Council of the European Union
General Secretariat

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NOTE

From:	General Secretariat of the Council
To:	Simplification
Subject:	CBAM - Compilation of written comments

Delegations will find enclosed comments received, by 27 March, from BE, CZ, DK, DE, IE, ES, FR, IT, MT, NL, AT, SK, FI and SE on the Omnibus I proposal on CBAM (doc. 6609/25).

MEMBER STATES COMMENTS

CBAM

v. 27.03.2025

PUBLIC

Contents

BELGIUM

I. Questions brought up on a political level and more technical questions

Please find below the Belgian feedback regarding Omnibus Package I, COM87, CBAM.

The questions in part 1 are the result of reflections brought up during political consultation.

However, also the more technical questions in Part 2 require according to Belgium clarification due to their significance. We defer to the Presidency and the Commission to determine whether these questions will be addressed in the AGS or in another forum.

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Part 1 – Questions resulting from political consultation

Regarding Scope:

- Could you define "in the context of military activities"? (Article 2 paragraph 3). Could you please clarify what would be subject to CBAM and what excluded in the context of military activities?

Regarding Emissions calculation:

- Does the Commission intend to take measures to encourage importers to opt for real values (with strict control criteria) instead of default values? Or is the markup price for default values considered to be enough incentive?

- Would it be possible to provide a definition of "region"? Is it meant in a broad sense considering cross-border countries, or is it meant in a strict sense as an administrative entity (region) within the same country?

Regarding reporting

- **Article 22:** Proposal to postpone this deadline given the summer break, from 31 August to 30 September, if possible.

Part 2 – Important technical questions and drafting suggestions

I) Scope (incl. threshold)

a) Art 1(1) (Art 2 of the CBAM Regulation)

- **Article 2 paragraph 3a** :

Importers should rely on the data from their customs declarations to check whether the total mass of their imports during the year stays below the threshold. **Which data from the customs declarations should they take into account : the net mass or the gross mass?** It is assumed that net mass shall be taken into account, based on the new annex VII. However, **it might be appropriate to provide a definition of the term "mass-based threshold" in article 3 of the CBAM Regulation.**

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- **Article 2 paragraph 3a:**

Could you please confirm that the new cumulative mass-threshold exempt CBAM goods imported as personal effects contained in luggage of travelers or eventually when someone is moving into the EU from a Third country?

We propose to add a provision similar to the one used in Regulation (EU) 2024/573 of the European Parliament and of the Council of 7 February 2024 on fluorinated greenhouse gases, amending Directive (EU) 2019/1937 and repealing Regulation (EU) No 517/2014: "*This paragraph does not apply to products and equipment that are personal effects.*"

- **Article 2 paragraph 3a:**

Is it envisaged to consider the TARIC code for CBAM goods, in order to define CBAM obligations and easily monitor whether the mass-based threshold is exceeded?

b) Art. 1(19)(b) and (c) (Art. 25(3) and 25(4) of the CBAM Regulation)

- **Article 25 (3):**

Current text: *3. The Commission shall 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.*

We suggest the following amendment:

*The Commission shall communicate, **periodically and upon request of the competent authority**, 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.*

II) Enforcement (incl. monitoring, circumvention, penalties)

a) Art 1(19) (Art. 25 of the CBAM Regulation)

- Art.25 (3) – under block I

b) Art 1(20) (Art. 25a of the CBAM Regulation)

- **Article 25 a (3):** *[…] The competent authority shall also notify the customs authorities and the Commission of the decision via the CBAM registry.*

How will this notification to the customs authorities be implemented in concrete terms? Will customs officers have access to the CBAM Registry? Will there be an automated notification from the CBAM registry to the Customs authority? Will the CBAM registry communicate with CERTEX and/or with the Risk Assessments Tools of the Customs authorities (RIF, Alert Messages, …) ?

c) Art 1(21) (Art. 26 of the CBAM Regulation)

- **Article 26:**

The text should be also aligned with the new deadline. The old deadline of 31 May has been kept in the text.

III) Authorisation (incl: CBAM representative)

a) Art. 1(3) (Art. 5 of the CBAM Regulation)

Article 5, paragraph 1, is amended as follows: *"(...) An indirect customs representative shall submit the application for authorisation 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,* ***including where that importer is subject to the derogation pursuant to Article 2(3a).***"

Article 5, paragraph 2, is amended as follows: *"Where an importer is not established in a Member State, the indirect customs representative shall apply for the status of authorised CBAM declarant****, including where that importer is subject to the derogation pursuant to Article 2(3a)****.*"

From the explanations provided during the meeting on 14 March 2025, we understood that the indirect customs representative shall be an authorised CBAM declarant, irrespective of the quantity of CBAM goods imported by its client. Would it be possible to better clarify in the text (or recitals) that the importer not exceeding the threshold is not subject to CBAM when acting through indirect custom representation?

b) Art 1(11) (Art. 14 of the CBAM Regulation)

Article 14: *[...] 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.*

This provision does not seem to grant the same level of transparency between ETS and CBAM. We understand that some information can be covered by GDPR. However, relevant information on ETS installations are publicly available. Therefore, in principle, it is suggested to apply an analogous approach, as far as possible, for third-country installations, as this will also grant more acceptability and credibility of CBAM.

How the Commission envisages to grant data transparency in the framework of CBAM? Which information will be publicly available and in which format? In which upcoming legal act, will this clearly mentioned?

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IV) Reporting (incl. registry access, deadlines, customs-related issues)

a) Art. 1(2) (Art. 3 of the CBAM Regulation)

- **Article 3, paragraph 15.** The new definition of 'importer' includes a reference to the bill of discharge.

Could you please confirm that this change is also foreseen in articles 170 (2) and 175 (1) and (3) of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ? So that, the legislation is fully aligned and harmonised.

b) Art. 1(9) (Art. 10a of the CBAM Regulation)

- **Art. 10a, par. 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.*

The competent authority might be not automatically informed that a verifier is no longer accredited. **Is it envisaged to include in the secondary legislation that the national accreditation body shall notify the CBAM national competent authority as soon as a verifier is no longer accredited?**

- **Art. 10a:**

It is suggested to amend the current text to better align with Regulation (EU) 765/2008 that imposes our national accreditation body to act based on harmonized standards referenced in the OJEU. The standard mandatory for the Belgian accreditation body (BELAC) is ISO IEC 17011, that clearly defines the information to be provided (clause 7.8[1]).

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 ~~number~~ **identification** of the verifier

(b) the **scopes** of accreditation relevant for CBAM;

(c) the country of establishment of the verifier;

(d) the **effective** date of accreditation and, if applicable, its expiry or renewal date of accreditation certificate 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.**

[1] 7.8.1 The accreditation body shall provide information on the accreditation to the accredited conformity assessment body that shall identify the following:
a) the identity and, where relevant, the accreditation body logo;
b) the name of the accredited conformity assessment body and the name of the legal entity, if different;
c) scope of accreditation;
d) locations of the accredited conformity assessment body and, as applicable, the conformity assessment activities performed at each location and covered by the scope of accreditation;
e) the unique accreditation identification of the accredited conformity assessment body;
f) the effective date of accreditation and, if applicable, its expiry or renewal date;
g) a statement of conformity and a reference to the international standard(s) and/or other normative document(s), including issue or revision used for assessment of the conformity assessment body.

In relation to points c) and d), are this information needed and relevant, as the certificate contains already the location as per the clause 7.8.1 mentioned above?

c) Art 1(4) (Art. 6 of the CBAM Regulation)

- **Art. 6 (1):** *By 31 August 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*

We would suggest amending this deadline, given the summer break, from 31 August to 30 September. Lack of compliance would lead to unnecessary administrative and financial burdens for declarants and NCAs, as there will be a need to impose penalties. In addition, a deadline in September would also align with the ETS deadlines.

d) Art. 1(7) (Art. 9 of the CBAM Regulation)

- **Art. 9 (3a):** *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, based on the best available data from reliable, publicly available information and information provided by those third countries. 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.*

This approach should be systematically used. Therefore, **we would suggest replacing "may" with 'shall", ensuring an active role of the EC in this simplification measure.**

V) Emissions calculation (incl. non-calcined clay, default values (incl. verification), downstream processing, precursors produced in the EU, indirect emissions of electricity):

a) Art. 1(28), Annex I (Annex IV of the CBAM Regulation)

- **Annex IV - 4.1. Default values referred to in Article 7(2)**

Proposal: *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.*

It is important that the Commission clarifies:

- **How these ten countries will be identified?**
- **When the list of these ten countries will be communicated?**
- **What approach is envisaged in cases where data is unreliable for several countries?**
- **In addition, it is also key to understand the relationship between the countries with the highest emissions intensity and the trade flows with these countries.**

Furthermore, on the possibility for declarants to use lower regional default values where applicable, **would it be possible to show that some regions perform better than others within the same country? In this case, what kind of methodology would be used (e.g. exclusion of values better than the national average,**

resulting in a higher default value)? This is important to ensure the environmental integrity of CBAM throughout its implementation.

VI) Financial adjustment (incl. carbon price; certificate management, certificate sales (entry into force)):

a) Art.1(17) (Art. 23 of the CBAM Regulation)

- **Article 23**

As part of the ongoing simplification, **we propose that the repurchase of certificates is automated by default in the CBAM Registry and in the Common Central Platform**, and that the current legal text in paragraph 1is revised in this direction. This will reduce the administrative burden for declarants and competent authorities, and minimise any risk that exceeding CBAM certificates are not repurchased correctly, resulting in a financial loss for CBAM declarants.

Current text: *Where an authorised CBAM declarant so requests, the Member State where that authorised CBAM declarant is established shall repurchase the excess CBAM certificates remaining on the account of the declarant in the CBAM registry after the certificates have been surrendered in accordance with Article 22.*

The legal text could be amended as follows:

1. The Member State where that authorised CBAM declarant is established shall repurchase, ***by default and with the agreement of the authorised CBAM declarant,*** *the excess CBAM certificates remaining on the account of the declarant in the CBAM registry after the certificates have been surrendered in accordance with Article 22.*

- **Article 23:**

In line with the previous proposal, we would advise **31 October as deadline** to request the repurchase of CBAM certificates.

b) Art 1(18) (Art 24 of the CBAM Regulation)

In line with the previous proposal, we would advise **1 November as deadline**, instead of October.

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II. BE drafting suggestions

Please find below the Belgian drafting suggestions regarding Omnibus Package I, COM87, CBAM.

VII) Scope (incl. threshold)

c) Art 1(1) (Art 2 of the CBAM Regulation)

- **Article 2 paragraph 3a** :

PUBLIC

It might be appropriate to provide a definition of the term "mass-based threshold" in article 3 of the CBAM Regulation.

- **Article 2 paragraph 3:**

It might be appropriate to define "in the context of military activities" to better delineate what is subject to CBAM and what it is excluded.

PUBLIC

d) Art. 1(19)(b) and (c) (Art. 25(3) and 25(4) of the CBAM Regulation)

- **Article 25 (3):**

Current text: *3. The Commission shall 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.*

We suggest the following amendment:

*The Commission shall communicate, **periodically and upon request of the competent authority**, 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.*

VIII) Enforcement (incl. monitoring, circumvention, penalties)

d) Art 1(21) (Art. 26 of the CBAM Regulation)

- **Article 26:**

The text should be also aligned with the new deadline. The old deadline of 31 May has been kept in the text.

