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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Proposal for a REGULATION amending Regulation (EU) 2023/956 as regards simplifying and strengthening the carbon border adjustment mechanism - Analysis of the final compromise text with a view to agreement

I. INTRODUCTION

1. On 26 February 2025, the Commission put forward two'Omnibus' packages, with the aim of simplifying the existing legislation in the field of sustainability reporting, due diligence requirements and certain EU investment programmes. As part of these 'Omnibus' packages, the Commission issued the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2023/956 as regards simplifying and strengthening the carbon border adjustment mechanism (CBAM) [1].

2. The Commission proposed a broader exemption from CBAM obligations, by exempting importers, which do not exceed a single mass-based threshold (calculated as cumulative mass per importer per year), set at a level of 50 tonnes of imported goods. This new threshold would replace the current

[1] Doc. 6609/25 - COM(2025) 87 final.

provisions of the CBAM Regulation exempting goods of negligible value (per consignment and in personal luggage). The proposed measure would, in most cases, exempt from CBAM obligations SMEs and individuals, which import small or negligible quantities of the goods covered by the CBAM Regulation.

3. Furthermore, the proposal contained a number of simplifications for all importers of CBAM goods above the threshold. In particular, this concerns the authorisation procedure, the data collection processes, the calculation of embedded emissions, the emission verification rules, the calculation of the authorised CBAM declarants' financial liability during the year of imports into the EU, and the claim by authorised CBAM declarants for carbon prices paid in third countries.

4. On 20 March 2025, the European Council in its conclusions urged "the co-legislators to take work forward on the Omnibus simplification packages as a matter of priority and with a high level of ambition, with a view to finalising them as soon as possible in 2025".

5. The European Economic and Social Committee delivered its opinion on 29 April 2025. The European Committee of the Regions decided not to issue an opinion.

6. At the European Parliament, the Committee on Environment, Public Health and Food Safety (ENVI) is in the lead for the file and the ENVI Committee chair Antonio Decaro (S&D, IT) was appointed as Rapporteur. The European Parliament adopted its amendments on the proposal on 22 May 2025 [2].

7. The Council reached a general approach at its meeting on 27 May 2025 [3] on the abovementioned proposal, which constituted the mandate for negotiations with the European Parliament in the context of the ordinary legislative procedure.

8. Following several informal technical meetings, the informal trilogue took place on 18 June 2025 in Strasbourg [4] where the Council and the Parliament reached a provisional agreement, resulting in the final compromise text in the annex to this note.

II. ELEMENTS OF THE PROVISIONAL AGREEMENT

9. The provisionally agreed text matches the text of the Council general approach, with a few exceptions, as set out below:

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2 https://www.europarl.europa.eu/doceo/document/TA-10-2025-0108_EN.html
3 Doc. 9113/25.
4 Doc. 9871/25.

a) recital 4 was supplemented with a reference that the *de minimis* exemption applies to no more that 1% of emissions embedded in imported goods;

b) recital 13 and Article 7(7(a) now contain a specification that the application of the elements of the calculation methods set out in Annex IV, including determining system boundaries of production processes, shall be aligned with those covered by the EU ETS;

c) Article 9(3a) contains a clear specification that where the embedded emissions are determined on the basis of default values, a reduction may be claimed only by a reference to yearly default carbon prices;

d) recital 13a and Article 2(3b) expressly clarify that the CBAM Regulation does not apply to electricity and hydrogen that are originating in the exclusive economic zone or on the continental shelf of a Member State (or country or territory, as specified in Annex III of the CBAM Regulation);

e) recital 19a, Article 20(5a) and Article 20(6), while fully reflecting the text of the Council general approach, contain further specification that initial financing from the EU budget of the common central platform is possible only for the duration of the first joint public procurement contract. These costs would then be covered by the collected fees. For the subsequent joint procurement contracts, there will be no such initial financing, and the fees payable by authorised CBAM declarants shall directly finance the costs of the operation and management of the platform (the Commission is under an obligation to adopt a delegated act to that effect);

f) in Annex VII of the CBAM Regulation, concerning the calculation of the *de minimis* threshold, the reference to maintaining the environmental objective of the CBAM Regulation was re-introduced (as set out in the Commission proposal), in the paragraph that speaks about the margin of 0.25 percentage points that has to be added to the target share of emissions.

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III. CONCLUSION

The Permanent Representatives Committee is thus invited to:

a) confirm agreement on the final compromise text as set out in the annex to this note with a view to reaching an agreement at first reading with the European Parliament, and

b) authorise the Chair of the Permanent Representatives Committee to send a letter to inform the Chair of the European Parliament's ENVI Committee that, should the European Parliament adopt its position at first reading on the text of the proposal in the exact form as set out in the annex to this note, and subject to revision of that text by the lawyer-linguists of both institutions, the Council will approve the European Parliament's position and the act will be adopted in the wording which corresponds to the European Parliament's position.

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REGULATION (EU) 2025/…

OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of …

amending Regulation (EU) 2023/956 as regards simplifying and strengthening the carbon border adjustment mechanism

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

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1 OJ C,, p..
2 OJ C,, p..

Whereas:

(1) During the transitional period, which started on 1 October 2023, the Commission has been collecting data and information on the implementation of the Carbon Border Adjustment Mechanism ('CBAM') as provided for in Regulation (EU) 2023/956 of the European Parliament and of the Council[3], including through the analysis of quarterly reports submitted by reporting declarants. The information collected and the exchanges with the stakeholders, including as part of the expert group on the CBAM, have outlined possibilities for simplifications and improvement of the CBAM. The Union is committed to ensure a smooth roll-out of the CBAM during the post-transitional period starting on 1 January 2026.

PUBLIC

[3] Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism (OJ L 130, 16.5.2023, p. 52, ELI: http://data.europa.eu/eli/reg/2023/956/oj).

(2) Based on the experience acquired and data collected during the transitional period, the distribution of importers of CBAM goods into the Union shows that only a small proportion of importers accounts for the vast majority of ▌ emissions ***embedded*** in ***imported*** goods. The derogation applied to the importation of goods of negligible value referred to in Article 23 of Regulation (EC) No 1186/2009 (consignments of a value below EUR 150) appears insufficient to ensure that the CBAM applies to importers in proportion to their impact on emissions covered by Regulation (EU) 2023/956. For those importers of small quantities of goods, compliance with CBAM reporting and financial obligations could be unduly burdensome. ▌ Therefore, a new derogation should be introduced to exempt importers of small quantities in terms of mass of CBAM goods from CBAM obligations, while preserving the environmental objective of that mechanism and its capacity to achieve its climate objective.

PUBLIC

(3) A new threshold based on cumulative mass per importer per year should be introduced in Regulation (EU) 2023/956, ***and initially set at a level*** of ***50 tonnes***. ***A single mass-based*** threshold ***should apply cumulatively to all goods in the sectors of iron and steel, aluminium, fertilisers and cement. Where the net mass of all goods imported by an*** importer ***in a given calendar year does not cumulatively exceed the single mass-based threshold, such importer should be exempted, in the relevant calendar year, from the obligations under this Regulation. Where, within the relevant calendar year, an importer exceeds the single mass-based threshold without having obtained a status of authorised CBAM declarant, that importer should be subject to penalties in accordance with Article 26(2a). Where such importer intends to continue importing goods in the relevant calendar year, it should be subject to obligations under this Regulation in respect of all emissions embedded in all goods imported in the relevant calendar year, including, in particular, the obligation to obtain the status of authorised CBAM declarant, the obligation to submit a CBAM declaration in respect of all emissions embedded in all goods imported in the relevant calendar year and the obligation to purchase and surrender CBAM certificates in respect of all those emissions***.

PUBLIC

(3a) ***In the sectors of hydrogen and electricity, key features such as import volumes, trade patterns, customs information and emission intensities differ substantially from the sectors of iron and steel, aluminium, fertilisers and cement. These differences imply that subsuming electricity and hydrogen imports under a single mass-based threshold would require introducing complex adjustments that would not allow to substantially reduce administrative costs for importers in these sectors. Therefore, imports of hydrogen or electricity should not be included under the de minimis exemption.***

(4) ***The establishment of the single*** mass-based threshold ***that reflects*** the average emissions intensity of the volume of ***the*** imported ▌ goods ***pursues*** the ▌ objective of ***ensuring that at least 99 % of emissions embedded in imported goods remain in the scope of*** the CBAM ***and that therefore the de minimis exemption applies to no more than 1 % of emissions embedded in imported goods***. ***This represents a robust and targeted approach as it accurately reflects the environmental nature and the climate objective of the*** CBAM ***while*** substantially ***reducing*** CBAM-related administrative burden for ***the*** importers***, as a*** vast majority of importers ***will be exempted*** from ***the*** obligations under ***the CBAM and, at the same time, the CBAM continues to apply to at least*** 99 % of ▌ emissions ***embedded*** in the ***imported goods***. ***This approach also eliminates the risk of circumvention through an artificial splitting of consignments by a single importer***.

