectors of applying CBAM to indirect emissions with eventual withdrawal of indirect EU ETS compensation is fully analysed and measures to avoid such leakage are securely in place.***

Or. en

Amendment 9

Proposal for a regulation Recital 38 a (new)

Text proposed by the Commission

Amendment

(38a) The Commission should prepare a report before the end of the transitional period on the impact of CBAM on downstream sectors, in particular regarding the potential increase in costs of production and increase of cost of input materials and the ability of such sectors to pass any such increases to their customers. The Commission should propose measures to address any negative impact of CBAM on the competitiveness of the Union downstream sectors.

Or. en

Amendment 10

Proposal for a regulation Recital 42

Text proposed by the Commission

Amendment

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

(42) The system should allow operators of production installations in third countries to register in a central ***public*** database.

Or. en

Amendment 11

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 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.

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 ***at the original purchase price*** 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 12

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

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:

the environmental footprint methods⁴⁷.

*(a) possibilities to enhance climate actions towards **third countries with** the objective of **reducing emissions abroad in order to achieve** a climate neutral Union by 2050, **including its import emissions;***

*(b) **proposals to avoid carbon leakage on export markets that would ensue if existing measures for avoiding carbon leakage were withdrawal for domestic producers from sectors and subsectors covered by CBAM;***

*(c) **impact of CBAM on downstream sectors, with any proposals to avoid negative impact on CBAM on such sectors; and***

*(d) **the consequences of including indirect emissions in CBAM, in particular its impact on energy-intensive sectors if compensation of indirect ETS costs was to be withdrawn.***

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).

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).

Or. en

Amendment 13

Proposal for a regulation Recital 52 a (new)

(52a) By the end of the third year following the end of the transitional period and every two years thereafter, the Commission should assess the full application of this Regulation, following the end of the transitional period and report to the European Parliament and the Council. That report should in particular focus on impact of CBAM on Union trade in goods listed in Annex I and their downstream sectors, any occurrences of resource-shuffling, impact of CBAM on emissions from covered sectors in the Union and imported covered goods, considering any potential resource-shuffling, efficacy of emissions reporting in CBAM declarations and verifications of CBAM declarations, as well as any mechanism to prevent a decrease in exports of covered sectors if existing measures to prevent the risk of carbon leakage were to be withdrawn.

Or. en

Amendment 14

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) For CBAM to achieve its objectives, circumvention in all its forms, including slight modification of products, transshipments and resource-shuffling, should be addressed by this Regulation. In order to remedy circumvention of the provisions of this Regulation, the Commission ***should investigate all potential types of circumvention and should take any necessary action, including proposals to amend*** the list of goods in Annex I, ***registration of imports,***

verifications of CBAM declarations to confirm countries of origin and application of proper default rules in case of transshipment, as well as establishing default values for embedded emissions at the non-Union producer level in case of resource-shuffling.

Or. en

Amendment 15

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 **CBAM can complement** the mechanisms established under Directive 2003/87/EC to prevent the risk of carbon leakage.

Or. en

Amendment 16

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

Text proposed by the Commission

3a. The CBAM shall be compatible with WTO rules.

Amendment

Or. en

Amendment 17

Proposal for a regulation Article 2 – paragraph 4

Text proposed by the Commission

4. Imported goods shall be considered as originating in third countries in accordance with non-preferential rules of origin as defined in Article 59 of Regulation (EU) No 952/2013.

Amendment

4. Imported goods shall be considered as originating in third countries in accordance with non-preferential rules of origin as defined in Article 59 of Regulation (EU) No 952/2013. ***Default values applicable under Article 7(2) and Annex III of this Regulation shall be applied based on the country where emissions took place, regardless of the origin of goods.***

Or. en

Amendment 18

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 19

**Proposal for a regulation
Article 7 – paragraph 3 a (new)**

Text proposed by the Commission

Amendment

3a. Embedded emissions shall be established for goods exported to the Union, unless Article 27(5), point (c) applies.

Or. en

Amendment 20

Proposal for a regulation Article 7 – paragraph 6

Text proposed by the Commission

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

Amendment

6. The Commission **shall** 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 **country-specific** default values **for** individual goods **in Annex I** as well as laying down methods to ensure the reliability of data on the basis of which the **actual emissions and** default values shall be determined, including the level of detail and the verification of the data. **Adoption of the implementing acts shall be preceded by public consultations with exporters, importers, third country governments, and other stakeholders.** Where necessary, those acts shall provide that the default values can be adapted to particular areas, regions or countries to take into account specific objective factors such as geography, natural resources, market conditions, prevailing energy sources, or industrial processes. The implementing acts shall build upon existing legislation for the verification of emissions and activity data for installations covered by Directive 2003/87/EC, in particular Implementing Regulation (EU) No 2018/2067.