IX) Authorisation (incl: CBAM representative)

c) Art. 1(3) (Art. 5 of the CBAM Regulation)

Article 5, paragraph 1, is amended as follows: *"(...) An indirect customs representative shall submit the application for authorisation 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, **including where that importer is subject to the derogation pursuant to Article 2(3a).***"

Article 5, paragraph 2, is amended as follows: *"Where an importer is not established in a Member State, the indirect customs representative shall apply for the status of authorised CBAM declarant**, including where that importer is subject to the derogation pursuant to Article 2(3a)**."*

From the explanations provided during the meeting on 14 March 2025, we understood that the indirect customs representative shall be an authorised CBAM declarant, irrespective of the quantity of CBAM goods imported by its client. Would it be possible to better clarify in the text (or recitals) that the importer not exceeding the threshold is not subject to CBAM when acting through indirect custom representation?

We do not have a particular draft suggestion, however it is better to clarify this point, at least in the recitals, to make sure that the provisions are well understood and implemented coherently across the EU.

X) Reporting (incl. registry access, deadlines, customs-related issues)

e) Art. 1(9) (Art. 10a of the CBAM Regulation)

- **Art. 10a:**

It is suggested to amend the current text to better align with Regulation (EU) 765/2008 that imposes our national accreditation body to act based on harmonized standards referenced in the OJEU. The standard mandatory for the Belgian accreditation body (BELAC) is ISO IEC 17011, that clearly defines the information to be provided (clause 7.8[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: *[draft suggestion in bold]*

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

(b) the **scopes** of accreditation relevant for CBAM;

(c) the country of establishment of the verifier;

(d) the **effective** date of accreditation and, if applicable, its expiry or renewal date of accreditation certificate 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.**

f) Art 1(4) (Art. 6 of the CBAM Regulation)

- **Art. 6 (1):** *By 31 August 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*

We would suggest amending this deadline, given the summer break, from 31 August to 30 September. Lack of compliance would lead to unnecessary administrative and financial burdens for declarants and NCAs, as there will be a need to impose penalties. In addition, a deadline in September would also align with the ETS deadlines.

[2] 7.8.1 The accreditation body shall provide information on the accreditation to the accredited conformity assessment body that shall identify the following:
a) the identity and, where relevant, the accreditation body logo;
b) the name of the accredited conformity assessment body and the name of the legal entity, if different;
c) scope of accreditation;
d) locations of the accredited conformity assessment body and, as applicable, the conformity assessment activities performed at each location and covered by the scope of accreditation;
e) the unique accreditation identification of the accredited conformity assessment body;
f) the effective date of accreditation and, if applicable, its expiry or renewal date;
g) a statement of conformity and a reference to the international standard(s) and/or other normative document(s), including issue or revision used for assessment of the conformity assessment body.

g) Art 1(16)(a) (Art. 22(1) and 22(2) of the CBAM Regulation)

- **Article 22:** Proposal to postpone this deadline given the summer break, from 31 August to 30 September

h) Art. 1(7) (Art. 9 of the CBAM Regulation)

- **Art. 9 (3a):** *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, based on the best available data from reliable, publicly available information and information provided by those third countries. 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.*

This approach should be systematically used. Therefore, **we would suggest replacing "may" with 'shall", ensuring an active role of the EC in this simplification measure.**

XI) Financial adjustment (incl. carbon price; certificate management, certificate sales (entry into force)):

c) Art.1(17) (Art. 23 of the CBAM Regulation)

- **Article 23**

As part of the ongoing simplification, **we propose that the repurchase of certificates is automated by default in the CBAM Registry and in the Common Central Platform**, and that the current legal text in paragraph 1is revised in this direction. This will reduce the administrative burden for declarants and competent authorities, and minimise any risk that exceeding CBAM certificates are not repurchased correctly, resulting in a financial loss for CBAM declarants.

Current text: *Where an authorised CBAM declarant so requests, the Member State where that authorised CBAM declarant is established shall repurchase the excess CBAM certificates remaining on the account of the declarant in the CBAM registry after the certificates have been surrendered in accordance with Article 22.*

The legal text could be amended as follows:

1. The Member State where that authorised CBAM declarant is established shall repurchase, ***by default and with the agreement of the authorised CBAM declarant,*** *the excess CBAM certificates remaining on the account of the declarant in the CBAM registry after the certificates have been surrendered in accordance with Article 22.*

- **Article 23:**

In line with the previous proposal, we would advise **31 October as deadline** to request the repurchase of CBAM certificates.

d) Art 1(18) (Art 24 of the CBAM Regulation)

In line with the previous proposal, we would advise **1 November as deadline**, instead of October.

PUBLIC

CZECH REPUBLIC

- Article 17 (7) of the CBAM Regulation specifies the date (31 May) by which the competent authority shall release the guarantee. That date should correctly correspond to the dates referred to in Articles 6 (1) and 22 (1) of the Draft Regulation (31 August).
- Article 26 (1) of the CBAM Regulation specifies the deadline (31 May) by which the number of CBAM certificates shall be surrendered by the authorised CBAM declarant. That date should correctly correspond to the dates referred to in Articles 6 (1) and 22 (1) of the Draft Regulation (31 August).
- Article 36 (2) (b) of the Draft Regulation should also include the provision of Article 2 (3a) of the CBAM Regulation. In the absence of such a provision it would mean that this derogation would already apply during the transitional period, which is not in line with the Commission's statement that the proposed amendments only affect the definitive period and are not intended to interfere in the transitional period.

PUBLIC

DENMARK

Scope and threshold

Art. 1 (1) (b) and art. 1 (3) (a)

It is unclear when reading these two articles if all companies importing CBAM goods should be registered as authorised declarants, even though they do not import CBAM goods exceeding the thresholds of 50 ton. The articles are in our view contradicting.

It should be clarified in the text if all companies importing CBAM goods should be registered as authorised declarants even though they do not exceed the threshold, or if only companies importing CBAM goods *exceeding* the thresholds of 50 ton should be authorised declarants.

Art. 1 (25) – Annex I

The exclusion of non-calcined kaolinic clays seems to be done at the goods description level, not at the CN code level. The goods description declared in an importers customs declaration is not subject to the same level of control and scrutiny as the CN codes are, as these are not standardized. The issue arises from kaolinic clays – both calcined and non-calcined – having the same CN code.

1. Can COM clarify how it and customs aim to track imports of kaolinic clays and how it will be able to sort between calcined and non-calcined kaolinic clays?

2. Do COM foresee that extra measures are needed to prevent circumvention where calcined kaolinic clay, is declared as non-calcined kaolonic clay at the goods description level?

Enforcement

1(16)(b) Article 22 paragraph 2

Due to the new compliance deadline the importers will have the certificates for the preceding year on their account for two quarters before the certificates are surrendered. Can COM explain if the requirement to hold 50 pct. certificates is *excluding* the certificates related to the preceding year's import?

As the requirement to hold 50 pct. certificates is securing that the importers pay according to the CBAM regulation, it will lose its securing effect if it is unclear how to handle it when entering a new calendar year.

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Example:
If there is a requirement for a company to hold 200 certificates in 2027, these certificates will remain in the company's account until they will be surrendered in August 2028. If this means that these 200 certificates will be included in the total stock of the account in 2028, there will not be a need to purchase certificates before the requirement for 2028 exceeds 200 certificates or before the 200 certificates are surrendered in August.

PUBLIC

Art. 25 (1) (not changed with simplification proposal) along with revised art. 22 (2)
Art. 25(1) states that no import of goods is allowed without an authorisation. With the proposed simplifications import of goods below the threshold is allowed without authorisation and the revised article 22 (2) allows for import above the threshold without an authorisation but with a fine as a consequence. Art 25(1) should therefore be adjusted or deleted.

Article 26 paragraph 1(not changed with simplification proposal)
The deadline in art. 26(1) should be adjusted to align with the deadline proposed in art. 22 (1).

Changes in the Customs authorities' obligations
With the proposed art. 1(19), it is added to the CBAM regulation art. 25 that Customs authorities shall deliver additional Surveillance data to the Commission, i.e. information on name, address and contact details.

Art. 25 states: "The customs authorities shall periodically and automatically, in particular by means of the surveillance mechanism (…)".

If the Commission intends for this additional data to be send via Surveillance, this will require an amendment to annex 21-03 in the implementing act no. 2015/2447 of Regulation (EU) No 952/2013 laying down the Union Customs Code. It will be necessary to add these data elements in Surveillance and, possibly, to perform amendments to the extraction of data elements from the National Import System. If the Commission intends for this data to be send via other means of communication than Surveillance, we will need to be informed herof to assess the implications for Customs. One possibility is also for the Commission to extract this information on its own from the EORI system.

With art. 1(20) it is proposed that customs authorities shall give proof that an importer has exceeded the threshold. However, it is not possible for the customs authorities to deliver such proof.

Therefore, the text should be changed to only oblige customs authorities to deliver data that can be taken into account when accessing if an importer has exceeded the thresholds.

PUBLIC

Reporting

1(1)(b) - Article 2 (3a) and article 3 (15)

The threshold is on the importer level and the importer must be authorised no matter if he imports the goods himself or if he uses an indirect declarant. As both the importer and the indirect customs representative will be authorised as CBAM declarant, it is unclear who has the compliance obligations. It can be more complicated if the importer uses several indirect customs representatives as CBAM declarants. In accordance with art. 22(1) the authorised declarant has the obligation to surrender CBAM certificates.

1. Can COM explain who has the compliance obligations as both the importer and the indirect declarant are authorised, the threshold is at the importer level and the authorised declarant has the compliance obligations?

2. Can COM please elaborate how it can be tracked when the threshold is reached by an importer using several different indirect declarants registered in different MS and how the indirect declarants importing on behalf of the same importer shall manage the compliance obligation as it is not possible for the individual indirect declarant to determine when the threshold is reached?

3. Will COM provide information to NCA and declarants when a declarant is getting close to the threshold so that the declarant can apply for authorisation and prepare to buy certificates?

1(4)(a) Article 6 paragraph 1 and (16)(a) Article 22 paragraph 1

Can COM explain the reasoning for choosing the 31 August as the compliance deadline? August is summer holiday period for many European companies. The corresponding deadline in the ETS is 30 September.

Financial adjustments

Denmark is concerned about the lack of predictability for the importers in calculating the price for imported CBAM goods in 2026. Contracts are being negotiated in 2025 for delivery in 2026, but the importers cannot predict the embedded emissions, nor the price of certificates related to the goods.

The price for certificates to cover 2026 import is proposed calculated on a quarterly basis and published after the end of the quarter, however there is no historical data on the price for

certificates. We fear that many importers will be left with a CBAM bill in 2027 that they cannot afford as they cannot foresee the costs when the contracts are being negotiated.

Denmark therefor proposes to set a fixed price on certificates related to 2026 for instance based on the average price for allowances in 2024.

Furthermore, we urge the Commission to establish a tool where the importers can calculate the emissions related to the different types of goods for instance based on standard values.

Proposed textual changes:
Article 21 para1a: By way of derogation from paragraph 1, for the year 2026, the Commission shall calculate the price of CBAM certificates that corresponds to the embedded emissions declared in accordance with Article 6(2), point (b), ~~in 2027~~ as the ~~quarterly~~ average of the closing prices in 2024 of EU ETS allowances on the auction platform, in accordance with the procedures laid down in Regulation (EU) No 2023/2830~~, of the quarter of importation of the goods to which those emissions correspond~~.

PUBLIC

GERMANY

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- Amendments to Art. 25a para (2) 1st subpara:

  "Where the Commission considers, based on a preliminary assessment and the data that the customs authorities have communicated to the Commission pursuant to Article 25(2), that an importer has exceeded the threshold, it shall communicate the information on which the preliminary assessment is based to the competent authority of the Member State where the importer is established."