(5) The ***Commission should each year assess, on the basis of the import data for the preceding 12 calendar months, whether a material change has occurred in the*** average emission intensities of ***the*** goods or ▌ in ***the pattern of trade in goods, including*** practices of circumvention. ***In order to ensure that at least 99%*** of ▌ emissions ***embedded in the imported goods remain*** in the scope of the CBAM***, the Commission should adopt delegated acts in order to amend the single mass-based threshold set out in point 1 of Annex VII by using the methodology set out in point 2 of that Annex. To ensure effectiveness and certainty, the Commission should only adopt such acts where the value of the resulting threshold deviates from the applicable threshold by more than 15 tonnes. The amended threshold should apply as from the beginning of the following calendar year***.

PUBLIC

(6) To ensure that the derogation is sufficiently targeted, ***the single mass-based threshold*** should apply to ***each*** importer***, including those with the status of authorised CBAM declarant. For that purpose the imports of an importer should be taken into account irrespective of whether they have been imported by the importer or indirect customs representative***. The indirect customs representative, due to the nature of its activity and the related obligations under Regulation (EU) 2023/956, should always be required to obtain ***the status as authorised CBAM declarant, prior to acting on behalf of an importer in respect of goods listed in Annex I. Where an importer, who is represented by one or several indirect customs representatives, has exceeded the single mass-based threshold, each indirect customs representative that is acting as an authorised CBAM declarant should submit a CBAM declaration in respect of the goods imported into the customs territory of the Union by that indirect customs representative, including goods below the threshold, for those represented importers that have exceeded the threshold, and surrender the number of CBAM certificates which correspond to emissions embedded in those goods***.

PUBLIC

(6a) For the purposes of legal certainty, it is appropriate to expressly provide that where an indirect customs representative acts as an authorised CBAM declarant on behalf of an importer, it is the indirect customs representative that should be subject to the obligations applicable to that importer pursuant to this Regulation, in particular the obligation to submit a CBAM declaration in respect of the goods imported by this indirect customs representative on behalf of that importer, surrender CBAM certificate in respect of emissions embedded in those goods. As a result, in case of non-compliance, it should be the indirect customs representative who is subject to penalties. This, however, should not apply where an indirect customs representative, who acts on behalf of an importer established in a Member State, has not agreed to act as authorised CBAM declarant.

PUBLIC

(7) ▌Based on customs information***, the Commission should*** monitor the quantities of goods imported to assess compliance with the threshold. ***The competent authorities should also be able to carry out such monitoring.*** To allow the competent authorities to make an informed decision, ***it is necessary to foressee appropriate arrangements for availability of*** the necessary information and data ***to the competent authorities. The competent authority should be able to request necessary information and evidence from customs authorities, including name, address and contact information, of importers where such information is otherwise not*** available to the competent ***authority***. Where the ***customs authorities become aware*** that an importer has exceeded the threshold, ***including on the basis of a communication by*** the ***competent authority, they*** should not allow further importation of goods from that importer until the end of the ***relevant*** calendar year, or until that importer has obtained the status of authorised CBAM declarant.

(8) ▌***An*** importer ***who*** expects to exceed the annual threshold ▌should apply for authorisation pursuant to Article 5 of Regulation (EU) 2023/956 ***in a timely manner and is expected to obtain the status of authorised CBAM declarant, as a rule, before the single mass-based threshold is exceeded***. For importers who have not been granted the authorisation before exceeding the threshold, penalties should apply for the entirety of the imported goods in accordance with Article ***26(2a)*** of Regulation (EU) 2023/956. The payment of the penalty in accordance with Article ***26(2a)*** of that Regulation should release the importer from the obligation to submit a CBAM declaration and to surrender CBAM certificates.

(8a) The obligation to obtain the status of authorised CBAM declarant before the single mass-based treshold is exceeded may result in a high number of applications being lodged at the beginning of 2026. In order to facilitate a smooth entry into the definitive period, and avoid potential import disruptions, it is appropriate to allow importers and indirect customs representatives who have duly submitted an application in accordance with this Regulation by 31 March 2026 to continue importing the goods in 2026 even after exceeding the threshold pending the decision on granting of the authorisation. In order to avoid circumvention of the obligations under this Regulation, where granting of the authorisation is refused, the importers and indirect customs representatives should be subject to penalties in accordance with Article 26(2a).

(9) To ensure that the definition of an importer covers all relevant customs procedures, it is necessary to amend it to include the case of the simplified customs procedure where only a bill of discharge is submitted pursuant to Article 175(5) of Commission Delegated Regulation (EU) 2015/2446[4].

[4] Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015 p. 1, ELI: http://data.europa.eu/eli/reg_del/2015/2446/oj).

(10) To strike a balance between the effectiveness of the authorisation procedure and the risk profile of the applicants, the consultation procedure should be optional for the competent authority. The consultation procedure should allow the competent authority to consult other competent authorities and the Commission when considered necessary based on the information submitted by the applicant and customs information made available in the CBAM registry.

(11) To provide additional flexibility, the authorised CBAM declarants should be able to delegate the submission of the CBAM declaration to a third party. The authorised CBAM declarant should remain liable for the submission of the CBAM declaration. To provide the required delegation and access, that third party should fulfil certain technical credentials, including holding an Economic Operators Registration and Identification (EORI) number and being established in a Member State.

PUBLIC

(12) Authorised CBAM declarants are required to submit their annual CBAM declaration and surrender the corresponding number of certificates by 31 May of the year following the year of import. In order to provide authorised CBAM declarants flexibility to comply with their obligations, a later date of submission would provide authorised CBAM declarants more time to collect the necessary information, ensure that embedded emissions are verified by an accredited verifier, and purchase the corresponding number of CBAM certificates. The date for the cancellation of CBAM certificates should be adjusted accordingly.

(13) The embedded emissions of some aluminium and steel goods currently included in the scope of CBAM are primarily determined by the embedded emissions of input materials (precursors), while the emissions arising during the production steps of those goods are typically relatively low. They consist of finishing processes that are carried out by separate installations not covered by the EU emissions trading system ('EU ETS') as provided for in Directive 2003/87/EC of the European Parliament and of the Council[5], except for the case of integrated facilities. ***With a view to ensuring coherence with EU ETS rules and simplifying the application of the CBAM rules for operators in third countries,*** the embedded emissions of those production processes should be excluded from the system boundaries of the calculation of emissions***, by aligning the system boundaries of production processes with those covered by the EU ETS***.

[5] Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32, ELI: http://data.europa.eu/eli/dir/2003/87/oj).

(13a) Electricity generated in the exclusive economic zone or on the continental shelf of a Member State or a third country is considered as originating, respectively, in that Member State or that third country. The same applies to hydrogen that is considered as originating in the exclusive economic zone or continental shelf of a Member State or third country.

(14) Where input materials (precursors) have already been subject to the EU ETS or to a carbon pricing system that is fully linked with the EU ETS, the embedded emissions of those precursors should not be accounted for in the calculation of the embedded emissions of complex goods.

(15) Authorised CBAM declarants are required to submit an annual CBAM declaration containing the calculation of embedded emissions on the basis of either default values or actual values verified by accredited verifiers. Default values will be calculated and made available by the Commission. Therefore, the verification of embedded emissions should only apply to actual values.

PUBLIC

(16) Information collected during the transitional period illustrates difficulties for reporting declarants to obtain the required information on the carbon price effectively paid in a third country. To facilitate the deduction of the carbon price, the Commission should, where possible, establish an annual average carbon price expressed in EUR/tCO2e of the effective carbon price paid, based on the best available data from reliable, publicly available information and information provided by third countries, including on a conservative basis.

(16a) The evidence required for the deduction of a carbon price effectively paid relies on elements relevant for the determination and verification of actual embedded emissions. Where the embedded emissions are declared on the basis of default values, it should only be possible to claim the deduction of the carbon price by reference to yearly default carbon prices, where available. Furthermore, since the embedded emissions of precursors should not be accounted for where they have already been subject to the EU ETS or to a carbon pricing system that is fully linked with the EU ETS, the carbon price associated with these embedded emissions is not relevant for the deduction.