Or. en

Amendment 21

Proposal for a regulation Article 8 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 22

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

Text proposed by the Commission

2. For embedded emissions in goods produced in registered installations in a third country in accordance with Article 10, the authorised declarant ***may choose to*** use verified information disclosed ***to it*** in accordance with Article ***10(7)*** to fulfil the obligation referred to in paragraph 1.

Amendment

2. For embedded emissions in goods produced in registered installations in a third country in accordance with Article 10, the authorised declarant ***shall*** use verified information ***publicly*** disclosed in accordance with Article ***10*** to fulfil the obligation referred to in paragraph 1 ***of this Article.***

Or. en

Amendment 23

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

Text proposed by the Commission

The Commission is empowered to adopt implementing acts concerning the principles of verification referred to in paragraph 1 as regards the ***possibility to waive the obligation for the verifier to visit***

Amendment

The Commission is empowered to adopt implementing acts concerning the principles of verification referred to in paragraph 1 as regards the thresholds for deciding whether non-conformities are

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.

material and concerning the supporting documentation needed for the verification report.

Or. en

Amendment 24

Proposal for a regulation Article 9 – paragraph 2

Text proposed by the Commission

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

Amendment

2. The authorised declarant shall keep records of the documentation, certified by ***a verifier referred to in Article 8(1)***, required to demonstrate that:

(a) the declared embedded emissions were subject to a carbon price in the country of origin of the goods ***under the laws applicable in the third country***;

(b) ***the carbon price has actually been paid***;

(c) actual payment for that carbon price ***has not*** been subject to an export rebate or any other form of compensation on exportation.

Or. en

Amendment 25

Proposal for a regulation Article 9 – paragraph 3

Text proposed by the Commission

3. The authorised declarant shall keep those records referred to in paragraph 2 until the end of the **fourth** year after the year during which the CBAM declaration has been or should have been submitted.

Amendment

3. The authorised declarant shall keep those records referred to in paragraph 2 until the end of the **fifth** year after the year during which the CBAM declaration has been or should have been submitted.

Or. en

Amendment 26

Proposal for a regulation Article 10 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 27

Proposal for a regulation Article 10 – paragraph 2 – introductory part

Text proposed by the Commission

2. The request for registration referred to in paragraph 1 shall include the following information to be included in the database upon registration:

Amendment

2. The request for registration referred to in paragraph 1 shall include the following information to be included in the **public** database upon registration:

Or. en

Amendment 28

Proposal for a regulation Article 10 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) embedded emissions of the operator.

Or. en

Amendment 29

Proposal for a regulation Article 10 – paragraph 5 – point b a (new)

Text proposed by the Commission

Amendment

(ba) provide a copy of the verification report issued by the verifier under Article 8 and Annex V;

Or. en

Amendment 30

Proposal for a regulation Article 10 – paragraph 5 – point c

Text proposed by the Commission

Amendment

(c) keep a copy of the verifier's report as well as records of the information required to calculate the embedded emissions in goods as laid down in Annex IV for a period of **four** years after the verification has been performed.

(c) keep a copy of the verifier's report as well as records of the information required to calculate the embedded emissions in goods as laid down in Annex IV for a period of **five** years after the verification has been performed.

Or. en

Amendment 31

Proposal for a regulation Article 10 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. *The operator shall fulfil the requirement of paragraph 5 by 31 January of the following year.*

Or. en

Amendment 32

Proposal for a regulation Article 10 – paragraph 7

Text proposed by the Commission

Amendment

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

7. An authorised declarant shall be entitled to avail itself of information *on embedded emissions of an operator registered in the central public database referred to in paragraph 1 of this Article* to fulfil the obligation referred to in Article 8.

Or. en

Amendment 33

Proposal for a regulation Article 14 – paragraph 4

Text proposed by the Commission

Amendment

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

4. The Commission shall establish a central database accessible to the public containing the names, addresses, contact details of the operators, the location of *their* installations in third countries, *and their embedded emissions*, in accordance with Article 10(2).

address and contact details accessible to the public.

Or. en

Amendment 34

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 competent authority shall release the guarantee after the authorised declarant has surrendered CBAM certificates in accordance with Article 22 ***and the CBAM declaration submitted pursuant to Article 6 has been verified pursuant to Article 8.***

Or. en

Amendment 35

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 competent authority may review the CBAM declaration within the period ending with the ***fifth*** 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.