- Amendments to Art. 25a para (2) 2nd subpara:

  "The competent authority may request from the importer ***~~, the customs authorities~~*** *or the Commission documentary evidence necessary for assessing whether the importer has exceeded the threshold.* ***Where the documentary evidence provided by the importer or the Commission is not sufficient to assess that the importer has exceeded the threshold, the competent authorities may request additional documentary evidence from the customs authorities if available.****"*

- Recital (26) CBAM regulation
  - *However, where the goods have been introduced into the Union by a person other than an authorised CBAM declarant without complying with the obligations under this Regulation, the amount of those penalties should be higher in order to be effective, proportionate and dissuasive, also taking into account the fact that such person* ***will be ~~is~~ ~~not~~*** *obliged to surrender CBAM certificates.*

- Omnibus 1(21) regarding Art. 26 (2) last sentence

  The payment of the penalty shall ***not*** *release the person from the obligation to submit a CBAM declaration or surrender certificates* ***in a given year***

GER written comments to the proposal for a regulation amending Regulation (EU) 2023/956 to simplify and strengthen the CBAM

Proposed amendments to the legal text of the ordinance are *in italics and underlined*

18.03.2025

Omnibus Regulation	**CBAM Regulation 2023/956**	**Remark**	**Proposed amendment**

Recital (4), (5) Art. 2 (3a), Annex II		50 tonnes threshold is not sufficiently specified. Currently, it could refer to: 50 tons per importer per calendar year considering all CN codes or 50 tons per importer per calendar year per CN code. Our understanding is, that it refers to all CN codes of one importer. We have a scrutiny reserve concerning the idea of regularly adjusting the threshold. It should be discussed whether it is necessary to regularly adjust the threshold to meet exactly 99% of the emissions. In this case, there must be sufficient lead time to implement a suitable communication strategy. Background: Importers' orders are placed with lead time and trained personnel are required for the application of the CBAM; in this respect, any adjustment of the threshold must take into account the importers' planning capability and planning security.	The threshold set at a level of 50 tonnes *total mass of goods for all CN codes aggregated, cumulatively for all goods per importer per calendar year* will exempt […].
Commission Staff Working Document accompany-ing the Omnibus proposal (point 3)	Art. 2 III	In addition to energy-intensive industrial products, CBAM also applies to electricity imports. COM has clarified in its CBAM FAQs that the CBAM does not apply to electricity produced by offshore wind farms in the exclusive economic zone of a MS. However, there are still legal risks that should be eliminated by means of amendments to the CBAM Regulation. A solution should 1. ensure that no CBAM payments are due for electricity from offshore wind farms in the EEZ of a MS, 2. be implemented early enough so as not to jeopardize investments and the operation of offshore wind farms, 3. promote bureaucracy reduction, i.e. it should result in no CBAM reports having to be submitted for 'imports' of electricity from offshore wind farms from the EEZ in the EU, 4. also work for future offshore wind farms that are connected to more than one country ('hybrid projects') by avoiding any payments and reporting obligations if all connected countries are part of or linked to the EU ETS,	By way of derogation from paragraphs 1 and 2, this Regulation shall not apply to: […] (*d) electricity generated exclusively in the exclusive economic zone of a Member State and imported directly into the EU customs territory.* Alternatively, it could be introduced in Annex III, point 2 of the CBAM Regulation by way of a delegated act according to Art. 2 (11) CBAM Regulation.

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		5. do not open up new opportunities to circumvent CBAM, i.e. do not allow electricity from regions outside the EU EEZ to enter the EU without surrender CBAM certificates.	
1(1b)	Art. 2(3a)	The threshold should be more clearly defined. Currently, it could refer to: 50 tons per importer per calendar year considering all CN codes or 50 tons per importer per calendar year per CN code. Our understanding is, that it refers to all CN codes of one importer.	By way of derogation from paragraphs 1 and 2, importers, including authorised CBAM declarants, shall be exempted from the obligations under this Regulation, where the goods listed in Annex I to this Regulation, with the exception of electricity and hydrogen, do not exceed the mass-based threshold laid down in Annex VII to this Regulation. *This threshold applies cumulatively to all goods, with the total mass of goods for all CN codes aggregated, per importer and per calendar year.*

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No omnibus reference	Art. 3(4, 15)	Currently, the definitions of importation and importer only include cases of lodging a customs declaration for release for free circulation. This definition doesn't include cases where a person doesn't lodge a customs declaration or doesn't in any other way comply with customs regulation. It should be reviewed whether the definition of importation and importer needs to include such cases. The definition of unlawful entry in Directive (EU) No 2020/262 could serve as an example. The necessity for this review stems from the fact that such persons can't be penalized in accordance with Art. 26(2). Such importers are not addressed by the regulation because only importers as set out in the current definition have, prior to importing goods into the customs territory, to apply for the status of authorized CBAM declarant (Art. 5(1)). Persons who do not fall under this definition don't have the obligation to comply with the CBAM-Regulation. These persons are therefore unduly privileged compared to importers who comply with customs regulation. Furthermore, this might be a way to circumvent CBAM. The means of communication would have to be considered.	
No Omnibus reference	Art. 3(18)	We had stated in the antici subgroup (Simplification) on March 14 that, according to our legal assessment, a definition of verifier is required in Article 3 before the start of the regulatory phase. COM referred to the outstanding IAs	Add Art. 3 No 35 to include a definition for "verifier" similar to Art 3(3) (EU) 2018/2067. *'verifier' means a legal person or another legal entity carrying out verification activities pursuant to this*

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		as a solution. From our perspective, however, we need to adjust the regulation first in order to be able to regulate the details in a subsequent legal act. Against this background, we would like to make the following comments regarding Art. 3 and 18 CBAM regulation: Article 18 of the CBAM Regulation addresses accreditation to a "person". 'person' means a natural person, a legal person or any association of persons which is not a legal person but which is recognized under Union or national law as having the capacity to perform legal acts; But accreditation based on (EU) 765/2008 is addressed to "conformity assessment bodies". According to Article 2(13) 765/2008, "conformity assessment body" means a body that carries out conformity assessment activities including calibration, testing, certification and inspection. Consequently, Article 3(3) (EU) 2018/2067 defines a "verifier" as a legal person carrying out verification activities in accordance with this Regulation and accredited by a national accreditation body in accordance with Regulation (EC) No 765/2008 and this Regulation, … The second part of the sentence also opens up the possibility for another professional group, e.g. EMAS auditors (natural persons) who are not accredited but "otherwise authorized". We propose to insert a definition for the term verifier in accordance with Art. 3 (3) 2018/2067 in Art. 3 No. 35 CBAM regulation for eliminating the inconsistency.	*Regulation and accredited by a national accreditation body pursuant to Regulation (EC) No 765/2008 and this Regulation or a natural person otherwise authorized, without prejudice to Article 5(2) of that Regulation, at the time a verification report is issued.*

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No omnibus reference	Art. 4	At the moment Article 4 still regulates: "Goods shall be imported into the customs territory of the Union only by an authorised CBAM declarant. " This provision should clearly state that the derogation in Art. 2 (3a) remains unaffected by this. If the derogation of Article 2 (3a) is not included in Article 4, an authorisation for all importers would still be necessary, in order to import goods into the union. Therefore, an amendment has to be made so nonauthorised importers who are subject to the derogation set out in Article 2(3a) are still able to import goods into the customs territory of the Union. The COM has announced in bilateral meetings that it will 'warn' importers if they come close to the threshold and do not yet have authorisation. Our question would be:	Goods shall be imported into the customs territory of the Union only by an authorised CBAM declarant *or an importer who is subject to the derogation pursuant to Article 2(3a)*.

		(1) what legal nature will this advance warning have? Will this be non-binding information or will there be legal consequences for non-compliance? (2) Will this warning be sent from the COM to • the importer via the NCA or • directly from the COM to the importer?	
1(3a)	Art. 5 (1)	To avoid any confusion, we recommend adding an addition to Article 5(1). This addition should clarify that authorization is not required for imports below the threshold. Without this addition, the link between the authorization requirement and the import quantity would be less clear.	Any importer established in a Member State shall, prior to importing goods into the customs territory of the Union, apply for the status of authorized CBAM declarant ('application for an authorization'). *In derogation from sentence 1 importers who are subject to the derogation pursuant to article 2(3a) do not have to apply for the status of authorized CBAM declarant.*

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1(3b)	Art. 5 (1a)	The new paragraph 1a is not in accordance with Article 5 paragraph 1. First of all, an exemption needs to be regulated in Article 5 paragraph 1 (see our suggestion above). Then an exemption of this exemption can be regulated in paragraph 1a. If this is not adapted, there would still be the obligation for all importers to apply for authorisation. The new Art. 5 (Ia) should regulate that an import above the threshold is not possible and thus establish a substantive link with Art. 4 and 25. Imports beyond the threshold have consequences in accordance with Art. 25 ff. Accordingly, it should be clear that the application for authorization must be submitted before the import above the threshold.	*In derogation from paragraph 1 sentence 2 an importer who is subject to the derogation pursuant to article 2 (3a), shall submit the application for an authorization in accordance with paragraph 1 where the importer expects to exceed the threshold laid down in point 1 of Annex VII.* Alternatively, we propose the following text: *Any importer established in a Member State, who expects to exceed the threshold laid down in point 1 of Annex VII, shall, prior to importing goods into the customs territory of the Union, apply for the status of authorized CBAM declarant.*
No Omnibus reference	Art. 5(4)	The CBAM regulation seems to be vague on the rules for authorisation for importers importing both electricity and other CBAM goods. While so far this would likely not concern a high number of importers, it should be clarified that while importers of electricity are to be regarded as an authorised CBAM declarant, separate authorisation is necessary for importing non-electricity CBAM goods above the threshold.	
No Omnibus reference	Art. 5 V (b)	As already known from previous discussions, we still see potential problem that even with the new threshold there might be cases in which importers do not have an EORI number. We would like to ask the COM to clarify how these cases will be addressed.	

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5(b)	Art. 7(2) in conjunction with point 4.1 of Annex IV and Art. 7(7)	Article 7(7) provides for a choice between the use of default values and actual values in emissions reporting. This should also apply to Article 7(2), including Annex IV point 4.1. Declarants should be allowed to freely choose between actual embedded emissions and default values with a mark-up. Article 7(2) and Annex IV point 4.1 still contain the condition that default values may only be used if actual emissions cannot be adequately determined which is misleading.	Embedded emissions in goods other than electricity shall be determined *either*: a) based on actual emissions in accordance with the methods set out in point 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.
1 (5)	Art. 7 (5) in conjunction with Annex V 2.	For the NCA, an addition to the requirement according to Annex V would be necessary in order to be able to understand the calculation of embedded emissions. We would propose the following addition to Annex V point 2:	Add in Annex V 2. *(e) information used to calculate the embedded emissions of the goods (method to calculate)*
(7)	Art. 9 III a, sentence 1.	A choice between the use of default values and actual values should also apply for carbon prices. (see comment on Omnibus Regulation 5(b))	
Article 1 Paragraph 10 (a)	Article 11 Paragraph 1, first subparagraph	We welcome the introduction of an opening clause in the CBAM regulation. However, we would like to draw attention to one aspect: As already communicated in order to ensure a legally compliant implementation of CBAM in Member States, the exchange of the relevant data between the different competent authorities, the customs authorities and the Commission is essential. Based on European Law national legislation can only be enacted in areas that have not yet been conclusively regulated at European level. As the CBAM regulation already regulates the data exchange it would be preferable that the regulation would regulate the data exchange conclusively. Therefore, it is unclear how the Member States should ensure that the designated authority has all the powers. Please clarify this new subparagraph. We would also like to point out that data exchange should be regulated uniformly and thus at the level of the CBAM regulation in order to function as intended. Individual national regulations would contradict this.	