PUBLIC

(17) Authorised CBAM declarants may claim a reduction in the number of CBAM certificates to be surrendered corresponding to the carbon price effectively paid in the country of origin for the declared embedded emissions. Since the carbon price may be paid in a third country other than the country of origin of the imported goods, such carbon price should also be eligible for deduction.

(18) To improve the reliability of the emissions data contained in the CBAM registry and to facilitate the submission of data, accredited verifiers should be allowed to access the CBAM registry to verify the embedded emissions upon request from an operator in third countries. In addition, parent companies or related undertakings of those operators should be allowed to access the CBAM registry for the purpose of registering and sharing relevant data on behalf of the controlled operator. The operators should be required to provide a corporate or activity registration number to ensure their identification.

(18a) To ensure consistency with Regulation 765/2008[6], as well as Commission Implementing Regulation (EU) 2018/2067[7], it is appropriate to provide that a verifier should be a legal person that is accredited for the purpose of Regulation (EU) 2023/956 by a decision of a national accreditation body. For that purpose the national accreditation body should take into account the relevant groups of activities under Implementing Regulation (EU) 2018/2067 for the assessment of the qualifications of the legal person.

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6 ***Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30, ELI: http://data.europa.eu/eli/reg/2008/765/oj).***

7 ***Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ L 334, 31.12.2018, p. 94, ELI: http://data.europa.eu/eli/reg_impl/2018/2067/oj).***

(19) To foster the implementation of Regulation (EU) 2023/956 at national level, Member States should ensure that the competent authorities have ***all*** the ***powers*** necessary ***for the performance of*** their ***functions and*** duties.

(19a) It is appropriate to provide that the costs incurred in connection with the establishment, operation and management of the common central platform should be financed by fees payable by authorised CBAM declarant. For the duration of the first joint public procurement contract for the establishment, operation and management of the common central platform, these costs should initially be borne by the general budget of the Union and, to that end the revenues generated by those fees should be assigned to the Union budget to cover the relevant costs. In view of the nature of the revenues, it is appropriate to treat the revenues as internal assigned revenues. Any revenues remaining after covering these costs should be assigned to the Union budget. The Commission should be empowered to determine, by means of delegated acts, the structure and level of fees so that the organisation and use of the common central platform is cost-efficient, that the fees are set so as to strictly cover the relevant costs and that undue administrative costs are avoided. The Commission should also determine, by means of delegated acts, for the duration of the subsequent joint procurement contracts that the fees should directly finance the costs of the operation and management of the platform.

PUBLIC

(20) To provide authorised CBAM declarants sufficient time to prepare for compliance with the amended obligations under Regulation (EU) 2023/956, Member States should start selling CBAM certificates in 2027 for emissions embedded in goods imported during the year 2026. The price of CBAM certificates ▌ purchased in 2027 and corresponding to emissions embedded in goods imported into the EU in 2026 ▌ should reflect the prices of EU ETS allowances in 2026.

(21) The obligation for the authorised CBAM declarants to ensure that the number of CBAM certificates on their account in the CBAM registry at the end of each quarter corresponds to at least 80 % of the emissions embedded in the goods they have imported since the start of the year, is insufficiently tailored to the expected financial adjustment. It is therefore necessary to both reduce the ratio from 80 % to 50 % and integrate the free allocation of EU ETS allowances. Furthermore, the authorised CBAM declarant should be able to rely on the information submitted in the CBAM declaration in the previous year, for the same goods and third countries.

(22) The repurchase limit should likewise align more accurately with the number of CBAM certificates which the authorised CBAM declarants are required to purchase during the year of imports.

PUBLIC

(23) Since CBAM certificates are cancelled without any compensation, there is no need for an exchange of information from the common central platform to the CBAM registry at the end of the working day.

(24) ***Where*** the ***authorised CBAM declarant fails to surrender the correct number of CBAM certificates as a result of incorrect information provided by a third party, namely the operator, the verifier or the independent person certifying the carbon price documentation, the*** competent authorities, when applying penalties, should be able to take into account the specific circumstances such as the ***duration, gravity, scope,*** intentional or negligent ***nature and repetition*** of the ***non-compliance and the level of cooperation of the authorised CBAM*** declarant. That would allow for a reduction of the amount of the penalty where minor or unintentional errors are made.

PUBLIC

(24a) Importers other than authorised CBAM declarants who have exceeded the single mass-based threshold should be subject to the penalty provided in Article 26(2). For that purpose, the entirety of the emissions embedded in the goods imported by such importer without authorisation in the relevant calendar year should be taken into account. It is appropriate to provide that the payment of the penalty releases the importer from the obligation to submit a CBAM declaration and surrender CBAM certificates in respect of those imports. In order to take into account minor or unintentional nature of an infringement, the competent authorities should be able to impose lower penalty where the single mass-based threshold has been exceeded by no more than 10 % of that threshold or where the operator has provisionally continued to import goods in accordance with Article 17(7a) and its application for the status of authorised CBAM declarant has been refused.

(25) The CBAM applies to certain carbon-intensive goods imported into the Union. The list of CBAM goods in Annex I of Regulation (EU) 2023/956 includes '***other*** kaolinic clays' in the list of cement goods. While calcined kaolinic clays are carbon-intensive products, this is not the case for non-calcined kaolinic clays. Non-calcined kaolinic clays should therefore be excluded from the scope of the CBAM.

PUBLIC

(26) Annex II to Regulation (EU) 2023/956 lists the goods for which only direct emissions should be taken into account in the calculation of embedded emissions. For goods not listed in that Annex, both direct and indirect emissions should be taken into account. Since indirect emissions are not relevant in the case of electricity generation, electricity should be added to the list of goods in that Annex.

(27) It is also necessary to simplify the means for determining default values when reliable data for the exporting country would not be available for a certain type of goods. In such cases, to prevent carbon leakage, the default value should be set at the level of the average emission intensity of the ten exporting countries with the highest emission intensities for which reliable data is available, which is an appropriate average to ensure the environmental objective of the CBAM. This is without prejudice to the possibility to adapt these default values based on region-specific features pursuant to point 7 of Annex IV of the CBAM.

PUBLIC

(28) In order to amend certain non-essential elements of Regulation (EU) 2023/956, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the threshold in Annex VII to that Regulation, where necessary, as determined in accordance with Article 2(3a) of that Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[8]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

PUBLIC

[8] Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making, Interinstitutional Agreement of 13 April 2016 on Better Law-Making, (OJ L 123, 12.5.2016, p. 1, ELI: http://data.europa.eu/eli/agree_interinstit/2016/512/oj).

(29) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States, namely simplifying certain obligations and strengthening the mechanism that the Union has adopted to prevent the risk of carbon leakage and thereby reduce global carbon emissions but can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(30) Regulation (EU) 2023/956 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

PUBLIC

Article 1

Amendments to Regulation (EU) 2023/956

Regulation (EU) 2023/956 is amended as follows:

(1) Article 2 is amended as follows:

(a) paragraph 3 is replaced by the following:

‘3. By way of derogation from paragraphs 1 and 2, this Regulation shall not apply to goods to be moved or used in the context of military activities pursuant to Article 1, point (49), of Commission Delegated Regulation (EU) 2015/2446*.

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* Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1, ELI: http://data.europa.eu/eli/reg_del/2015/2446/oj).’;

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(ba) the following paragraph 3b is inserted:

'3b. This Regulation shall not apply to electricity generated in the exclusive economic zone or on the continental shelf of a Member State or of a country or territory listed in Annex III, Sections 1 or 2, of this Regulation.

This Regulation shall also not apply to hydrogen originating in the exclusive economic zone or continental shelf of a Member State or of a country or territory listed in Annex III, Section 1, of this Regulation.';

(1a) the following article is inserted:

'Article 2a
De minimis exemption

1. An importer, including importers with the status of an authorised CBAM declarant, shall be exempted from the obligations under this Regulation, where the net mass of the imported goods in a given calendar year does not cumulatively exceed the single mass-based threshold laid down in point 1 of Annex VII. This threshold shall apply to the total net mass of goods of all CN codes aggregated per importer and per calendar year. Such importer, including importers with the status of an authorised CBAM declarant, shall declare such exemption in the relevant customs declaration.

