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NOTE

From: Presidency
To: Council

Subject: Draft Regulation of the European Parliament and of the Council amending Regulation (EU) 2023/956 as regards the extension of its scope to downstream goods and anti-circumvention measures
- General approach

I. INTRODUCTION

1. As announced in the “Clean Industrial Deal”¹ and the “Steel and Metals Action Plan,”² on 17 December 2025 the Commission has issued a proposal for a Regulation amending Regulation (EU) 2023/956 as regards the extension of its scope to downstream goods and anti-circumvention measures.³

¹ Doc. ST 6515/25.

² Doc. ST 7288/25.

³ Doc. ST 16973/25 +ADD 1-6.

2. The principal objectives of this Commission proposal, seeking to amend the Regulation (EU) 2023/956 of 10 May 2023 establishing a carbon border adjustment mechanism⁴ (“the CBAM Regulation”), are to:
- a) extend the scope of the CBAM to address the risk of carbon leakage for products further down the value chain (downstream products) that contain the steel and aluminium products currently in the scope of CBAM Regulation;
 - b) introduce a number of anti-circumvention measures designed to prevent avoidance of CBAM obligations;
 - c) improve the technical rules for attributing emissions to electricity with the aim of encouraging the decarbonisation of electricity imports.
3. The European Economic and Social Committee adopted its opinion on this legislative proposal on 19 March 2026.⁵ The opinions of the European Parliament and of the European Committee of the Regions are pending.

II. STATE OF PLAY

4. On 9 July 2025, Coreper re-established the ad hoc Working Party on Carbon Border Adjustment Mechanism (AHWP CBAM), and the preparatory work related to the negotiations on this legislative proposal falls within its mandate.
5. The Cyprus Presidency has prioritised work on this file and has invited Member States to conclude the necessary preparatory work in time for the meeting of the Council (Ecofin) in June 2026.

⁴ OJ L 130, 16.5.2023, pp. 52–104. Amended (simplified) by Regulation (EU) 2025/2083 (OJ L, 2025/2083, 17.10.2025, ELI: <http://data.europa.eu/eli/reg/2025/2083/oj>).

⁵ Doc. ST 7828/26.

6. At the meeting of Coreper on 3 June 2026 a large majority of delegations could accept the Presidency compromise text, however, the necessary qualified majority support could not be found yet.
7. At this stage, three key issues (set out in Part III of this note) remain to be resolved, in order to obtain a mandate for negotiations with the European Parliament on this file.
8. Furthermore, in order to address other remaining concerns, the Presidency has adjusted Article 22(2), which now clarifies that for the year 2027 CBAM declarants can also rely on actual embedded emissions data, pending verification prior to submission of their declaration.
9. The latest Presidency compromise text, which reflects this amendment, is set out in doc. ST 10209/26.

III. KEY ISSUES

a) Extension of the scope of CBAM beyond the Commission proposal (list of CN codes, amendments to Annex I of the CBAM Regulation)

10. The current scope of the CBAM Regulation is limited to a set of basic material goods, listed in Annex I thereof (aluminium, cement, electricity, fertilisers, hydrogen, and iron and steel). These basic materials are often used as intermediate inputs in the production of goods further down the value chain (downstream products). To preserve the effectiveness of the objectives of the CBAM, the Commission proposes that the scope of CBAM Regulation is extended by a list of 180 downstream goods (products falling under specific CN⁶ codes).

⁶ “Combined Nomenclature” - 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, ELI: <http://data.europa.eu/eli/reg/1987/2658/oj>).

11. The Commission has stated in the explanatory memorandum accompanying this proposal that this selection of goods was made “using a set of efficiency and proportionality indicators, including the total production and import emissions per CN code and an indicator capturing the material composition of downstream products. [...] Furthermore, indicators were used to ensure that the selection of goods also considers the complexity of supply chains. On this basis, the proposal expands the scope of CBAM to selected steel and aluminium-intensive downstream products in a way that maximises environmental benefits by covering additional emissions, while limiting, to the extent possible, the administrative burden and complexity for importers and third-country operators.”
12. The discussions in Coreper and AHWP CBAM have shown that all delegations agree on the principle that any selection of goods (CN codes) that are to be included into the scope of CBAM should be based on a set of objective criteria.
13. Against the background of these discussions, the following criteria are being applied to extending (modifying) the scope of the Commission proposal in the Presidency compromise text:
- a) selecting goods that share the 6-digit family (HS subheading) with CN codes in the Commission proposal, and which meet the principle of substitutability and complementarity, also adding codes that meet all the thresholds used as the basis for the Commission proposal;
 - b) selecting goods that share the same 4-digit (HS heading) CN codes in the Commission proposal, with the emissions threshold (include only goods with emissions of 50 Kt CO₂e or more per ton of good);