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No Omnibus reference	Art. 14 (2)	The potential for simplification should be exploited by automatic provision of data by • Automatic provision of standard values in the CBAM register; • Automatic data transfer by COM from customs declaration communicated as set out in Article 25(2) to CBAM register: Default values should be pre-set in the CBAM portal. This means that if the CBAM declarant decides to use default values, the corresponding default values	Additional point (e) and (f): *(e)* *the corresponding default value according to the CN code and exporting country.* (f) *all information related to CBAM goods declared on import by CBAM declarants in accordance with article 162 of the Regulation (EU) No 952/2013. This applies in*
		according to CN code and exporting country will be filled in automatically. This makes it easier for declarants to create their CBAM declarations and at the same time reduces the risk of errors which could arise from incorrectly transferring the default values from Excel lists provided. The quantities of imported CBAM goods specified in the customs declaration should also be provided automatically in the CBAM portal so that they do not have to be entered again by the declarants. The declarants remain responsible for the accuracy of the information. The technical interface for providing the quantities of CBAM goods must be developed by the COM. This proposal for simplification offers the potential to reduce inaccurate entries by declarants such as the incorrect use of commas and dots for thousands and decimal separators or the incorrect specification of quantities in kilograms instead of tons. The declarants would benefit as they would not need to declare the quantities of CBAM goods twice, i.e. once with the customs declaration and once again with the CBAM declaration. The NCAs would also have a reduced burden in terms of verification of the declarations. Overall, the automatic provision of information reduces the workload and increases acceptance among declarants.	*particular to the quantities of goods declared in the customs declaration.*

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No Omnibus reference	Art. 17(2)	We welcome the fact that the COM will provide the data from the AEO customs declaration during the examination of the authorisation as CBAM declarant.	
No Omnibus reference	Art. 17 (7)	The utilization of the CBAM guarantee requires legal authorization. National regulations are not applicable here, as a special regulation is required for the utilization of the CBAM guarantee.	The competent authority shall release the guarantee immediately after 31 ~~*May*~~ *August* of the second year in which the authorized CBAM declarant has surrendered CBAM certificates in accordance with Article 22. *If the authorized CBAM declarant does not fulfil its obligations under this Regulation the guarantee may be appropriated in favor of the public treasury of the member state in which the authorized CBAM declarant is established by the national competent authority.*
1(12b)	Art. 17 paragraph 8	Consultation and right to be heard should only be required if revocation is requested by NCA; the current text is ambiguous in that aspect because the provisions are valid both when the NCA and when the declarant revokes. This also holds for giving reasons for the decision and the right for appeal.	*(8a) The competent authority shall revoke the status of authorised CBAM declarant where the authorised CBAM declarant requests a revocation.*
No Omnibus reference	Art. 18(1)	Article 18 I classify EU ETS verifiers with suitable activities as accredited under the CBAM Regulation. We address an urgent need for regulation here that complies with European accreditation standards and protects the system from monitoring gaps.	*A verifier issuing a verification report to a declarant must be accredited for the scope of activities for the purpose of this Regulation.* ~~*Any person accredited in accordance with Implementing Regulation (EU)*~~

		In this context, the German Accreditation Body (DAkkS) regularly points out that it is an erroneous reference if the legislator requires accreditation under another program/standard as a competence, but the activity to be performed is not covered by the technical scope of the accreditation. The further consequence is that the conformity assessment activities (verification) performed can neither be reviewed for the first time by the accreditation authority nor be subject to monitoring by the accreditation authorities. However, according to the current wording of Article 18, applying for independent CBAM accreditation is not a mandatory requirement for verification bodies. Since the scopes/activity groups specified in Implementing Regulation (EU) 2018/2067 do not fully correspond to the activities within the CBAM framework, the calculation methodology is also different between CBAM and the EU ETS, and no audits are carried out in third countries within the EU ETS, it is imperative that the national accreditation bodies (NABs) introduce a specific CBAM accreditation scope. The subordinate legal act must then regulate, on the one hand, the general competencies required by this verifier and, on the other hand, for the EU ETS verifier the additional competencies required (additional besides ETS accreditation). This differentiation is not needed by Article 18. This is the only way to ensure the absolutely necessary effective control of CBAM by the national regulatory bodies, so as not to jeopardize the integrity of the system upon its introduction.	~~*2018/2067 for a relevant group of activities shall be an accredited verifier for the purpose of this Regulation.*~~ *The Commission is empowered to adopt implementing acts to identify relevant groups of activities in accordance with Implementing Regulation (EU) 2018/2067* ~~*by providing an alignment of the qualifications of an accredited verifier*~~ *that are necessary to perform verifications for the purpose of this Regulation with the relevant group of activities listed in Annex I to Implementing Regulation (EU) 2018/2067 and indicated in the accreditation certificate. Those implementing acts shall also cover requirements for the qualifications of verifiers that does not have an accreditation within the meaning of sentence 2 and shall be adopted in accordance with the examination procedure referred to in Article 29(2) of this Regulation.*
No Omnibus reference	Art. 18(2)	Needs for urgent additional adjustments following the amendment proposal under Art. 18 (1).	*The Commission is empowered to adopt delegated acts in accordance with Article 28 in order to supplement this Regulation by specifying the conditions for granting of accreditation referred to in paragraph 1 of this Article, for the control and oversight of accredited verifiers, for the withdrawal of accreditation and for mutual recognition and peer evaluation of accreditation bodies.*

No Omnibus reference	Art. 19 (1)	According to Art. 19 I: *„The Commission shall have the oversight role in the review of CBAM declarations."* On the other side: "*During the definitive period the Commission will be in charge of the majority of the tasks resulting from the CBAM regulation*." See page 25 of (SWD (2025) 58 final; Brussels, 26.2.2025; 2025/0039 (COD) With the change of the CBAM regulation to an annual threshold and the resulting decisive importance of data collection, transfer and monitoring from the COM to the NCAs (NCAs do not receive data from customs and are	

		therefore solely dependent on the data from the COM), the supervisory function of the COM loses partially its relevance. The COM would be supervising itself here. In this regard, we would also like to encourage the creation of a CBAM Compliance Taskforce comparable to the structures in EU ETS 1 in order to ensure common and uniform CBAM enforcement.	

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No Omnibus reference	Art. 20 I and VI	The obligation for authorized CBAM declarants to pay a fee when purchasing CBAM certificates as established in in the current draft of Art. 36 JPA is an externally assigned revenue (EAR) in accordance with Art. 21 of the Financial Regulation 2024/2509. Art. 21 V specifies that a revenue must be provided in a basic act and only its assignment to specific items of expenditure may be assigned in a basic act. What categorizes as a basic act is conclusively regulated in Art. 2 (4) of the Financial Regulation and does not include IA. Art. 290 I TFEU contains the requirement to regulate essential issues in a basic act. The establishment of a fee is such an essential issue as it introduces a new financing element for the COM, which interferes in legal positions of the CBAM declarants. Therefore, the establishment of a fee system must be regulated in Art. 20 I of the CBAM Regulation. The modalities of such a fee system can be specified in an IA, this shall be emphasized in Art. 20 VI of the CBAM Regulation.	Art. 20 I A Member State shall sell CBAM certificates on a common central platform to authorized CBAM declarants established in that Member State. *The costs of the establishment and management of the CCP shall be paid for through fees paid by authorized CBAM declarants when they purchase CBAM certificates.* Art. 20 VI The Commission shall adopt delegated acts in accordance with Article 28 supplementing this Regulation by further specifying the timing, administration and other aspects related to the management of the sale**,** *the establishment and modalities of a fee system* and repurchase of CBAM certificates, seeking coherence with the procedures of Commission Regulation (EU) No 1031/2010.
1(15)	Art. 21 (a) and (b)	The term used to refer to the price in the CAP auctions “closing price” is misleading as it is not an end of day price. The term of the Auctioning Regulation related to the price established in an auction should be used.	Replace “closing price” with “auction clearing price”
1(16)	Art. 22 (2)	The wording could be misleading: In the former version the embedded emissions used to determine the required CBAM certificate on the CBAM declarants account in the registry were determined by reference to default values. After the amendment it appears as if the points (a) default values […] and	Please rephrase to make it clear that (a) and (b) in paragraph 2 refer to the embedded emissions rather than the adjustment for free allocation

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		(b) the number of CBAM certificates surrendered in accordance with paragraph 1 […] refer to taking into account the adjustment for free allocation rather than the embedded emissions.	
No omnibus reference	Art. 25(1)	This paragraph would need changing in order for customs to be able to comply with the omnibus changes. Customs authorities don't have the data to determine by themselves whether an importer cumulatively exceeded the threshold in the course of a year, as an aggregation of import data doesn't take place, or by importing into EU customs territory via several MS. Art. 25a(3) opens the possibility for customs authorities to be informed by the monitoring authorities of a decision that the threshold has been exceeded by an importer. Only in such cases should the customs authority not allow the importation of goods. Once an importer has been granted an authorization as CBAM declarant, customs authorities are capable of identifying him as such if he enters his CBAM-account-number or EORI in the customs declaration data and can release the goods. The information according to Art. 25 a (3) must be submitted to the electronical customs clearance process of the member states by COM. We also refer here to our commentary on Recital (5) and Annex II, Art. 4 and 14 I. We ask the COM to consider these comments on the follow-up questions arising from the introduction of the annual threshold as a single concern.	The customs authorities shall not allow the importation of goods by any person other than an authorised CBAM declarant *where the customs authorities have been informed of a decision pursuant to Article 25a(3).*
1(19a)	Art. 25(2)	Name, address and contact information are not contained in Annex 21-03 of Implementing regulation (EU) No 2015/2447 and can therefore not be transmitted via Surv3 pursuant to Art. 56(5) of Regulation (EU) No 952/2013. This would necessitate an amendment to this Annex and the Surv3 interface.	

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1(20)	Art. 25 a (2)	First and foremost, the COM and the importer must provide documentation to verify that the threshold has been exceeded. If this is not sufficient, the NCA can ask customs authorities whether they have additional information, provided that this is available at customs authorities. The monitoring of the threshold is comparable to the monitoring of tariff quotas by the COM. For this purpose, the imported quantities are reported to the COM via a database operated by it, analogous to Art. 25 (2). The quotas are then automatically taken into account during clearance. We propose an amendment to the wording in order to clarify that information for the review pursuant to Art. 25 (2) is already transmitted to the COM.	*Where the Commission considers, based on a preliminary assessment and the data that the customs authorities have communicated to the Commission pursuant to Article 25(2), that an importer has exceeded the threshold, it shall communicate the information on which the preliminary assessment is based to the competent authority of the Member State where the importer is established.*

			In addition, we propose the following amendment to Art. 25a (2) subpar. 2: The competent authority may request from the importer~~, the customs authorities~~ or the Commission documentary evidence necessary for assessing whether the importer has exceeded the threshold. *Where the documentary evidence provided by the importer or the Commission is not sufficient to assess that the importer has exceeded the threshold, the competent authorities may request additional documentary evidence from the customs authorities if available.*