PUBLIC

2. Where, within the relevant calendar year, an importer, including importers with the status of an authorised CBAM declarant, exceeds the single mass-based threshold referred to in paragraph 1, that importer or that authorised CBAM declarant shall be subject to all obligations under this Regulation in respect of all emissions embedded in all goods imported in the relevant calendar year.

3. By 30 April of each calendar year, the Commission shall assess, on the basis of the import data for the preceding 12 calendar months, whether the single mass-based threshold set out in point 1 of Annex VII ensures that paragraph 1 of this Article applies to no more than 1 % of the emissions embedded in the imported goods and processed products. The Commission shall adopt delegated acts to amend the single mass-based threshold set out in point 1 of Annex VII by using the methodology set out in point 2 of that Annex, where the value of the resulting threshold deviates from the applicable threshold by more than 15 tonnes. The amended single mass-based threshold shall apply as of the beginning of the following calendar year.

4. This Article shall not apply to imports of electricity and hydrogen.';

PUBLIC

(2) Article 3 is amended as follows:

(a) point (15) is replaced by the following:

‘(15) ‘importer’ means either the person lodging a customs declaration for release for free circulation of goods or a bill of discharge in accordance with Article 175(5) of Delegated Regulation (EU) 2015/2446 in its own name and on its own behalf or, where the customs declaration is lodged by an indirect customs representative in accordance with Article 18 of Regulation (EU) No 952/2013, the person on whose behalf such a declaration is lodged;’;

(b) point (31) is replaced by the following:

‘(31) ‘operator’ means any person that operates or controls an installation in a third country, including a parent company controlling an installation in a third country;’;

PUBLIC

(3) Article 5 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Any importer established in a Member State shall, prior to importing goods into the customs territory of the Union, apply for the status of authorised CBAM declarant (‘application for an authorisation’).

[redacted]’;

(aa) the following paragraph 1aa is inserted:

‘1aa. An indirect customs representative shall obtain the status of authorised CBAM declarant prior to importing goods into the customs territory of the Union. An indirect customs representative shall act as an authorised CBAM declarant where the indirect customs representative is appointed by an importer in accordance with Article 18 of Regulation (EU) No 952/2013 and agrees to act as authorised CBAM declarant, irrespective of whether the importer is exempted from the obligations under this Regulation pursuant to Article 2a.’;

PUBLIC

(b) the following paragraph 1a is inserted:

‘1a. ***Where Article 2a applies,*** the application for an authorisation ***shall be submitted*** in ***cases*** where the importer expects to exceed the ***single mass-based*** threshold ***referred to*** in ***that Article***.’;

(c) paragraph 2 is replaced by the following:

‘2. Where an importer is not established in a Member State, the indirect customs representative shall ***obtain*** the status of authorised CBAM declarant, ***irrespective of whether the*** importer is ***exempted from the obligations under this Regulation*** pursuant to Article ***2a***.’;

(ca) the following paragraph is inserted:

‘2a. Where an indirect customs representative acts as an authorised CBAM declarant on behalf of an importer, that indirect customs representative shall be subject to the obligations applicable to that importer pursuant to this Regulation, in respect of the goods imported on behalf of that importer by this indirect customs representative.’;

PUBLIC

(d) ▌paragraph 5▌is ***amended as follows***:

(i) point (g) is replaced by the following:

'(g) estimated ▌volume of imports of goods into the customs territory of the Union by type of goods and information on the Member States of import, for the calendar year during which the application is submitted, and for the following calendar year;';

(ii) the following point is inserted:

'(ga) the number of the authorised economic operator (AEO) certificate, if granted, in accordance with Article 38 of Regulation EU 952/2013;';

(e) the following paragraph 7a is inserted:

'7a. An authorised CBAM declarant may delegate the submission of CBAM declarations as referred to in Article 6 to a person acting on behalf and in the name of that declarant. The authorised CBAM declarant shall remain responsible for ***compliance with*** the obligations ***applicable*** to authorised CBAM declarants ***under*** this Regulation.';

PUBLIC

(4) Article 6 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. By ***30 September*** of each year, and for the first time in 2027 for the year 2026, each authorised CBAM declarant shall use the CBAM registry referred to in Article 14 to submit a CBAM declaration for the preceding calendar year.’

(b) paragraph 2 is replaced by the following:

2. The CBAM declaration shall contain the following information:

(a) the total quantity of each type of goods imported during the preceding calendar year, expressed in megawatt-hours for electricity and in tonnes for other goods, including the imported goods below the threshold laid down in point 1 of Annex VII);

(b) the total embedded emissions in the goods referred to in point (a) of this paragraph, expressed in tonnes of CO_2e emissions per megawatt-hour of electricity or, for other goods, in tonnes of CO_2e emissions per tonne of each type of goods, calculated in accordance with Article 7 and verified, ***where the embedded emissions are determined on the basis of*** actual emissions ▌, in accordance with Article 8;

PUBLIC

(c) the total number of CBAM certificates to be surrendered, corresponding to the total embedded emissions referred to in point (b) of this paragraph after the reduction that is due on the account of the carbon price paid in a third country in accordance with Article 9 and the adjustment necessary to reflect the extent to which EU ETS allowances are allocated free of charge in accordance with Article 31;

(d) where applicable, copies of verification reports, issued by accredited verifiers, under Article 8 and Annex VI.';

PUBLIC

(c) paragraph 6 is replaced by the following:

‘6. The Commission is empowered to adopt implementing acts concerning the standard format of the CBAM declaration, including detailed information for each installation and country of origin or other third country and type of goods to be reported, which supports the totals referred to in paragraph 2 of this Article, in particular as regards embedded emissions, the carbon price paid, the default carbon price ***for the purpose of Article 9(3a),*** the procedure for submitting the CBAM declaration via the CBAM registry, and the arrangements for surrendering the CBAM certificates referred to in paragraph 2, point (c), of this Article, in accordance with Article 22(1), in particular as regards the process and the selection by the authorised CBAM declarant of certificates to be surrendered. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).’;

PUBLIC

(5) Article 7 is amended as follows:

(-a) paragraph 2 is replaced by the following:

'2. Embedded emissions in goods other than electricity shall be determined:

(a) based on the actual emissions in accordance with the methods set out in points 2 and 3 of Annex IV, or

(b) by reference to default values in accordance with the methods set out in point 4.1 of Annex IV.';

(a) paragraph 5 is replaced by the following:

'5. The authorised CBAM declarant shall keep records of the information required to calculate the embedded emissions in accordance with the requirements laid down in Annex V. Those records shall be sufficiently detailed to enable verifiers accredited pursuant to Article 18, where applicable, to verify the embedded emissions in accordance with Article 8 and Annex VI and to enable the Commission and the competent authority to review the CBAM declaration in accordance with Article 19(2).';

PUBLIC

(b) in paragraph 7, point (a) is replaced by the following:

‘(a) the application of the elements of the calculation methods set out in Annex IV, including determining system boundaries of production processes, which shall be ***aligned with those*** covered by the EU ETS, and relevant input materials (precursors), emission factors, installation-specific values of actual emissions and default values and their respective application to individual goods, as well as lay down methods to ensure the reliability of data on the basis of which the default values shall be determined, including the level of detail of the data, and including further specification of goods that are to be considered as ‘simple goods’ and ‘complex goods’ for the purpose of point 1 of Annex IV. Those implementing acts shall also specify the elements of evidence demonstrating that the criteria required to justify the use of actual emissions for electricity ***and electricity*** consumed in the production processes of goods for the purpose of paragraph 2***, 3 and 4*** that are listed in points 5 and 6 of Annex IV are met; ***and***’;

PUBLIC

(6) in Article 8, paragraph 1 is replaced by the following:

‘1. Where the embedded emissions are determined on the basis of actual emissions, the authorised CBAM 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 VI.’;

(7) Article 9 is replaced by the following:

‘Article 9
Carbon price paid in a third country

1. ***Where the embedded emissions are determined on the basis of actual emissions,*** an authorised CBAM declarant may claim in the CBAM declaration a reduction in the number of CBAM certificates to be surrendered in order to take into account the carbon price paid in a third country for the declared embedded emissions. The reduction may be claimed only if the carbon price has been effectively paid in a third country. In such a case, any rebate or other form of compensation available in that country that would have resulted in a reduction of that carbon price shall be taken into account.