- c) once the above criteria are applied, additional codes are selected (and some removed from the Commission proposal) having regard to the level of emissions, tradability, materiality, specifics of supply and value chains, risks of circumvention or substitutability, seeking to maintain consistency and efficiency of CBAM, while ensuring coherence with other EU policies, such as public health protection, and preserving the climate ambition of the EU.
14. Application of the above criteria delivers a selection of CN codes that are set out as a modification to the list of CN codes in Annex I of the compromise text.⁷
15. This selection of additional CN codes was already discussed at the Coreper meeting on 3 June, where some delegations called to extend the list of CN codes even further, and others favoured a more cautious approach, that such an extension, if any, remains as close as possible to the Commission proposal. Nevertheless, a large majority of delegations could accept the Presidency compromise proposal, with some Member States indicating that they would not be in a position to accept a more ambitious extension of the scope than that proposed by the Presidency.
16. It is important to note that the compromise text also contains an amendment of Article 30(3) of the CBAM Regulation, which would introduce an annual review on the downstream products that could be recommended for inclusion into the scope of CBAM.

⁷ See “Note 1” and “Note 2” at the end of Annex I in doc. ST 10209/26 (page 81 and page 108).

17. Based on these observations, the Presidency holds the view that any further modification of the compromise text on this issue (any further extension or reduction of the list of CN codes) would decrease the current level of support to the compromise text. The Presidency believes that this solution should be acceptable to delegations in the spirit of compromise, as the starting position of the Council in the forthcoming negotiations with the European Parliament.
18. The Presidency would also like to emphasize that the list of CN codes, as well as the criteria for the selection thereof, should be considered as a “flexible” mandate, as it must be continuously monitored and adjusted based on relevant updates of data and other information up until the final agreement between the co-legislators is reached on this file.
- b) *Empowerment to the Commission to temporarily remove specific goods from the scope of CBAM (Article 27a)***
19. The Commission proposed to supplement the CBAM Regulation with Article 27a, which would empower the Commission to adopt delegated acts to remove specific goods from the scope of CBAM in case of serious and unforeseen circumstances causing severe harm to the Union’s internal market. Pursuant to the Commission proposal, such removal would be temporary and last until those serious and unforeseeable circumstances have passed.

20. The majority of delegations were against such a broad empowerment being granted to the Commission (primarily due to the risks of jeopardising the effectiveness of CBAM and imprecise scope of the empowerment). However, several delegations see Article 27a as an indispensable part of the overall compromise.
21. In order to bridge the positions of Member States and address their relevant political and legal concerns, the Presidency has embarked on making Article 27a clearer, more detailed and precisely defining the mechanism and the boundaries of the empowerment to the Commission.
22. At the Coreper meeting on 3 June a vast majority of Member States could accept the Presidency compromise text of this Article, which now foresees that the Commission can initiate the procedure for temporary exclusion from CBAM of specific goods through an implementing act that can be adopted under very strict conditions.
23. However, some delegations considered that the criteria which can trigger the Commission initiative for an implementing act are too restrictive (Article 27(3a)):
- a) a sustained price increase (without taking into account the CBAM financial liability), where the average import price expressed in constant prices of a good for which the EU has import dependency has increased by more than 50% compared to the average import price of the same CBAM good over the previous ten years;
 - b) for a price increase to be sustained, it should be observed over a period of at least six months.