1(20)	Art. 25a (3) third sentence	It does not seem effective if each NCA contacts each customs authority individually and/or through different channels. This would rather lead to chaos and ultimately cause the system to fail. Since companies are allowed to import across Europe (Art. 17 I, sentence 2), all customs authorities must be informed in the event of an exceedance. This should be done efficiently and in a straightforward manner. The Commission should provide an option to notify all customs authorities accordingly. It remains unclear, how customs authorities are informed of such decisions. The specifications published for CERTEX Release 5.1 for the implementation of the CBAM regime on 01.01.2026 have so far only provided for the query of the existence of the CBAM-account-number stated in the customs declaration, its validity and the importer's EORI number. Information on importers who are not in possession of a CBAM account and possibly not in possession of an EORI number can't be processed by the customs authorities within the framework of EU-SWC CERTEX due to the envisaged query mechanism. Operation on 01.01.2026 seems impossible in view of the fact that the specifications for CERTEX release 5.1 need to be adapted. It may be possible for customs authorities to be informed accordingly as part of risk information.	The competent authority shall also notify the customs authorities and the Commission of the decision via the CBAM registry*. The Commission shall provide an option to automatically inform all customs authorities accordingly.* (This should be addressed in the IA on the CBAM registry)
1(20)	Art. 25a (4), second sentence	This paragraph allows for those practices resulting in imported goods falling below the threshold to be deemed genuine if they are for 'valid commercial reasons which reflect economic reality'. While this is a general useful clause, as currently worded this opens up subjective interpretation by importers, and is not linked to the risk assessment the Commission will undertake in paragraph 5. To mitigate legal risk as far as possible without relying on the implementing act, there should be greater parameters around when commercial reasons may	*A common understanding should be clarified in a Commission guideline, a ~~A~~* practice or an arrangement or a series thereof shall be regarded as not genuine where they are not put into place for valid commercial reasons *related to their ~~which reflect~~* economic *activity ~~reality~~*. All importers involved in such a practice or

		be considered valid and a review mechanism by the Commission enabled. We suggest that the Commission avoid introducing new terms as far as possible and explain these undefined legal terms in a guidance document so that they are interpreted in the same way across the EU as far as possible. If this function is performed by MSs there is added risk of inconsistent interpretation.	arrangement shall be jointly liable for the penalty applied in accordance with Article 26(2).
1(20)	Art. 25a (5)	As currently worded it is quite open for when the Commission will provide risk assessment that help inform the NCAs new monitoring function. It would be helpful to give parameters around 'periodically' to link this at least the ability for the NCA to perform its functions.	The Commission shall periodically, *at least once per calendar year and 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).
1(21)	Art. 26(1a)	The factors on which the NCA could decrease the penalty applied in cases of a threshold exceedance could be helpful, but could be better aligned with new Article 25(a)(4). It is also unclear if the factors exclude whether an importer believed they would have otherwise fallen below the threshold; clarifying here could help reduce litigation risk and time-consuming enforcement and appeals processes	

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1(21)	Art. 26 (2) last sentence	The importer must not be released from the obligation to surrender certificates, it is thus imperial to negate the sentence accordingly. If the insertion of the negation in Art. 26 (2) is not complied with, we would like to raise concerns: According to our assessment there is a huge risk that unauthorized CBAM declarants use this exemption as a means of avoiding CBAM obligations in general. Therefore, the exemption/release from obligations should clearly be limited to the imports the penalty has been issued for.	The payment of the penalty shall *not* release the person from the obligation to submit a CBAM declaration or surrender certificates If this is not possible under any circumstances, then at least: The payment of the penalty shall release the person from the obligation to submit a CBAM declaration or surrender certificates *in a given year* (*for the respective imports)*
1 (21)	26 (2)	In our understanding, there is no penalty in case the CBAM declarant fails to submit a CBAM declaration in accordance to Article 6 paragraph 1. We ask the COM to clarify this issue.	
No Omnibus reference	Art. 31	General comment: The empowerment for the COM regarding the implementing act should be adapted to allow the use of default values for the adjustment regarding the calculation of the free allocation.	

1 (25a)	Art. 36 (2 b.)	It seems that by changing the entry into force of Article 20 and parts of Article 22, Article 23 to 26 were kicked out accidentally and Art 2 III a was inadvertently forgotten? This would mean that e.g. customs authorities would have to implement controls directly after the date of publication in the journal (Article 25(1)) which is currently not technically feasible.	Article 2(2), *(3a)* and Articles 4, 6 to 9, 15 and 19, Articles 21 to 22(1), Article 22(3), Articles *23 to* 27 and 31 shall apply from 1 January 2026.

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1(5) in conjunction with point 4.1 of Annex I	Art. 7(2) in conjunction with point 4.1 of Annex IV	Declarants should be allowed to freely choose between actual embedded emissions and default values with a mark-up. Article 7(2) and Annex IV point 4.1 still contain the condition that default values may only be used if actual emissions cannot be adequately determined which is misleading.	Embedded emissions in goods other than electricity shall be determined based on the actual emissions in accordance with the methods set out in points 2 and 3 of Annex IV *or by reference to default values in accordance with the methods set out in point 4.1 of Annex IV.* In the case of indirect emissions, the embedded emissions shall *generally* be determined by reference to default values in accordance with the methods set out in point 4.1 of Annex IV.
No Omnibus reference	Annex I	It would be helpful if Annex I specified whether emissions resulting from the production of the goods listed in Annex I are to be taken into account when calculating the total embedded emissions in accordance with Article 7 paragraph 7(a). Please mark in Annex I as downstream goods those goods which are produced in installations outside the scope of the EU ETS and for which emissions from the production of those goods should not be taken into account in accordance with Article 7 paragraph 7a.	
No Omnibus Reference	Annex I	Pre-consumer scrap should be included in the CBAM immediately. Otherwise there will be risks of circumvention, as pre-consumer scrap is just as highquality and valuable as scrap from primary production.	

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Annex I (3)	Annex IV, Point 2 and 3	Recital (13) states that embedded emissions from production processes in installations not covered by the EU ETS should be excluded from the system boundaries when calculating emissions. This is also addressed in Article 7 paragraph 7 (a), first sentence. Section 2 and 3 of Annex IV describes the determination of actual emissions for complex goods but the attributed emissions of these goods are not limited to this emission scope. In the case of section 2 usually the production processes of all simple goods should be covered by the EU ETS but especially the production of Ferroalloys is not covered by the EU ETS. If no agglomerated iron ores and concentrates (2601 12 00) are used in the production process of Ferroalloys those would be simple goods with zero embedded emissions.	Thus, the explanation in Annex IV, section 2 and 3, has to be adapted as follows: *AttrEmg are the attributed emissions of goods g, if the respective good is produced in an installation that would fall under the scope of the EU-ETS, if these installations where located in the EU; otherwise the attributed emissions are zero.*
No Omnibus reference	Annex IV point 4.1	See remark article 7(2)	Replace first sentence of point 4.1:
			The authorised CBAM declarant has the option to determine embedded emissions using default values instead of actual emissions.
No Omnibus reference		Due to the extensive changes in the CBAM register for implementation - including the changes already proposed by the COM - we would like to ask the COM to allow sufficient time to carry out a test run in the register together with the NCAs.	

PUBLIC

Non-applicability of CBAM to hybrid wind projects

The CBAM legal framework does not specify explicitly that electricity generated in the exclusive economic zone of the EEA, e.g. by offshore wind farms, is not affected by CBAM. This is due to the fact that in order not to fall under the scope of application of CBAM, goods, including electricity, must have an EU origin. In principle, this is not the case for goods produced in the exclusive economic zone (EEZ) of a Member State. The Commission takes the view that that CBAM is not applicable to offshore wind farms in a MS EEZ by analogy to Article 31(h) of the UCC–Delegated Act and reiterated this in the Commission Staff Working Document accompanying the proposal on an Omnibus regulation on CBAM (COM(2025) 87 final, at point 3, p. 17). However, said Article 31(h) of the UCC–Delegated Act refers to products *taken from the seabed or subsoil beneath the seabed*. As such, the analogy is at least not indisputable in the sense that it could give the necessary legal clarity to stakeholders, especially in order to take investment decisions for the substantial investments that offshore wind energy requires.

Therefore, the non-applicability of CBAM to electricity generated in a MS' EEZ should expressly be stated in the legal text of the CBAM regulation or its Annexes. This exception should include electricity produced by MS wind farms that are connected both to the EEA and to a third country – possibly even through another wind farm in the third country's EEZ. At the same time, however, it must be ensured that this exception does not open any options to circumvent the CBAM. In future, a similar issue might come up with hydrogen, which should be borne in mind for the regular revision of the CBAM regulation.

Offshore wind energy, including from hybrid projects, is a crucial corner stone of the energy transformation. The named forms of cooperation should not be hampered by CBAM, nor were they ever meant to fall under the mechanism. This should be clarified in a legally unequivocal way in the Omnibus regulation on CBAM.

Proposed text:

Article 2

Scope

3. By way of derogation from paragraphs 1 and 2, this Regulation shall not apply to:

[…]

(d) electricity generated exclusively in the exclusive economic zone of a Member State and imported directly into the EU customs territory.

Alternatively, it could be introduced in Annex III, point 2 of the CBAM Regulation by way of a delegated act according to Art. 2 (11) CBAM Regulation.

PUBLIC

IRELAND

Ireland Comments on CBAM Simplification Part (i) to (ii)

1. **Scope (incl. threshold)**
   a. **Art 1(1) (Art 2 of the CBAM Regulation "*Scope*");**
   No comments

   b. **Art. 1(29), Annex II (Annex VII of the CBAM Regulation "*Annex VII Threshold referred to in Article 2(3a)*");**
   No comments

   c. **Art. 1(19)(b) and (c) (Art. 25(3) and 25(4) of the CBAM Regulation "*Rules applicable to the importation of goods"*);**
   This facilitates key data exchange between NCA and Customs. In current legislation, Article 36 states Art 25 enters into force 1st Jan 2026. Welcome the proposed changes to Article 36 as this provides greater clarity to what is enabled through the remainder of 2025.

   d. **Art. 1(24) (Art. 30 of the CBAM Regulation "*Review and reporting by the Commission"*).**
   No comments

2. **Enforcement (incl. monitoring, circumvention, penalties)**
   a. **Art. 1(10) (Art. 11 of the CBAM Regulation** "***Competent authorities"*)**
   No comments

   b. **Art 1(13) (Art. 19 of the CBAM Regulation "*Review of CBAM declarations*");**
   No comments

   c. **Art 1(16) (Art. 22(2a) of the CBAM Regulation "*Surrender of CBAM certificates*");**
   No comments

   d. **Art 1(19) (Art. 25 of the CBAM Regulation "*Rules applicable to the importation of goods*");**
   No comments

   e. **Art 1(20) (Art. 25a of the CBAM Regulation "*Monitoring and enforcement of the threshold laid down in point 1 of Annex VII*");**
   Needs to be further streamlined as there is a time lag and would work more efficiently if the Customs Authority were required to pass data to the NCA. An IT solution should be found which would alert both importer and NCA of those nearing the threshold to allow time for follow up.
   The monitoring of the potential for importers to exceed the threshold needs to be facilitated by Customs. Customs can advise on how they will manage this task. NCA

PUBLIC

require the data from Customs in order to start enforcement with importers who have exceeded exceed threshold.

f. Art 1(21) (Art. 26 of the CBAM Regulation "*Penalties*");

This doesn't mirror the 'automatic' nature of ETS1 excess emissions penalty and is of concern, why does it diverge from ETS? Concerns regarding the competent authority's liability in considering the 'intentions of declarants' who fail to submit certificates in time. To date with the EU ETS compliance has been binary - ECJ case states excess emissions penalty is non-discretionary in EU ETS. Introducing 'intent' and the assessing what are reasonable actions by the Declarant will require comprehensive guidance from the CION if this proposal is retained and it is to be applied consistently across the Union.

Art 26(2) – now states that "t*he payment of the penalty shall release the person from the obligation to submit a CBAM declaration or surrender certificates…."*

Art 26(2) applies to an importer not authorised, whereas Art 26(3) applies to an authorised declarant. We note that there is the intention under Recital 26 of the current regulation to release the importer who is not an authorised declarant from the need to surrender certificates. Presumably this is because they would not have access to the Registry and would not be able to buy certificates. Given that it is clear in the proposal that there will also be no requirement for a CBAM declaration it could be clarified in recital (8) of the proposal that "penalties should apply for the entirety of the imported goods and be based on default values for the embedded emissions in accordance with Article 26(2) of Regulation (EU) 2023/956."