PUBLIC

2. The authorised CBAM declarant shall keep records of the documentation required to demonstrate that the declared embedded emissions were subject to a carbon price in a third country that has been effectively paid as referred to in paragraph 1. The authorised CBAM declarant shall in particular keep evidence related to any rebate or other form of compensation available, in particular the references to the relevant legislation of that country. The information contained in that documentation shall be certified by a person that is independent from the authorised CBAM declarant and from the authorities of the third country. The name and contact information of that independent person shall appear on the documentation. The authorised CBAM declarant shall also keep evidence of the actual payment of the carbon price.

3. The authorised CBAM declarant shall keep the 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.

PUBLIC

3a. By way of derogation from paragraphs 1, 2 and 3, ▌ an authorised CBAM declarant may claim, in the CBAM declaration, a reduction in the number of CBAM certificates to be surrendered in order to take into account ***the*** carbon price ***paid*** for the declared embedded emissions, by reference to yearly default carbon prices. In such a case, any rebate or other form of compensation available in that country that would have resulted in a reduction of that default carbon price shall be taken into account. The reduction may be claimed only where a carbon price was set by the rules applicable in the third country and a yearly default carbon price can be determined for that third country, including on a conservative basis. ***Where the embedded emissions are determined on the basis of default values, a reduction may be claimed only by a reference to yearly default carbon prices.***

As from 2027, the Commission may, for third countries where carbon pricing rules are in place, determine, publish the methodology and make available, in the CBAM registry referred to in Article 14, the default carbon prices for those third countries***.*** ***For that purpose, the Commission shall base itself*** on the best available data from reliable, publicly available information and information provided by those third countries. ***The Commission shall take into account*** any rebate or other form of compensation available in ***the relevant third*** country that would have resulted in a reduction of ***the*** default carbon price ▌ .

PUBLIC

4. The Commission is empowered to adopt implementing acts concerning the conversion of the yearly average carbon price effectively paid in accordance with paragraph 1 ▌ and of the yearly default carbon prices ***determined*** in accordance with paragraph 3a ▌ into a corresponding reduction of the number of CBAM certificates to be surrendered. Those acts shall also concern the conversion of the carbon price expressed in foreign currency into euro at the yearly average exchange rate, the evidence required of the actual payment of the carbon price, examples of any relevant rebate or other form of compensation referred to in paragraph 1, the qualifications of the independent person referred to in paragraph 2 of this Article and the conditions to ascertain that person's independence. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).';

PUBLIC

(8) Article 10 is replaced by the following:

‘Article 10

Registration of operators and of installations in third countries

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 the CBAM registry referred to in Article 14.

2. The request for registration referred to in paragraph 1 shall contain the following information to be included in the CBAM registry upon registration:

(a) the name, address, corporate or activity registration number, contact information of the operator, and, if applicable, of its controlling entity including its parent company together with the supporting documents;

(b) the location of each installation including the complete address and geographical coordinates expressed in longitude and latitude, including six decimals;

(c) the main economic activity of the installation.

PUBLIC

3. The Commission shall notify the operator of the registration in the CBAM registry. The registration shall be valid for a period of five years from the date of its notification to the operator of the installation.

4. The operator shall inform the Commission without delay of any changes in the information referred to in paragraph 2 arising after the registration, and the Commission shall update the relevant information in the CBAM registry.

5. The operator shall:

   (a) determine the embedded emissions calculated in accordance with the methods set out in Annex IV, by type of goods produced at the installation referred to in paragraph 1 of this Article;

   (b) ensure the embedded emissions referred to in point (a) of this paragraph are verified in accordance with the verification principles set out in Annex VI by a verifier accredited pursuant to Article 18;

PUBLIC

(c) keep a copy of the verification report as well as records of the information required to calculate the embedded emissions in goods in accordance with the requirements laid down in Annex V for a period of four years after the verification has been performed, and, where applicable, a copy of the documentation required to demonstrate that the declared embedded emissions were subject to a carbon price in a third country that has been effectively paid, until the end of the fourth year after the year during which the independent person has certified the information contained in that documentation in accordance with Article 9(2);

(d) determine, where applicable, the carbon price paid in a third country in accordance with Article 9, and upload accompanying documentation and evidence.

6. The records referred to in paragraph 5, point (c), of this Article shall be sufficiently detailed to enable the verification of the embedded emissions in accordance with Article 8 and Annex VI, and to enable the review, in accordance with Article 19, of the CBAM declaration made by an authorised CBAM declarant to whom the relevant information was disclosed in accordance with paragraph 7 of this Article.

PUBLIC

7. An operator may disclose the information on the verification of embedded emissions and the carbon price paid in a third country referred to in paragraph 5 of this Article to an authorised CBAM declarant. The authorised CBAM declarant shall be entitled to use that disclosed information in order to fulfil the obligation referred to in Article 8.

8. The operator may, at any time, ask to be deregistered from the CBAM registry. The Commission shall, upon such request, and after notifying the competent authorities, deregister the operator and delete the information on that operator and on its installation from the CBAM registry, provided that such information is not necessary for the review of CBAM declarations that have been submitted. The Commission may, after having given the operator concerned the possibility to be heard and having consulted with the relevant competent authorities, also deregister the information if the Commission finds that the information on that operator is no longer accurate. The Commission shall inform the competent authorities of such deregistration.';

PUBLIC

(9) the following Article 10a is inserted:

‘Article 10a

Registration of accredited verifiers

1. Where an accreditation is granted in accordance with Article 18, the accredited verifier shall submit a request for registration in the CBAM registry to the competent authority of the Member State in which the national accreditation body is established. The request for registration shall be submitted within two months from the granting of the accreditation***, however, not before 1 September 2026***. The competent authority shall register the information on accredited verifiers in the CBAM registry.

2. The request for registration referred in paragraph 1 shall at least contain the following information to be included in the CBAM registry upon registration:

   (a) the name, and unique accreditation ***identification*** of the verifier;

   (b) the scopes of accreditation relevant for CBAM;

PUBLIC

(c) the country of establishment of the verifier;

(d) the ***effective*** date of accreditation and expiry date of accreditation certificates relevant for CBAM;

(e) any information on administrative measures imposed on the verifier relevant for CBAM;

(f) ***copy*** of ***the*** accreditation ***certificate relevant for CBAM***.

3. The competent authority shall notify the verifier of the registration in the CBAM registry. ***The competent authority shall also notify, through the CBAM registry, the Commission and the other competent authorities of the registration.***

4. The accredited verifier shall notify the competent authority of any changes to the information referred to in paragraph 2 arising after the registration. The competent authority shall ensure that the relevant information is duly updated in the CBAM registry.

5. ***For the purpose of Article 10(5)(b),*** the verifier shall ***use the CBAM registry to*** verify the embedded emissions ▌ .

PUBLIC

6. The competent authority shall deregister a verifier from the CBAM registry where the verifier is no longer accredited pursuant Article 18 or where the verifier has not complied with the obligation laid down in paragraph 4. The competent authority shall notify the Commission and the other competent authorities of the deregistration. The competent authority shall delete the information on that accredited verifier from the CBAM registry provided that such information is not necessary for the review of CBAM declarations that have been submitted.';

(10) Article 11 is amended as follows:

(a) in paragraph 1, first subparagraph, the following sentence is added:

'Each Member State shall ensure that the designated authority have all the powers necessary for the performance of their functions and duties under this Regulation.';

PUBLIC

(b) the following paragraph 3 is added:

‘3. ***For*** the ***purpose*** of the ***report pursuant to Article 30(6), the*** competent authorities shall provide***, at the request of the Commission and on the basis of the questionnaire, relevant*** information on the implementation of this Regulation ▌.’;

(11) Article 14 is amended as follows:

(a) paragraphs 3 and 4 are replaced by the following:

‘3. The CBAM registry shall contain, in a separate section of the registry, the information about the operators and installations in third countries registered in accordance with Article 10(2) and the information about the accredited verifiers registered in accordance with Article 10a.