Or. en

Amendment 36

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 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.

Amendment

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 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 ***fifth year*** when the CBAM declaration should have been submitted.

Or. en

Amendment 37

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 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. ***The authorised declarant shall identify the specific CBAM certificates to be surrendered using their unique unit identification codes.***

Or. en

Amendment 38

Proposal for a regulation Article 23 – paragraph 2

Text proposed by the Commission

2. The number of certificates subject to re-purchase as referred to in paragraph 1 shall be limited to one third of the total CBAM certificates purchased by the authorised declarant during the previous calendar year.

Amendment

2. The number of certificates subject to re-purchase as referred to in paragraph 1 shall be limited to one third of the total CBAM certificates purchased by the authorised declarant during the previous calendar year. ***The authorised declarant shall identify the unique unit identification codes of the CBAM certificates to be re-purchased.***

Or. en

Amendment 39

Proposal for a regulation Article 23 – paragraph 3

Text proposed by the Commission

3. The re-purchase price for each CBAM certificate shall be the price paid by the authorised declarant for that certificate at the time of purchase.

Amendment

3. The re-purchase price for each CBAM certificate shall be the price paid by the authorised declarant for that ***particular*** certificate at the time of purchase.

Or. en

Amendment 40

Proposal for a regulation Article 27 – paragraph 2

Text proposed by the Commission

2. Practices of circumvention include situations where a change in the pattern of trade in relation to goods included in the scope of this Regulation has insufficient due cause or economic justification other

Amendment

2. Practices of circumvention include situations where a change in the pattern of trade in relation to goods included in the scope of this Regulation has insufficient due cause or economic justification other

than avoiding obligations as laid down in this Regulation and consist in replacing those goods with slightly modified products, which are not included in the list of goods in Annex I but belong to a sector included in the scope of this Regulation.

than avoiding obligations as laid down in this Regulation and consist in:

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

(b) *transshipment of those goods through third countries with the result of excluding such goods from CBAM under Article 2(3) or securing lower embedded emissions due to the application of Article 7 with respect to default values (transshipment);*

(c) *redirecting to the Union the sales of goods covered by CBAM with lower embedded emissions that were sold to other markets during a reference period, while redirecting to other markets the sales of good covered by CBAM with higher embedded emissions that were exported to the Union during the same reference period, without a corresponding decrease in total embedded emissions for goods covered by CBAM of the producer in question (resource shuffling).*

Or. en

Amendment 41

Proposal for a regulation Article 27 – paragraph 3

Text proposed by the Commission

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

Amendment

3. A Member State or any party affected or benefitted by the situations described in paragraph 2 may notify the Commission if it is confronted, ***when*** compared ***to a reference*** period with a

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

significant decrease in the volume of:

(a) imported goods included in the scope of this Regulation and an increase of volume of imports of slightly modified products, which are not included in the list of goods in Annex I, as set out in paragraph 2, point (a);

(b) imported goods included in the scope of this Regulation exported from one or more exporting countries and an increase of volume of imported goods exported from different exporting countries, as set out in paragraph 2, point (b);

(c) imported goods with high embedded emissions included in the scope of this Regulation, produced by a foreign producer and a corresponding increase of volume of imported goods with low imbedded emissions produced by the same foreign producer, as set out in paragraph 2, point (c).

The Commission shall continually monitor any significant change of pattern of trade of goods at Union level.

Or. en

Amendment 42

Proposal for a regulation Article 27 – paragraph 5

Text proposed by the Commission

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

Amendment

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

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

statistics, including when provided by the customs authorities of Member States, has sufficient reasons to believe that the circumstances referred to in:

(a) paragraph 2, point (a) are occurring, it shall propose to amend the scope of this Regulation in order to include slightly modified products for anti-circumvention purposes;

(b) paragraph 2, point (b) are occurring, it shall immediately order a registration of imports and shall initiate the verification of CBAM declarations for goods imported from the relevant countries, with a particular focus on confirming the country of origin and the proper application of actual and default values under Article 7 and Annex V;

(c) paragraph 2, point (c) are occurring, it shall establish embedded emissions for the purposes of Article 7 at the level of the non-Union producer regardless of where goods are sold, instead of establishing embedded emissions only for the goods exported to the Union.