Additional note: Art 26(1) "*An authorised CBAM declarant who fails to surrender, by 31 May of each year"* should be amended to "***31st August*** *of each year*" in line with the surrender date amendment throughout the simplification proposal.

g. Art 1(22) (Art. 27 of the CBAM Regulation "*Circumvention*").

No comment

PUBLIC

SPAIN

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

PUBLIC

SPANISH NATIONAL COMPETENT AUTHORITY COMMENTS

17.03.2025

SPECIFIC COMMENTS PER ARTICLE TO THE PROPOSAL:

Art 1(1) - (Art 2 of the CBAM Regulation)

(b) the following paragraph 3a is inserted:

'3a. By way of derogation from paragraphs 1 and 2, importers, including authorised CBAM declarants, shall be exempted from the obligations under this Regulation, where the goods listed in Annex I, with the exception of electricity and hydrogen, do not exceed, cumulatively per calendar year, the mass-based threshold laid down in point 1 of Annex VII.

The threshold laid down in point 1 of Annex VII shall ensure that at least ~~99~~98% of the emissions embedded in the imported goods and processed products pursuant to Article 2(1) and (2) are not covered by the derogation referred to in the first subparagraph.

The Commission is empowered to adopt delegated acts to amend the mass threshold set out in Annex VII to reflect a material change in the average emission intensities of goods used for the calculation of the threshold laid down in point 1 of Annex VII, or significant changes in the pattern of trade in goods, including practices of circumvention of that threshold as referred to in Article 27(2), point (b).'

Comment: based on the Commission data[3], increasing the threshold to 250 tonnes of net mass will imply an emissions coverage of 97,7%, but will reduce the number of importers affected by 10.000 importers. This will allow National Competent Authorities and the Commission to put all efforts and resources in ensuring the proper implementation of the CBAM in an efficient and effective way, and at the same time, will provide legal certainty to the importers, as this threshold will be less subject to be modified annually.

Art 1(4) (Art. 6 of the CBAM Regulation);

(a) paragraph 1 is replaced by the following:

[3] *Commission Staff Working Document Accompanying the document 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*

'1. By ~~31 August~~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.'

Comment: the proposed date of 31 August, coincides with the summer break; to facilitate the fulfilment of obligations it is suggested to establish a date that is more convenient for importers.

Art 1(16) (Art. 22(1) of the CBAM Regulation)

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

'By ~~31 August~~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.

Comment: the proposed date of 31 August, coincides with the summer break; to facilitate the fulfilment of obligations it is suggested to establish a date that is more convenient for importers. * Dates referred in articles 23 and 24 of CBAM regulation should be adapted accordingly.

Art 1(20) (Art. 25a of the CBAM Regulation)

Comment: we see a significant risk of having a number of small importers that may surpass the threshold, and this will make difficult to enforce article 25.1 ("1. The customs authorities shall not allow the importation of goods by any person other than an authorised CBAM declarant.).
It will be beneficial to add in this article an automated monitoring system that could prevent the importation of goods by non-authorised CBAM declarants surpassing the annual threshold established. We are willing to consider specific proposals by the Commission and other MS.

ANNEX II

The following Annex VII is added:

'ANNEX VII

Threshold referred to in Article 2(3a)

1. The threshold referred to in Article 2(3a) shall be set at ~~50~~ 250 tonnes of net mass.

2. For determining the threshold, the following methodology shall be applied:

$$\bar{Q}\ \textbf{chosen such that}\ \frac{\sum_{i=1}^{N} Em_i \times \mathbf{1}_{-}(Q_i > \bar{Q})}{\textbf{Total emissions}} \geq \textbf{target share of emissions of}\ \sout{99}98\%$$

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;

– 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;

– $Total\ emissions$: 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 level of ~~99~~98% of the embedded emissions as referred to in Article 2(3a) of this Regulation.

For simplicity, the threshold shall be rounded to the nearest ten.

By July of each calendar year, the Commission shall, based on import data covering a reference period of 12 months preceding the month of this assessment, assess whether the value derived from the methodology deviates by more than 5 tonnes from the threshold laid down in point 1.'

Comment: based on the Commission data, increasing the threshold to 250 tonnes of net mass will imply an emissions coverage of 97,7%, but will reduce the number of importers affected by 10.000 importers. This will allow National Competent Authorities and the Commission to put all efforts and resources in ensuring the proper implementation of the CBAM in an efficient and effective way, and at the same time, will provide legal certainty to the importers, as this threshold will be less subject to be modified annually.

SPECIFIC COMMENTS TO REGULATION (EU) 2023/956 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 10 MAY 2023 ESTABLISHING A CARBON BORDER ADJUSTMENT MECHANISM:

In order to address additional simplification measures for National Competent Authorities, the following modification of the Regulation (EU) 2023/956 is proposed:

Article 23

Repurchase of CBAM certificates

1. Where an authorised CBAM declarant so requests, ~~the Member State where that authorised CBAM declarant is established~~ the Commission shall repurchase the excess CBAM certificates remaining on the account of the declarant in the CBAM registry after the certificates have been surrendered in accordance with Article 22.

The Commission shall repurchase the excess CBAM certificates through the common central platform referred to in Article 20 ~~on behalf of the Member State where the authorised CBAM declarant is established~~.

Comment: It is proposed that the repurchase of CBAM Certificates is done directly by the Commission and not on behalf of the Member States. Taking into account that the CBAM certificates are partly purchased in the year of import (at least 50%) and other percentage could be purchased later on, this could have national budgetary implications in relation to the payment of the repurchased of CBAM certificates. The proposed option would simplify the procedures associated with the repurchase of certificates, also considering that part of the revenues from the sale will be considered own resources.

PUBLIC

FRANCE

PUBLIC

Commentaires écrits des autorités françaises suite aux réunions du groupe *ad hoc* sur la simplification du MACF des 12 et 14 mars 2025

Les autorités françaises remercient la Présidence polonaise du Conseil de l'Union européenne (UE) pour l'organisation des réunions du groupe *ad hoc* sur la simplification des 12 et 14 mars 2025, ainsi que la Commission européenne pour les réponses apportées aux questions orales des Etats membres.

1. **Calendrier**

En matière de calendrier, les autorités françaises se félicitent de la volonté affichée par la Présidence de parvenir rapidement à une orientation générale du Conseil sur la simplification du mécanisme d'ajustement carbone aux frontières (MACF). **Les autorités françaises estiment en effet fondamental de permettre une entrée en vigueur de ces mesures de simplification sans délai, et en tout état de cause avant la fin de la période transitoire, eu égard au caractère prioritaire de ces évolutions.**

2. **Mesures de simplification du MACF proposées par la Commission européenne**

Sur le fond, les autorités françaises saluent les mesures de simplification du MACF proposées par la Commission européenne. Celles-ci répondent en effet dans l'ensemble aux attentes des importateurs et des autorités compétentes en matière de simplification, sans pour autant affecter l'ambition climatique du mécanisme. À cet égard, les autorités françaises souhaitent rappeler leur engagement en faveur de la bonne mise en œuvre du MACF, pierre angulaire du Pacte Vert européen, et instrument indispensable afin de prévenir efficacement les fuites de carbone.

Les autorités françaises souhaitent néanmoins attirer l'attention de la Commission européenne sur plusieurs points de vigilance qu'elles estiment impératif de clarifier.

a. Champ d'application (Article 2 du Règlement MACF)

Si les autorités françaises saluent l'introduction d'un seuil d'exemption annuel massique fixé de sorte à garantir une couverture par le MACF de 99 % des émissions, elles s'inquiètent toutefois que les références au seuil *de minimis* par envoi, aux alinéas (a) et (b) du paragraphe 3 de l'article 2 du Règlement MACF, soient simplement supprimées. Si cette disposition *de minimis* est susceptible de disparaître à moyen-terme, dans le cadre de la réforme de l'union douanière, il convient de prévoir un nouveau seuil d'exemption par envoi, adaptés aux besoins du MACF.

Les autorités françaises estiment en effet que la suppression pure et simple de la règle *de minimis* risquerait de faire peser une charge additionnelle considérable sur les opérateurs dont les importations annuelles de produits couverts par le MACF dépassent le seuil d'exemption annuel massique, qui pourraient dès lors être contraints de s'acquitter des obligations relatives au MACF y compris pour leurs importations d'une valeur inférieure à 150€ par envoi. Cela générerait également une surcharge majeure pour les autorités douanières.

Les autorités françaises estiment en outre nécessaire de maintenir un seuil d'exemption par envoi dans le Règlement MACF afin de se prémunir contre la possible suppression future du seuil *de minimis* dans l'article 23 du Règlement (CE) n° 1186/2009 du Conseil du 16 novembre 2009 relatif à l'établissement du régime communautaire des franchises douanières.

Enfin, afin d'assurer sa simplicité de mise en œuvre (pour les opérateurs) et de contrôle (pour les autorités douanières), et par cohérence avec le seuil d'exemption annuel massique proposé par la Commission européenne, les autorités françaises considèrent que le seuil d'exemption par envoi devrait également être exprimé en masse.

Les autorités françaises souhaiteraient par conséquent l'introduction à l'article 2 du Règlement MACF d'un seuil d'exemption massique par envoi, fixé à 1 tonne, afin de garantir que les petits flux ne seront pas soumis aux obligations prévues au Règlement, y compris pour les opérateurs dont les importations annuelles de produits

couverts par le MACF dépassent le seuil d'exemption annuel massique. Une proposition d'amendement est annexée à la présente note.

Les autorités françaises, sur la base de leur analyse des données douanières nationales, estiment qu'un seuil d'une tonne par envoi serait adapté pour simplifier le dispositif tout en minimisant les risques de contournement. Les autorités françaises proposent toutefois que le seuil puisse être amendé par la Commission par le biais d'actes délégués, de manière à garantir l'intégrité environnementale du dispositif.

En l'absence d'un seuil d'exemption massique par envoi, l'exemption des envois d'une valeur intrinsèque inférieure à 150 € doit être maintenue.

S'agissant de la révision du seuil d'exemption annuel massique selon les conditions prévues à la nouvelle annexe VII du Règlement MACF, **les autorités françaises souhaiteraient que la Commission européenne analyse, par exemple sur le fondement des données historiques d'importations et d'émissions, la probabilité que le seuil dévie de plus de 5 tonnes chaque année**. Les autorités françaises estiment en effet fondamental d'être en mesure d'anticiper si le seuil est susceptible de varier de manière régulière, ce qui pourrait créer une incertitude forte pour les opérateurs dont les importations annuelles se situent à proximité du seuil d'exemption.

b. Certificats MACF (Articles 20, 21 et 24 du Règlement MACF)

Les autorités françaises souhaitent interroger la Commission sur les incidences du report de l'ouverture des ventes des certificats MACF de janvier 2026 à février 2027.

Si cette modification paraît nécessaire car la plateforme de vente des certificats MACF ne sera pas disponible dès le 1er janvier 2026, celle-ci pourrait induire, pour l'année 2026, une différence de traitement entre les producteurs européens, qui peuvent acheter des certificats MACF au prix moyens hebdomadaires de l'ETS, et les importateurs de produits MACF qui achèteraient des certificats MACF au prix moyen trimestriel de l'ETS sur 2026. **Les autorités françaises souhaiteraient que la Commission européenne partage son analyse sur ce point avec les Etats membres.**

De plus, **les autorités françaises souhaiteraient que la Commission européenne expertise l'impact potentiellement haussier sur le prix du quota ETS**, eu égard au risque d'utilisation des quotas ETS comme instruments de couverture du risque de volatilité du prix du certificat MACF par certains gros importateurs.

PUBLIC

c. Transmission des données douanières (Article 25(2) du Règlement MACF)

Les autorités françaises souhaitent interroger la Commission sur la liste des données à transmettre régulièrement et automatiquement à la Commission par le dispositif de Surveillance.