PUBLIC

4. The information in the CBAM registry referred to in paragraphs 2 and 3 shall be confidential, with the exception of the names, addresses, corporate or activity registration numbers, contact information of the operators, the location of installations in third countries and the information on accredited verifiers referred to in Article 10a(2). An operator may choose not to have its name, address, corporate or activity registration number, contact information and the location of its installations made accessible to the public. The public information in the CBAM registry shall be made accessible by the Commission in an interoperable format.';

PUBLIC

(b) paragraph 6 is replaced by the following:

‘6. The Commission shall adopt implementing acts concerning the infrastructure and specific processes and procedures of the CBAM registry, including the risk analysis referred to in Article 15, the electronic databases containing the information referred to in paragraphs 2 and 3 of this Article, the procedures and the technical credentials ***for*** the delegation referred to in Article 5(7a), the data of the accounts in the CBAM registry referred to in Article 16, the transmission to the CBAM registry of the information on the sale and repurchase of CBAM certificates referred to in Article 20, and the cross-check of information referred to in Article 25(3) ***and the information as referred to in Article 25a(3)***. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).’;

PUBLIC

(12) Article 17 is amended as follows:

(a) in paragraph 1, the second subparagraph is replaced by the following subparagraphs:

'Before granting the status of authorised CBAM declarant, the competent authority may consult relevant competent authorities or the Commission via the CBAM registry ***on*** the fulfilment of the ▌ criteria ***set out in paragraph 2***. The consultation shall ▌ not exceed 15 calendar days**.**

▌ ';

(aa) paragraph 5 is replaced by the following:

'5. For the purpose of complying with the criteria set out in paragraph 2, point (b), of this Article, the competent authority shall require the provision of a guarantee if the applicant was not established throughout the two financial years preceding the year when the application in accordance with Article 5(1) was submitted.

PUBLIC

The competent authority shall fix the amount of such guarantee at the amount, calculated as the aggregate value of the number of CBAM certificates that the authorised CBAM declarant would have to surrender in accordance with Article 22 in respect of the imports of goods reported in accordance with Article 5(5), point (g), taking into account the adjustment necessary to reflect the extent to which EU ETS allowances are allocated free of charge in accordance with Article 31. The guarantee provided shall be a bank guarantee, payable at first demand, by a financial institution operating in the Union or another form of guarantee which provides equivalent assurance.';

(ab) paragraph 7 is replaced by the following:

'7. The competent authority shall release the guarantee immediately after 30 September of the second year in which the authorised CBAM declarant has surrendered CBAM certificates in accordance with Article 22.';

PUBLIC

(ac) the following paragraph 7a is inserted:

'7a. By way of derogation from Article 4, where an importer or an indirect customs representative has submitted an application in accordance with Article 5 by 31 March 2026, such importer or indirect customs representative may provisionally continue to import goods until the competent authority takes a decision under this Article.

Where the competent authority refuses to grant the authorisation in accordance with Article 17(3), the competent authority shall establish, within one month from the date of the decision, the emissions embedded in the goods imported between 1 January 2026 and the date of that decision on the basis of the information communicated in accordance with Article 25(3) and by reference to default values in accordance with the methods set out in Annex IV, and on the basis of any other relevant information.

These established emissions shall be used for the calculation of penalties in accordance with Article 26(2a).';

PUBLIC

(b) in paragraph 8, the second subparagraph is replaced by the following:

'Before revoking the status of authorised CBAM declarant, the competent authority shall give the authorised CBAM declarant the possibility to be heard. The competent authority may consult relevant competent authorities or the Commission via the CBAM registry on the conditions and criteria for the revocation. The consultation shall not exceed 15 calendar days.';

(c) in paragraph 10, point (e) is replaced by the following:

'(e) the specific deadlines, scope and format of the consultation procedure referred to in paragraphs 1 and 8 of this Article.';

PUBLIC

(12a) Article 18 is amended as follows:

(a) paragraph 1 is deleted;

(b) paragraph 2 is replaced by the following:

'2. A national accreditation body may, on request, accredit a legal person to be a verifier for the purpose of this Regulation where it considers, on the basis of the documentation submitted to it, that such person has the capacity to apply the verification principles referred to in Annex VI when performing the tasks of verification of the embedded emissions pursuant to Articles 8 and 10. Where the applicant is accredited in accordance with Implementing regulation (EU) 2018/2067 for a relevant group of activities, the national accreditation body shall take this into account for the assessment of the qualifications of an accredited verifier that are necessary to perform verifications for the purpose of this Regulation.';

PUBLIC

(13) in Article 19(3), the second subparagraph is replaced by the following:

'The Commission shall also facilitate the exchange of information with competent authorities about fraudulent activities, the conclusions pursuant to Article 25a and the penalties imposed in accordance with Article 26.';

(14) Article 20 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. From 1 February 2027, a Member State shall sell CBAM certificates on a common central platform to authorised CBAM declarants established in that Member State.';

(b) paragraph 3 is replaced by the following:

'3. The information on the sale and repurchase of CBAM certificates in the common central platform shall be transferred to the CBAM registry at the end of each working day.';

PUBLIC

(ba) the following paragraph is inserted:

'5a. The costs incurred in connection with the establishment, operation and management of the common central platform shall be financed by fees payable by authorised CBAM declarants.

For the duration of the first joint public procurement contract for the establishment, operation and management of the common central platform, these costs shall initially be borne by the general budget of the Union. To that end, the revenues generated by the fees shall constitute internal assigned revenue in accordance with Article 21(3)(a) of Regulation (EU, Euratom) No 2509/2024 of the European Parliament and of the Council. They shall be assigned to cover the costs of the establishment, operation and management of the common central platform. Any revenue remaining after covering these costs shall be assigned to the Union budget.

For the duration of the subsequent joint procurement contracts for the operation and management of the common central platform, the Commission shall adopt a delegated act in accordance with Article 28, supplementing this Regulation, in order to determine that the fees payable by authorised CBAM declarants shall directly finance the costs of the operation and management of the platform.';

PUBLIC

(c) paragraph 6 is replaced by the following:

‘6. The Commission is empowered to adopt delegated acts in accordance with Article 28 supplementing this Regulation by further specifying the timing, administration***, structure and level of fees*** and other aspects related to the management of the sale and repurchase of CBAM certificates, ***as well as the organisation and use of the common central platform,*** seeking coherence with the procedures of Commission Delegated Regulation (EU) 2023/2830*. ***The delegated acts shall ensure that the organisation and use of the common central platform is cost-efficient, that the level of fees is set so as to strictly cover the relevant costs and that undue administrative costs are avoided.***

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* Commission Delegated Regulation (EU) 2023/2830 of 17 October 2023 supplementing Directive 2003/87/EC of the European Parliament and of the Council by laying down rules on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances (OJ L, 2023/2830, 20.12.2023, ELI: http://data.europa.eu/eli/reg_del/2023/2830/oj).’;

PUBLIC

(15) Article 21 is amended as follows:

(a) in paragraph 1, the first subparagraph is replaced by the following:

'The Commission shall calculate the price of CBAM certificates as the average of the closing prices of EU ETS allowances on the auction platform, in accordance with the procedures laid down in Delegated Regulation (EU) 2023/2830, for each calendar week.';

(b) the following paragraph 1a is inserted:

'1a. By way of derogation from paragraph 1 ▌, the Commission shall calculate the price of CBAM certificates that corresponds to the embedded emissions declared in ***respect of the year 2026 in*** accordance with Article 6(2) ▌(b), ▌as the quarterly average of the closing prices of EU ETS allowances on the auction platform, in accordance with the procedures laid down in Delegated Regulation (EU) 2023/2830, of the quarter of importation of the goods ***in*** which those emissions ***are embedded.***';

PUBLIC

(c) paragraph 3 is replaced by the following:

‘3. The Commission is empowered to adopt implementing acts on the application of the methodology provided for in paragraphs 1 and 1a to calculate the price of CBAM certificates and the practical arrangements for the publication of that price. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).’;

(16) Article 22 is amended as follows:

(a) in paragraph 1, the first sentence is replaced by the following:

‘By ***30 September*** of each year, and for the first time in 2027 for the year 2026, the authorised CBAM declarant shall surrender via the CBAM registry a number of CBAM certificates that corresponds to the embedded emissions declared in accordance with Article 6(2), point (c), and verified in accordance with Article 8, for the calendar year preceding the surrender.’;

PUBLIC

(b) paragraph 2 is replaced by the following:

‘2. From ▌ 2027, the authorised CBAM 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 50 % of the embedded emissions in all goods it has imported since the beginning of the calendar year ▌ determined by reference to ***either*** of the following:

(a) default values in accordance with the methods set out in Annex IV without the mark-up as referred to in Section 4.1 of that Annex; ***or***

(b) the number of CBAM certificates surrendered in accordance with paragraph 1 for the calendar year preceding the ***year of the*** surrender, provided that the customs declaration for the import of goods refers to the same goods by CN code and countries of origin as the CBAM declaration submitted ***in*** the ▌ calendar year ***preceding the current year***.