Or. en

Amendment 43

Proposal for a regulation Article 30 – paragraph 2

Text proposed by the Commission

2. Before the end of the transitional period, the Commission shall *present* a report to the European Parliament and the Council on the application of this

Amendment

2. Before the end of the transitional period, the Commission shall *submit* a report to the European Parliament and the Council on the *transitional* application of

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.

this Regulation. The report shall contain, in particular:

(a) the assessment of the possibilities to further extend the scope of embedded emissions to indirect emissions, with a particular focus on energy-intensive sectors and any potential loss of indirect ETS cost compensation under Article 10a(6) of Directive 2003/87/EC;

(b) the assessment of the possibilities to further extend the scope of CBAM to other goods at risk of carbon leakage than those already covered by this Regulation;

(c) the impact of CBAM on downstream users with a proposal to remedy any negative impact on the competitiveness of such users;

(d) 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 44

Proposal for a regulation Article 30 – paragraph 2 a (new)

2a. By the end of the third year following the end of the transitional period and every two years thereafter, the Commission shall submit a report to the European Parliament and the Council with the assessment of the full application of this Regulation, following the end of the transitional period. That report shall contain, in particular:

(a) the assessment of impact of CBAM on Union trade in goods listed in Annex I, as well as downstream sectors, including both imports and exports;

(b) the assessment of whether a change in pattern in trade in goods listed in Annex I occurred in countries exporting those goods to the Union and whether resource-shuffling takes places;

(c) the assessment of impact of CBAM on emissions from sectors producing goods listed in Annex I, as relating to both emissions in the Union and emissions embedded in Union imports of those goods, as well as exports of those goods to third countries from third country installations exporting to the Union;

(d) the assessment of efficacy of emission reporting in CBAM declarations, verifications of CBAM declarations by verifiers, third country inspections, actual and default emissions data collection and use, as well as consistency of reporting data from the same imports among different importers and Member States;

(e) the description and analysis of any measures, if possible, preventing the decrease in exports of goods listed in Annex I caused by the withdrawal of existing measures to prevent carbon leakage, and any corresponding legislative proposal introducing such measures.

Amendment 45

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

Text proposed by the Commission

Amendment

1a. *If the report submitted pursuant to Article 30(3), point (e) concludes that carbon leakage resulting from loss of exports of goods listed in Annex I can be prevented through measures proposed in accordance with that provision, the Commission may also submit a legislative proposal to gradually begin withdrawal of existing measures to prevent the risk of carbon leakage.*

Or. en

Amendment 46

Proposal for a regulation Annex III – point 1 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) ‘simple goods’ means goods produced in a production process requiring exclusively input materials and fuels ***having zero embedded emissions***;

(a) ‘simple goods’ means goods produced in a production process requiring exclusively input materials and fuels;

Or. en

Amendment 47

Proposal for a regulation Annex III – point 1 – paragraph 1 – point a (new)

Text proposed by the Commission

Amendment

(aa) input materials' means raw materials, i.e., materials extracted from the soil, or plants and their parts, without further processing;

Or. en

Amendment 48

Proposal for a regulation

Annex III – point 3 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

Where $AttrEmg$ are the attributed emissions of goods g , and AL_g the activity level of the goods, the latter being the amount of goods produced in the reporting period in that installation, and EE_{InpMat} are the embedded emissions of the input materials (*precursors*) consumed in the production process. **Only input materials listed as relevant to the system boundaries of the production process as specified in the implementing act adopted pursuant to Article 7(6) are to be considered.** The relevant EE_{InpMat} are calculated as follows:

Where $AttrEmg$ are the attributed emissions of goods g , and AL_g the activity level of the goods, the latter being the amount of goods produced in the reporting period in that installation, and EE_{InpMat} are the embedded emissions of the input materials consumed in the production process. The relevant EE_{InpMat} are calculated as follows:

Or. en

Amendment 49

Proposal for a regulation

Annex III – point 3 – paragraph 3

Text proposed by the Commission

Amendment

Where M_i is the mass of input material i used in the production process, and SEE_i its specific embedded emissions for the input material. For SEE_i the **operator of the installation shall use the** value of

Where M_i is the mass of input material i used in the production process, and SEE_i its specific embedded emissions for the input material. For SEE_i the value of emissions resulting from the installation

emissions resulting from the installation where the input material was produced, provided that that installation's data can be adequately measured.

where the input material was produced **shall be used**, provided that that installation's data can be adequately measured.