L'annexe 2103 du règlement d'exécution (UE) 2015/2447 détaille les données douanières dont la transmission régulière à la Commission doit être automatisée au moyen de Surveillance, conformément aux articles 55 et 56 de ce même règlement. Certaines données qui figurent à l'article 25(2) de la proposition de révision du règlement MACF telles que le nom, l'adresse et les informations de contact de l'importateur ne figurent pas à l'annexe 2103. Aussi, **les autorités françaises souhaitent interroger la Commission sur la nécessité et les modalités de transmission de ces données supplémentaires au regard de la charge de travail induite par cette modification. Si le besoin de disposer de ces informations supplémentaires n'est pas confirmé, les autorités françaises souhaiteraient limiter les obligations de transmissions des données à celles prévues par le code des douanes de l'Union.**

Public

Annexe I : Proposition législative de seuil d'exemption massique par envoi

Les paragraphes 3a, 3b et 3c de l'article 2 du règlement MACF seraient donc rédigés comme suit :

3a. By way of derogation from paragraphs 1 and 2, importers, including authorised CBAM declarants, shall be exempted from the obligations under this Regulation, where the goods listed in Annex I ***, excluding those goods exempted in accordance with paragraph 3b and*** *with the exception of electricity and hydrogen, do not exceed, cumulatively per calendar year, the mass-based threshold laid down in point 1 of Annex VII.*

The threshold laid down in point 1 of Annex VII shall ensure that at least 99% of the emissions embedded in the imported goods and processed products pursuant to Article 2(1) and (2) are not covered by the derogation referred to in the first subparagraph.

[Third sub-paragraph is removed]

3b. By way of derogation from paragraphs 1 and 2, this Regulation shall not apply to goods listed in Annex I to this Regulation, which are imported into the customs territory of the Union or contained in the personal luggage of travellers coming from a third country, provided that the net mass of such goods does not exceed, per consignment, the mass-based threshold laid down in point 3 of Annex VII.

The threshold laid down in point 3 of Annex VII shall ensure that at least 99% of the emissions embedded in imported goods and processed products pursuant to Article 2(1) and (2) are not covered by the derogation referred to in the first subparagraph.

3c. The Commission is empowered to adopt delegated acts to amend the mass thresholds laid down in points 1 and 3 of Annex VII to reflect a material change in the average emission intensities of goods used for the calculation of those thresholds, or significant changes in the pattern of trade in goods, including practices of circumvention of those thresholds as referred to in Article 27(2), point (b).

A l'annexe VII, un paragraphe 3, rédigé comme suit serait inséré :

3. The threshold referred to in Article 2(3b) shall be set at 1 tonne of net mass.

Quelques autres ajustements mineurs de forme seraient nécessaires aux articles 27§2(b), 28 et au titre de l'annexe VII seraient nécessaires pour assurer la cohérence du règlement MACF.

ITALY

Italian comments and amendments proposal to "*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*" (COM 2025 87 final)

The regulatory amendments proposed by the Commission are agreeable, and the identified simplifications are welcome, with the hope that the approval process will face no difficulties and that the simplifications will come into force quickly.
However, it remains necessary to maintain a **general reserve for scrutiny** in order to complete the thorough study of the proposed amendments and the shared documentation.

Definition of the annual cumulative threshold for the import of CBAM goods
The new regulation on de minimis is welcome in light of the consequent reduction in the administrative burden for both operators and the National Competent Authority, while still maintaining coverage of 99% of emissions included in the mechanism.
In this regard, we support the proposal of other Member States to raise the threshold value, also considering intermediate values between the Commission's proposal and the 150 tons proposed by Spain, provided that it is possible to ensure the inclusion of a percentage close to 99% of emissions incorporated into imported products within the scope of the CBAM.
Regarding the methods of adapting the threshold, we agree with the necessity – already pointed out by other MS (France, Germany, Austria) – that the specific threshold to be applied is made known with sufficient advance notice, to allow importers to organize their business decisions in a timely and certain manner.

Enforcement of the threshold
No particular issues are identified regarding the Commission's proposal on the enforcement of the threshold.
While supporting the modulation of penalties, it is considered useful to drive attention on the need to define more specific and quantitative criteria (e.g in terms of percentage for each criterium) to determine the amount of penalties according to the criteria defined in art 26 (1a) that limit the discretion of Member States

Authorization
No particular issues are identified regarding the Commission's proposal on the authorization of CBAM declarants

Reporting
No particular issues are identified regarding the Commission's proposal on the reporting of emissions by authorized CBAM declarants. However, as already noted by Spain (supported by Belgium), the new proposed deadline of August 31st each year for submitting the annual CBAM declaration and returning the certificates falls within a period that, also in Italy, is still part of the summer leave season. Therefore, it would be desirable for this deadline to be set to September 15th each year, while remaining compatible with the Commission's need to promptly account for CBAM revenues in the Union's budget.
From a perspective of reducing administrative burdens, we also welcome Germany's proposal to amend Article 25a, having already expressed our support for the centralization of functions under the Commission, excluding authorization and sanctioning activities, during the discussion of the first version of the CBAM Regulation.

PUBLIC

Furthermore, it should be noted that, given the proposed amendment to Article 22 of the Regulation, which moves the deadline for the return of certificates to August 31st of each year, the text of paragraph 1 of Article 26 (penalties) must also be corrected accordingly. The corrected text is therefore as follows:
: "*1. An authorised CBAM declarant who fails to surrender, by 31 ~~May~~* ***August*** *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…..*".

Embedded emissions determination
Regarding the methodologies for calculating embedded emissions, it is pointed out that the current wording of Article 7 of the CBAM Regulation does not allow the authorized declarant to freely and discretionally choose whether to rely on actual emissions or default values, as paragraph 2 of Article 7 states otherwise:
"*Embedded emissions in goods other than electricity* ***shall be determined based on the actual emissions*** *in accordance with the methods set out in points 2 and 3 of Annex IV.* ***Where the actual emissions cannot be adequately determined, as well as in the case of indirect emissions, the embedded emissions shall be determined by reference to default values*** *in accordance with the methods set out in point 4.1 of Annex IV*".
We support allowing greater discretion to declarants in choosing the calculation method (actual emissions/default emissions), as also proposed by the Commission, because we believe that this could simplify the administrative burden of reporting and would allow emissions data to be requested only from those entities able to provide reliable values. However, to this end, we point out that it is necessary to intervene on Article 7 of the CBAM regulation.

Financial obligations
With regard to financial obligations, we have no particular critical issues to report. However, we could support Denmark's proposal to apply a single price for emissions incorporated in goods imported in 2026. In this way, CBAM authorised declarants could be assured of a precise price reference, considering that during 2027 they will have to purchase emissions corresponding to two years, namely 2026 (quarterly and annual obligations) and 2027 (quarterly obligations).

PUBLIC

Authorised CBAM Declarant

We observe that the proposed amendment to Regulation 965/2023 includes the new paragraph 3a in Article 2, which implements an exemption for operators below the threshold.

However, as explained in recital 7, these operators need to be tracked because the threshold may be exceeded.

To this aim, in Article 5 is provided that 'An indirect customs representative shall submit the application for authorisation also for importers subject to the derogation pursuant to Article 2(3a).';

We deem that this choice may be too burdensome both for indirect customs representatives and for Customs authorities.

For this reason we propose instead to identify CBAM importers under two different codes according to the fact that they declare to be below the threshold or not.

The proposed amendments allow the declaratory (and therefore control) procedures to be structured by highlighting with two different codes (the authorised operators and those not required to obtain authorisation), so as to always be able to check the quantities imported and verify any threshold exceedances.

Particularities of the identification may be decided in a Commission implementing act.

We propose therefore amendments to Article 1(3) in order to modify Article 5, paragraphs 1, 2 and 8

For coherency with the new exemption provided in the proposal, it could be also advisable to modify accordingly Article 25, paragraph 1, of Regulation 965/2023

Article 1(1)

1. Article 2 is amended as follows:

(b) the following paragraph 3a is inserted:

'3a. By way of derogation from paragraphs 1 and 2, importers, including authorised CBAM declarants, shall be exempted from the obligations under this Regulation, **unless otherwise provided for,** where the goods listed in Annex I, with the exception of electricity and hydrogen, do not exceed, cumulatively per calendar year, the mass-based threshold laid down in point 1 of Annex VII.

[…]

Article 1(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').

An indirect customs representative shall submit the application for authorisation 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**.** ~~**, including where that importer is subject to the derogation pursuant to Article 2(3a).**~~';

(c) paragraph 2 is replaced by the following:

'2. Where an importer is not established in a Member State, the indirect customs representative shall apply for the status of authorised CBAM declarant**. ~~, including where that importer is subject to the derogation pursuant to Article 2(3a).~~**';

[…]

((f) paragraph 8 is replaced by the following:

'8. The Commission is empowered to adopt implementing acts on communications between the applicant, the competent authority and the Commission, on the standard format of the application for an authorisation and the procedures to submit such an application via the CBAM registry, on the procedure to be followed by the competent authority and the deadlines for processing applications for authorisation in accordance with paragraph 1 of this Article, ~~and~~ on the rules for identification by the competent authority of the authorised CBAM declarants for the importation of electricity and on the rules for identification by the competent authority of the importers that introduce goods under the threshold laid down in Article 2(3a). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2). '

Article 1(19)

(19) Article 25 is amended as follows:

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

'The customs authorities shall not allow the importation of goods by any person other than an authorised CBAM declarant, unless in case of exemption according to Article 2(3a)'

(~~a~~ b) in paragraph 2, the second sentence is replaced by the following:

'That information shall include the EORI number or the form of identification declared in accordance with Article 6(2) of Delegated Regulation (EU) 2015/2446, and the name, address and contact information, 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.';

Sanctions

Finally, we would be in favour of sanctions as uniform as possible to avoid any kind of "Customs shopping". The flexibility granted to National Authorities should not lead to excessive differences between Member States in the application of sanctioning measures.

MALTA

Malta's comments on the Proposal amending Regulation (EU) 2023/956 as regards simplifying and strengthening the carbon border adjustment (CBAM)

PUBLIC

Malta's initial assessment of the proposed simplifications to CBAM rules is positive, as the changes appear to be moving in the right direction. We welcome the exemption of small importers, especially the proposed adjustments to the application threshold, as this is a key simplification measure. Alongside other proposed simplifications, we feel that this will help reduce the administrative burden for both importers and national authorities. In the context of these changes being brought into force close to the start of the definitive phase and, at the same time as preparations for that definitive phase are ongoing, we emphasise the need for a coordinated and pragmatic approach to forthcoming adoption of subsidiary implementing and delegated acts.

We thank the Commission for having answered our questions during the Antici Group Simplification (AGS) Working Party on 14 March 2025. We would however require further clarification on some of the points already raised and would appreciate any information that can be provided that will help with our understanding of the Proposal. Malta would also appreciate written answers to the questions.

On thematic group I – Scope

- Article 2(3a) and Annex VII: More information is needed on the timeline for the annual assessment of the threshold and the adoption of delegated acts where relevant. In particular, clarification on the operational impact of such changes would be useful. More specifically, from when are newly covered importers required to comply if a change in the threshold brings them within scope?
- Default Values: We understand from the explanation given at the AGS Working Party on 14th March that the use of default values shall be a free choice for importers. We would be grateful for further additional clarification on how the Commission intends to implement default values, particularly regarding access to reliable data sources and what such sources could be.