24. On the basis of the discussions that took place so far and further bilateral contacts, the Presidency holds the view that further adjustment of these criteria or any other amendment of the text of Article 27a could reduce the existing level of support to the overall compromise.
25. While, in this context, several delegations have referred to rising prices of fertilisers, the Presidency notes that in the recent Commission communication “Fertiliser Action Plan: Partnership for ensuring the availability, affordability and strategic autonomy in home-grown EU fertilisers,”⁸ issued on 19 May 2026, the Commission indicates that:
- (a) *“the Commission will improve the [CBAM] further, including by working with the European Parliament and the Council on its proposals to tackle possible CBAM circumvention risks so that it also effectively supports the EU fertiliser sector and thereby reduces import dependency of the EU agriculture sector as a whole”, and*
 - (b) *“a stronger evidence base is also needed on the impact of the fertiliser regulatory framework on farmers. The Commission will therefore carry out an in-depth evaluation of how CBAM and ETS-related costs are passed on in the fertiliser prices paid by farmers and ultimately on food prices. It will improve the evidence base on farm-level price developments more broadly.”*
26. Against this background, the Presidency suggests that Article 27a is accepted by delegations in its current form, as part of the Council negotiating mandate and as a basis for negotiations with the European Parliament.

⁸ Doc. ST 9437/26.

c) ***Outermost regions: provisions on exemption from CBAM obligations (poss. new Article 2(13) of the CBAM Regulation)***

27. Since the beginning of negotiations in the Council on this file, one Member State maintains a request that CBAM Regulation is supplemented with specific provisions (new Article 2(13)) permitting that certain construction materials⁹ (or, alternatively, goods falling within product families of cement) imported into the outermost regions and destined exclusively for local consumption could be temporarily exempt from the financial consequences generated by the CBAM Regulation.
28. This issue was also raised in the Ecofin Council meeting in March 2026.¹⁰ This request is substantiated by the argument that some of the outermost regions, given their distance from EU mainland territory, are particularly import-dependent and, in many cases, have no viable alternatives to reallocate sources of supply to “greener” alternatives. Consequently, it is argued that in such cases the impact of CBAM may be disproportionate in terms of increasing costs, particularly in the case of construction materials. It is also argued that the environmental impact of a well-targeted exemption mechanism would be negligible, and that risks of fraud can be minimised with proper control and safeguards.
29. However, so far, this request has not gathered sufficient support of other Member States. The primary concerns are the need to preserve the consistency and effectiveness of CBAM, and elevated risks of fraud, which may outweigh any potential benefit of such an exemption.

⁹ Those listed in Annex VII of Regulation (EU) 2024/3110 (and bearing no “CE” marking).
¹⁰ Doc. ST 7055/26.

30. The Presidency notes that the Commission is continuously working on the issues relating to the outermost regions and maintains full overview of the situation, also in the context of TFEU Article 349.
31. In its work programme for 2026 the Commission indicates that it intends to issue a new initiative – a communication on a strategy for outermost regions.¹¹ Furthermore, a recent call for evidence by the Commission,¹² mentions the possibility of a legislative initiative for a Regulation on policy simplification measures for the EU's outermost regions.
32. This provides an opportunity for further assessment whether there is a need for cross-cutting measures at EU level on this issue, and what would be the most appropriate solution (whether a specific amendment of the CBAM Regulation is required or other policy measures could be employed to address these concerns).
33. Against this background, the Presidency suggests, that in the spirit of a compromise, at this stage, the issue relating to the outermost regions should not be resolved in the form of an amendment of the CBAM Regulation.

¹¹ Doc. ST 14261/25 ADD 1 (Annex I, item 22).

¹² https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/15713-Strategy-for-the-EUs-outermost-regions_en (Ref. Ares(2025)9919727 - 17/11/2025)

IV. NEXT STEPS

34. The Presidency is of the view that the compromise text set out in doc. ST 10209/26 should now strike the right balance and address the concerns raised by the delegations and constitute a good basis to finalise these negotiations.
 35. It should also be recalled that many aspects of the CBAM will be subject to periodic review pursuant to Article 30 of the CBAM Regulation, in order to continue work toward lasting and sustainable solutions.
 36. Against this background, the Council is invited to reach the general approach on the text of the draft Regulation of the European Parliament and of the Council amending Regulation (EU) 2023/956 as regards the extension of its scope to downstream goods and anti-circumvention measures, set out in doc. ST 10209/26.
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