Or. en

Amendment 50

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

Text proposed by the Commission

For the purpose of determining default values, only actual values shall be used for the determination of embedded emissions. In the absence of actual data, literature values may be used. The Commission shall publish guidance for the approach taken to correct for waste gases or greenhouse gases used as process input, before collecting the data required to determine the relevant default values for each type of goods listed in Annex I. Default values shall be determined based on ***the best available*** data. ***They*** shall be revised periodically through implementing acts based on the most up-to-date and reliable information, including on the basis of information provided by a third country or group of third countries.

Amendment

Default values shall be ***based on best available data. Best available data shall be based, to the extent possible, on reliable and publicly available information on the type of technology and processes used, plant design, origin of input materials and simple goods used in the production process, energy source and other data.*** In the absence of actual data, literature values may be used.

The Commission shall publish guidance for the approach taken to correct for waste gases or greenhouse gases used as process input, before collecting the data required to determine the relevant default values for each type of goods listed in Annex I.

Default values shall be determined ***for each type of good in Annex I with reference to main exporting countries*** based on ***EUROSTAT*** data. ***Default values*** shall be revised periodically through implementing acts ***referred to in Article 7(6)*** based on the most up-to-date and reliable information, including on the basis

of information provided by a third country or group of third countries.

Or. en

Amendment 51

Proposal for a regulation

Annex III – point 4 – point 4.1 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 52

Proposal for a regulation

Annex IV – Part 2 – paragraph 1 – point a (new)

Text proposed by the Commission

Amendment

(aa) the name and the contact details of the producer of imported goods;

Amendment 53

Proposal for a regulation

Annex IV – Part 2 – paragraph 1 – point a b (new)

Text proposed by the Commission

Amendment

(ab) the name and the contact details of the exporter of imported goods;

Or. en

Amendment 54

Proposal for a regulation

Annex IV – Part 2 – paragraph 1 – point a c (new)

Text proposed by the Commission

Amendment

(ac) shipping and transport documentation;

Or. en

Amendment 55

Proposal for a regulation

Annex V – Part 1 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) an emissions report shall be considered as verified and fit for purpose only if the verifier finds ***with reasonable assurance*** that the report is free of ***material misstatements*** and of ***material*** non-conformities regarding the calculation rules of Annex III;

(b) an emissions report shall be considered as verified and fit for purpose only if the verifier finds that the report is free of ***errors*** and of non-conformities ***and is fully accurate*** regarding the calculation rules of ***Article 7 and*** Annex III;

Or. en

Amendment 56

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

Text proposed by the Commission

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

Amendment

(c) installation visits by the verifier shall be mandatory;

Or. en

Amendment 57

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

Text proposed by the Commission

(d) *for deciding whether misstatements or non-conformities are material, the verifier shall use thresholds given by the implementing acts adopted in accordance with Article 8.*

Amendment

deleted

Or. en

Amendment 58

Proposal for a regulation Annex V – Part 1 – paragraph 2

Text proposed by the Commission

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

Amendment

deleted

users, in particular the competent national authorities.

Or. en

Amendment 59

Proposal for a regulation Annex V – Part 2 – paragraph 1 – point j a (new)

Text proposed by the Commission

Amendment

(ja) quantities of input materials and simple goods used;

Or. en

Amendment 60

Proposal for a regulation Annex V – Part 2 – paragraph 1 – point j b (new)

Text proposed by the Commission

Amendment

(jb) the specific embedded emissions;

Or. en

Amendment 61

Proposal for a regulation Annex V – Part 2 – paragraph 1 – point j c (new)

Text proposed by the Commission

Amendment

(jc) in case actual emissions are used: the identification of the installation where the simple goods have been produced and the actual emissions from the production of those goods;

Or. en

Amendment 62

Proposal for a regulation Annex V – Part 2 – paragraph 1 – point k

Text proposed by the Commission

Amendment

- (k) *in case of complex goods:* *deleted*
- i. *quantities of input materials (precursors) used;*
- ii. *the specific embedded emissions;*
- iii. *in case actual emissions are used: the identification of the installation where the input material has been produced and the actual emissions from the production on that material.*

Or. en

Amendment 63

Proposal for a regulation Annex V – Part 2 – paragraph 1 – point m

Text proposed by the Commission

Amendment

- (m) information on *material misstatements* found and *not* corrected, where applicable;
- (m) information on *errors* found and corrected, where applicable;

Or. en

Amendment 64

Proposal for a regulation Annex V – Part 2 – paragraph 1 – point n

Text proposed by the Commission

Amendment

- (n) information of non-conformities with calculation rules set out in Annex III, where applicable.
- (n) information of non-conformities with calculation rules set out in *Article 7 and* Annex III *and corrections*, where

applicable.

Or. en