For the purpose of this paragraph, the adjustment for free allocation as referred to in Article 31 shall be taken into account.’;

PUBLIC

(c) the following paragraph 2a is inserted:

'2a. The authorised CBAM declarant shall comply with the obligation laid out in paragraph 2 ***by*** the end of the quarter ***following that in which*** the ***single mass-based*** threshold laid down in Annex VII ***is exceeded***.';

(17) Article 23 is amended as follows:

(a) in paragraph 1, second subparagraph, the second sentence is replaced by the following:

'The authorised CBAM declarant shall submit the repurchase request by ***31 October*** of each year during which CBAM certificates were surrendered.';

(b) paragraph 2 is replaced by the following:

'2. The number of CBAM certificates ▌ subject to repurchase as referred to in paragraph 1 shall be limited to the total number of CBAM certificates ***that*** the ***authorised CBAM declarant had an obligation to purchase pursuant to*** Article 22(2) during ***the*** calendar year ***of the purchase of the CBAM certificates***.

PUBLIC

Where an authorised CBAM declarant who has been purchasing CBAM certificates in a calendar year on the basis of an expectation to exceed the single mass-based threshold referred to in Article 2a does not exceed such threshold, all CBAM certificates shall be repurchased upon request of the authorised declarant pursuant to paragraph 1 of this Article.';

(c) the following paragraph 2a is inserted:

'2a. By way of derogation from paragraph 2, ▌ CBAM certificates ***purchased in 2027 in respect of*** the embedded emissions ▌ for the year 2026 ***may*** only ***be repurchased*** in 2027.';

(18) Article 24 is ***replaced by the following***:

'Article 24

Cancellation of CBAM certificates

1. On 1 ***November*** of each year, the Commission shall cancel any CBAM certificates that were purchased during the year before the previous calendar year and that remained in the account of an authorised CBAM declarant in the CBAM registry. Those CBAM certificates shall be cancelled without any compensation***.***

▌

PUBLIC

2. By way of derogation from ▌ paragraph ***1***, on 1 ***November*** 2027, the Commission shall cancel any CBAM certificates ***purchased in respect of*** the embedded emissions ▌ for the year 2026. Those CBAM certificates shall be cancelled without any compensation.

3. Where the number of CBAM certificates to be surrendered is contested in a pending dispute in a Member State, the Commission shall suspend the cancellation of the CBAM certificates to the extent corresponding to the disputed amount. The competent authority of the Member State where the authorised CBAM declarant is established shall communicate without delay any relevant information to the Commission.';

(19) Article 25 is amended as follows:

(-a) paragraph 1 is replaced by the following:

'1. Without prejudice to Article 2a, the customs authorities shall not allow the importation of goods by any person other than an authorised CBAM declarant.';

PUBLIC

(a) ▌paragraph 2▌ is replaced by the following:

'***2. The customs authorities shall periodically and automatically, in particular by means of the surveillance mechanism established pursuant to Article 56(5) of Regulation (EU) No 952/2013, communicate to the Commission specific information on the goods declared for importation.*** That information shall include the EORI number or the form of identification declared in accordance with Article 6(2) of ***Commission*** Delegated Regulation (EU) 2015/2446 ▌, of the importer or of the authorised CBAM declarant as well as the CBAM account number of the authorised CBAM declarant, the eight-digit CN code of the goods, the quantity, the country of origin, the date of the customs declaration and the customs procedure. ***Where the importer has no EORI number, the customs authorities shall also communicate the name, address and, where available, contact information of the importer to the Commission.***';

PUBLIC

(b) paragraph 3 is replaced by the following:

‘3. The Commission shall ***periodically*** communicate the information referred to in paragraph 2 of this Article to the competent authority of the Member State where the authorised CBAM declarant or the importer is established and shall, for each CBAM declarant, cross-check that information with the data in the CBAM registry pursuant to Article 14.’;

(c) paragraph 4 is replaced by the following:

‘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 duties, or provided to the customs authorities on a confidential basis, to the Commission and to the competent authority of the Member State that has granted the status of the authorised CBAM declarant or to the competent authority of the Member State where the importer is established.’;

PUBLIC

(20) the following Article 25a is inserted:

‘Article 25a

Monitoring and enforcement of the threshold laid down in point 1 of Annex VII

1. The ▌Commission shall monitor the ***imports*** of goods ***for the purpose of compliance with*** the ***single mass-based*** threshold laid down in point 1 of Annex VII.

The competent authorities of the Member State where the importer is established may also monitor the compliance with the single mass-based threshold laid down in point 1 of Annex VII.

The Commission shall periodically and automatically exchange with competent authorities ***the*** information necessary for the monitoring of importers ***via*** the CBAM registry. ***Such information shall include a list of importers who exceed 90 % of the single mass-based threshold laid down in point 1 of Annex VII.***

PUBLIC

2. Where the Commission considers, based on a preliminary assessment ***and the information that the customs authorities have communicated to the Commission pursuant to Article 25(2)***, that an importer has exceeded the ***single mass-based*** threshold, it shall communicate ***that*** information ***as well as*** the ***basis for its*** preliminary assessment ▌ to the competent authority of the Member State where the importer is established.

The competent authority may request from the importer ▌ or the Commission documentary evidence necessary for assessing whether the importer has exceeded the ***single mass-based threshold. Where the documentary evidence is not sufficient to assess that the importer has exceeded such threshold, the competent authorities may request additional documentary evidence from the customs authorities if available***.

PUBLIC

3. Where the competent authority concludes that an importer***, who is not an authorised CBAM declarant,*** has exceeded the ***single mass-based*** threshold, it shall ***without undue delay adopt a*** decision ***to this end***. The decision shall ***contain*** the reasons for the decision, as well as information about the right to appeal***. The competent authority shall inform the importer of the obligations applicable under this Regulation including***, where ***applicable, the obligation to acquire the status of an authorised CBAM declarant*** in accordance with Article 5 ***before the importer may import any other goods***. The competent authority shall also notify the customs authorities and the Commission of the decision via the CBAM registry.

Where an importer is represented by one or more indirect customs representatives and exceeds the threshold referred to in Article 2a, the competent authority shall inform thereof the indirect customs representatives appointed in accordance with Article 5(1a) or Article 5(2).

The submission of an appeal ***against a decision determining that the importer has exceeded the single mass-based threshold*** shall not ***have suspensive effects***.

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4. ***For the purpose of determining*** whether an importer has exceeded the ***single mass-based*** threshold ▌, a competent authority shall disregard a practice or an arrangement or a series thereof which has been put into place for the main purpose or one of the main purposes of falling below the threshold and ***that*** are ▌ not genuine.

A practice or an arrangement or a series thereof shall be regarded as not genuine where***, having regard to all relevant facts and circumstances, it cannot be considered to have been*** put into place for valid commercial reasons ***related to the*** economic ***activity of the importer***.

For the purpose of Article 17(2), point (a) and Article 26(2a), where the competent authority ***concludes*** that the importer has ***engaged in a practice or an arrangement, or a series thereof, that is considered as non-genuine, the importer shall be considered to have*** been involved in a serious infringement of this Regulation ▌.

5. ***For the purpose of the monitoring under this Article,*** the Commission shall periodically***, at least once per calendar year or as issues arise,*** set out specific risk factors and points for attention, based on a risk analysis in relation to the threshold, taking into account information contained in the CBAM registry, data communicated by customs authorities in accordance with Article 25, and other relevant information sources, including irregularities identified as a result of the controls carried out in accordance with Article 15(1). ***This information and points of attention shall be communicated to the competent authorities and the customs authorities where relevant.***';

PUBLIC

(21) Article 26 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. An authorised CBAM declarant who fails to surrender, by 30 September of each year, the number of CBAM certificates that corresponds to the emissions embedded in goods imported during the preceding calendar year shall be held liable for the payment of a penalty. Such a penalty shall be identical to the excess emissions penalty set out in Article 16(3) of Directive 2003/87/EC and increased pursuant to Article 16(4) of that Directive, applicable in the year of importation of the goods. Such a penalty shall apply for each CBAM certificate that the authorised CBAM declarant has not surrendered.';

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(*b*) the following paragraph ▌ is inserted:

'*1a* ***By derogation from paragraph 1, where the authorised CBAM declarant fails to surrender the correct number of CBAM certificates as a result of incorrect information provided by the operator, the verifier or the independent person certifying the carbon price documentation referred to in Article 9(2),*** the competent authority may decrease the ▌ penalty ***referred to*** in ***the first*** paragraph***. The penalty shall be effective, proportionate and dissuasive, taking into account in particular the duration, gravity, scope, intentional nature and repetition of the non-compliance and the level of co-operation of the authorised CBAM declarant with the competent authority.***

▌ ';

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(ba) the following paragraph is inserted:

'2a. Paragraph 2 shall also apply to importers other than authorised CBAM declarants, where they exceed the single mass-based threshold referred to in Article 2a. For that purpose, the entirety of the emissions embedded in the goods imported by such importer in the relevant calendar year shall be taken into account. The payment of the penalty shall release the importer from the obligation to submit a CBAM declaration and surrender CBAM certificates in respect of those imports.

By derogation from the first subparagraph, the competent authority may decrease the penalty provided in paragraph 2 where an importer exceeded the single mass-based threshold by no more than 10 % of that threshold or in cases referred to in Article 17(7a). Such penalty shall be effective, proportionate and dissuasive and shall not be lower than the penalty provided in paragraph 1. The payment of the penalty shall release the importer from the obligation to submit a CBAM declaration and surrender CBAM certificates in respect of those imports.';

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(baa) paragraph 3 is replaced with the following:

'3. The payment of the penalty in accordance with paragraph 1 ***and 1a*** shall not release the authorised CBAM declarant from the obligation to surrender the outstanding number of CBAM certificates in a given year.';

(c) the following paragraph is inserted:

'4a. For the purposes of paragraph 1 and 2 of this Article, the competent authority shall calculate the total number of CBAM certificates that should have been surrendered, based on the net mass of the imported goods and by reference to the embedded emissions determined by default values in accordance with the methods set out in Annex IV and taking into account the adjustment for free allocation as referred to in Article 31.';

(22) in Article 27(2), point (b) is replaced by the following:

'(b) artificially splitting imports, including via non-genuine arrangements, to avoid exceeding the ***single mass-based*** threshold ***laid down*** in ***point 1 of Annex VII***.';

PUBLIC

(23) Article 28 is amended as follows:

(a) paragraphs 2 and 3 are replaced by the following:

‘2. The power to adopt delegated acts referred to in Articles ***2a***, 2(10), 2(11), 18(3), 20(6) and 27(6) shall be conferred on the Commission for a period of five years from [date of publication ***of the amending CBAM regulation (this Regulation)***]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for further periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles ***2a***, 2(10), 2(11), ▌ 18(3), 20(6) and 27(6) may be revoked at any time by the European Parliament or by the Council.’;

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(b) paragraph 7 is replaced by the following:

'7. A delegated act adopted pursuant to Articles ***2a***, 2(10), 2(11), ▌ 18(3), 20(6) or 27(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.';

(24) ▌ Article 30(6)▌ (b) ***is amended as follows***:

(a) point (i) is replaced by the following:

'(i) the governance system, including an assessment of the implementation and administration of the guarantees and the authorisation of CBAM declarants by Member States;';

(b) the following point is added:

'(v) the application of the threshold laid down in point 1 of Annex VII***, including the possibility of increasing this threshold and of introducing a supplementary consignment-based threshold***.';

PUBLIC

(25) Article 36(2) is amended as follows:

(a) point (b) is replaced by the following:

'Article 2(2)***, Article 2a*** and Articles 4, 6 to 9, ***10a,*** 15 and 19, Articles 21 to 22(1), Article 22(3), Articles ***23 to*** 27 and 31 shall apply from 1 January 2026.';

(b) the following points are added:

'(c) Article 22(2) shall apply as from 1 January 2027;

(d) Article 20(1), (3), (4) and (5) shall apply as from 1 February 2027.';

(26) in Annex I, the CN code "2507 00 80 – Other kaolinic clays" is replaced by '2507 00 80 – Other kaolinic clays ▌ except non-calcined kaolinic clays ▌ ';

(27) in Annex II, the following table is added:

'▌ Electricity

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

▌ ';

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(28) Annex IV is amended in accordance with Annex I to this Regulation.***;***

(28a) in section 2 of Annex V, the following point is added:

'(e) information and the method used to calculate the embedded emissions.';

(28b) in section 2, point (k), of Annex VI, point (iii) is replaced by the following***:***

'(iii) the identification of the installations where the input material (precursor) has been produced and the actual emissions from the production of that material;***'***;

(29) a new Annex VII as set out in Annex II to this Regulation is added.

Article 2

Entry into force

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at …,

For the European Parliament
The President

For the Council
The President

PUBLIC

Annex IV is amended as follows:

(-1) point 3 is replaced by the following:

'3. DETERMINATION OF ACTUAL EMBEDDED EMISSIONS FOR COMPLEX GOODS

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

$$SEE_g = \frac{AttrEm_g + EE_{InpMat}}{AL_g}$$

Where:

- ***$AttrEm_g$ are the attributed emissions of goods g;***
- ***AL_g is the activity level of the goods, being the quantity of goods produced in the reporting period in that installation, and***

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– ***EE_{InpMat} are the embedded emissions of the input materials (precursors) consumed in the production process. Only input materials (precursors) listed in ANNEX I and originating in third countries and territories that are not exempted pursuant to Annex III, Section 1 are to be considered. The relevant EE_{InpMat} are calculated as follows:***

$$EE_{InpMat} = \sum_{i=1}^{n} M_i \cdot SEE_i$$

Where:

– ***M_i is the mass of input material (precursor) i used in the production process, and***

– ***SEE_i are the specific embedded emissions for the input material (precursor) i. For SEE_i the operator of the installation shall use the value of emissions resulting from the installation where the input material (precursor) was produced, provided that that installation's data can be adequately measured.';***

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(1) in point 4, the third sentence is deleted.***;***

(2) point 4.1 is amended as follows:

(-a) the first sentence is deleted;

(-aa) the second sentence is replaced by the following:

'Default 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 proportionately designed mark-up.';

(a) the fourth sentence is replaced by the following:

'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 ten exporting countries with the highest emission intensities for which reliable data can be applied for that type of goods.';

(b) the fifth sentence is deleted;

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(3) in point 7, the second paragraph is replaced by the following:

‘Where declarants for goods produced in a third country, a group of third countries or a region within a third country can demonstrate, on the basis of reliable data, that alternative region-specific adaptations of default values are lower than the default values determined by the Commission, such region-specific adaptations can be used.’

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ANNEX II

The following Annex VII is added:

‘ANNEX VII

Threshold referred to in Article ***2a***

1. The threshold referred to in Article ***2a*** shall be set at 50 tonnes of net mass.

2. For ▌ the ***purpose of Article 2a(3)***, the following methodology shall ***apply***:

$$\mathbf{\bar{Q}\ chosen\ such\ that\ \frac{\sum_{i=1}^{N} Em_i \times 1_(Q_i > \bar{Q})}{Total\ emissions} \geq target\ share\ of\ emissions\ of\ 99\%}$$

Where:

– $\bar{Q}$ is the mass-threshold in tonnes allowing to capture a given target share of emissions;

– Annual emissions per importer; $i, Em_i = \sum_{j=1}^{J_i} q_{i,j} EI_j$;

– $q_{i,j}$ is the imported volume in tonnes by importer i of the CN code j;

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– J_i is the number of CN codes imported by importer i among the four sectors considered (aluminium, cement, fertilisers, iron and steel);

– EI_j is the emission intensity for CN code j[13];

– $Total\ emissions$: the total emissions in CO2 of the four CBAM sectors considered, that is the sum of corresponding emissions for all importers: $total\ emissions = \sum_{i=1}^{N} Em_i$, where N is the number of importers;

– $Q_i = \sum_{j=1}^{J_i} q_{i,j}$: the total volume in tonnes of CBAM goods imported by importer i;

– $1(Q_i > \bar{Q})$ is an indicator function equal to 1 when $Q_i > \bar{Q}$ (that is, when an importer is importing volumes higher than the mass-threshold $\bar{Q}$), 0 otherwise.

To capture uncertainty over changes in trade patterns while maintaining the environmental objective of this Regulation, a margin of 0.25 percentage points is added to the ***above target share*** of ▌ emissions ▌ .

▌ The threshold shall be rounded to the nearest ten.

▌ ’.

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[13] The emission intensities E_j are based on default values (without mark-up) for emissions published for the transitional period. For cement and fertiliser products, direct emissions and indirect emissions are considered; for aluminium and iron and steel products, only direct emissions are considered. For future updates of the threshold, the default values shall be set in accordance with the methods set out in Annex IV without the mark-up as referred to in Section 4.1 of Annex IV.