On thematic group II – Enforcement

On enforcement, we kindly request the following clarifications:

- Article 11(3): Could the Commission clarify the way it envisages the provision of information under this article?
- Article 5(7a) and Article 14(6): Further clarification is needed on the procedures and technical credentials required to perform the delegation referred to in Article 5(7a).
- Article 22(2) and (2a): Does paragraph 2a refer to a situation where certain types of imported goods fall below the threshold individually, but the total quantity of all imported goods exceeds the threshold?
- Article 23(2) and (2a): Could the Commission clarify whether the amendments mean that the amount eligible for repurchase in respect of a given year is equivalent to the total number of certificates that should be surrendered for that year?
- Article 25a(4): Can the Commission provide further clarification and guidance on the criteria and factors that would render a practice, arrangement, or series thereof as not genuinely related to valid commercial reasons, and what arrangements can be put in place to ensure that this is implemented in a harmonized manner?

On thematic group III – authorisation:

In relation to Art. 1(3) (Art. 5 of the CBAM Regulation) para 1 (starting bottom of p.6), Malta took note of the explanations that were kindly provided by the Commission in the AGS Working Party on 14 March 2025, However, we would be highly appreciative of confirmation, or further clarification, if necessary, of our understanding on the points below:

- our understanding is that an indirect customs representative has to be authorised, independently of whether the importer that has appointed the representative, falls above or below the threshold. Could this kindly be confirmed or clarified?
- our understanding is that the indirect customs representative acting as authorised declarant, has no obligations if the imports it declares fall below the threshold. Could this kindly be confirmed or clarified?
- If an indirect customs representative is responsible for declaring imports of multiple appointing importers, some or each of whom import less than the threshold, what imports would be covered by the responsibilities of the indirect customs representative acting as authorised declarant?

On thematic group IV - reporting

On the registration and deregistration of verifiers, Article 10a Paragraph 6 includes an explicit requirement for the Competent Authority deregistering a verifier to inform the Commission and other Member States. At the same time, no similar requirement is included in paragraph 1 of the same article for the registering of verifiers. Although Malta has taken note of the explanations that were kindly provided by the Commission in the AGS Working Party on 14 March 2025, Malta would require further clarification on how the registration of verifiers will be communicated to other interested parties.

We would also appreciate further clarity on Article 1(17) (Art. 23 of the CBAM Regulation). With respect to the amendments of paras 23(2) and 23(2a), could the Commission kindly explain the advantage brought about by the amendment using that calendar year as the basis, as opposed to the previous year?

NETHERLANDS

PUBLIC

Written comments NL

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

Introduction

Although we still have a study and parliamentary scrutiny, we can indicate that we view the published proposal positively. We hope to lift our reservations in the course of April and support your aim to conclude the negotiations swiftly so that all amendments can be implemented by 1 January 2026.

To contribute to this, we hereby submit our written comments. These serve to clarify the proposal and include, among other things, further simplifications. They consist of a few key points as well as some general remarks.

KEY POINTS

1. ETS system boundaries (Article 7)

Explanation of the issue The Commission aims to reduce administrative burden of the calculation of emissions, by excluding the emissions from finishing processes of aluminium and steel goods with emissions which are typically relatively low. The proposal aims to limit calculation of embedded emissions to the system boundaries of production processes covered by the EU ETS. This is motivated in recital 13 and implemented in 2025/0039 (COD) article 1(5). We have copied the full text below and the text about which we are concerned is **highlighted**.
We fully support the aim to exclude processes with relatively low emissions, but are greatly concerned with unintended consequences of the way this is implemented.
The current wording opens up new possibilities for carbon leakage and evasion of CBAM. It is very difficult and in some cases impossible to apply the ETS system boundaries to installations and production processes outside the EU. The ETS system boundaries are defined in terms of activities in installations, not in terms of goods or products. Having to establish whether an activity in a non-EU installation would have been part of the EU ETS if it were situated in the EU, is in our view not

a simplification. Claims that emissions are outside op CBAM scope will be very difficult to disprove.

For example: EU ETS Annex I lists activities with de-minimis criteria, which is not unambiguous. Even within the EU, the installation definition has triggered substantial debate and legal procedures. The proposal implies that CBAM verifiers and competent authorities will need to check, inter alia, the installation size where relevant input materials (precursors) were produced. One example of a de-minimis in ETS Annex I: "*Production or processing of ferrous metals (including ferro-alloys) where combustion units with a total rated thermal input exceeding 20 MW are operated. Processing includes, inter alia, rolling mills, re-heaters, annealing furnaces, smitheries, foundries, coating and pickling.*"

This would lead to legislative uncertainty for sites outside the EU on how to apply the EU ETS installation definition in a non-EU legal context. Furthermore, it would require verifiers and competent authorities to conduct site visits and become familiar with the country's specific legal context.

This risks disproportionate enforcement costs. It also risks CBAM avoidance by falsely claiming that precursors were produced on a site which would fall outside of the EU ETS system boundaries. This could lead to the unintended exclusion of certain upstream products (e.g. iron bars produced in an installation with less than 20 MW total rated thermal input), or conversely, the inclusion of the emissions of finishing processes with relatively low emissions (e.g. production of downstream products in integrated facilities).

Finally, the recitals suggest that article 1(5)a is only applicable for aluminium and steel goods, but the regulation itself does not make such a distinction.

Potential solutions

We are happy to engage about potential solutions with the Commission and other Member States within the given strict timelines. We are still exploring potential solutions. We do identify the following potential avenues for a solution, which would require further analysis and discussion:

1) more openness, by changing 'shall be limited' to for example 'should be aligned', enabling the Commission to make necessary adaptations in the Implementing Act. The question here is whether this would be sufficiently robust in court.

2) determining system boundaries by means of a limitative positive list of defined production processes, which would exclude production processes with relatively low emissions. The challenge is whether this list is complete and does not introduce other loopholes.

3) Explicitly ruling out ETS Annex I de-minimis borders in the referral to the EU ETS system boundaries. The question here is whether this will work for the generic 20MW ETS de-minimis for combustion of fuels.

PUBLIC

4) The embedded emissions of complex goods of iron, steel or aluminium are limited to those emissions resulting from the production of other upstream products (precursors). These upstream products are defined in a limitative list.

Commission proposal

Recital

(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[17], except for the case of integrated facilities. The embedded emissions of those production processes should be excluded from the system boundaries of the calculation of emissions.

Consolidated proposal in cbam regulation

Article 7

Calculation of embedded emissions

1. Embedded emissions in goods shall be calculated pursuant to the methods set out in Annex IV. For goods listed in Annex II only direct emissions shall be calculated and taken into account.

2. Embedded emissions in goods other than electricity shall be determined based on the actual emissions in accordance with the methods set out in points 2 and 3 of Annex IV. Where the actual emissions cannot be adequately determined, as well as in the case of indirect emissions, the embedded emissions shall be determined by reference to default values in accordance with the methods set out in point 4.1 of Annex IV.

3. Embedded emissions in imported electricity shall be determined by reference to default values in accordance with the method set out in point 4.2 of Annex IV, unless the authorised CBAM declarant demonstrates that the criteria to determine the embedded emissions based on the actual emissions listed in point 5 of Annex IV are met.

4. Embedded indirect emissions shall be calculated in accordance with the method set out in point 4.3 of Annex IV and further specified in the implementing acts adopted pursuant to paragraph 7 of this Article, unless the authorised CBAM declarant demonstrates that the criteria to determine the embedded emissions based on actual emissions that are listed in point 6 of Annex IV are met.

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).

6. The authorised CBAM declarant shall keep those records of information referred to in paragraph 5, including the report of the verifier, until the end of the fourth year after the year in which the CBAM declaration has been or should have been submitted.

7. The Commission is empowered to adopt implementing acts concerning:

(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 limited to the system boundaries of production processes 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~~ing~~ down methods to ensure the reliability of data on the basis of which the default values shall be determined, including the level of detail ~~and the verification~~ of the data, 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~~; t~~ Those implementing acts shall also specify ~~the conditions under which it is deemed that actual emissions cannot be adequately determined, as well as~~ the elements of evidence demonstrating that the criteria required to justify the use of actual emissions for electricity consumed in the production processes of goods for the purpose of paragraph 2 that are listed in points 5 and 6 of Annex IV are met;

(b) the application of the elements of the calculation methods pursuant to paragraph 4 in accordance with point 4.3 of Annex IV.

Where objectively justified, the implementing acts referred to in the first subparagraph shall provide that default values can be adapted to particular areas, regions or countries to take into account specific objective factors that affect emissions, such as prevailing energy sources or industrial processes. Those implementing acts shall build upon existing legislation for the monitoring and verification of emissions and activity data for installations covered by Directive 2003/87/EC, in particular Commission Implementing Regulation (EU) 2018/2066 ([24]), Implementing Regulation (EU) 2018/2067 and Commission Delegated Regulation (EU) 2019/331 ([25]). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2) of this Regulation.

2. Exchange of information on the threshold (Article 25a)

Problem: The Commission has clarified in the meeting of 14 March that it intends to send data to the CA's weekly or biweekly for the purpose of monitoring and enforcement of the threshold. However, the current text is not so precise and says 'periodically'.

Solution: Clarify the text to give more certainty to CA's.

'Article 25a

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

Article 25a(1) is amended as follows:

1. The competent authorities and the Commission shall monitor the importation of goods listed in Annex I and the corresponding threshold laid down in point 1 of Annex VII.

The Commission shall ~~periodically~~ at least weekly and automatically exchange with competent authorities information necessary for the monitoring of importers in the CBAM registry.

PUBLIC

3. Authorization (Article 5)

We are very happy with the adjusted threshold that will significantly reduce the amount of importers. However, importers exceeding this threshold will still face administrative burden. We believe that for some of these importers, the administrative burden can be reduced. We have several suggestions to achieve this.

Authorized Economic Operator (AEO)

Problem: Some CBAM importers will have AEO status. To obtain this status, they must meet various requirements and share certain information. This information overlaps with the data they need to submit for CBAM admission. We wonder whether it would be possible to ease the burden on these importers.

Solution:

- The importer can provide proof of its AEO status. This proof can be used by the CA in the assessment (risk analysis) of the authorization process to grant authorization more quickly.
- The Commission referred to this solution in the meeting on 14 March. We thought the text proposal below would suffice.

Text proposal:

Article 5

Application for authorisation

In paragraph 5, point (i) is inserted:

(i) Proof of authorized Economic Operator license, if applicable.

Temporary authorization

Problem:

- Importers without authorization cannot introduce CBAM goods into the EU customs territory. For importers who are not yet fully aware of this prohibition, this can lead to high and possibly disproportionate administrative costs. For instance, if the importer has already

a container at the border, the CBAM-goods in this container cannot be released into free circulation until the authorization has been granted. This means the container probably needs to stay at either a customs entrepot or space for temporary storage (STS). This is very expensive, especially for importers without an own entrepot.

- Especially in 2026, when CBAM is fully operational for the first year, we want to prevent that small and medium entrepreneurs, who unintentionally exceed the threshold will face high administrative costs.

Solution*:*

- To provide for 2026 the option for NCA's to grant in exceptional cases a status of *temporary* authorised CBAM declarant for a limited number of days, to allow the customs authority to release the goods already at the border into free circulation.
- The Commission has mentioned this issue a couple of times in the last few months, amongst others during the CBAM committee in December. The Commission implied that a solution could be sought similar to the one used in VAT. We are curious to see what this solution entails. Based on those discussions we will consider whether we need to make a written proposal.

4. Evasion of the threshold (Article 25a)

Arrangements or practices that are not genuine

Problem:

- With the adjustment of the threshold to 50 tons of mass, the risk of CBAM evasion increases. The NCAs must assess, among other things, whether there are non-genuine arrangements or practices. In many cases, this will not be easy, because it is difficult to prove that the main purpose of the arrangement or practice is to fall below the threshold.

Solution:

- The Commission should provide (non-exhaustive) guidance on when non-genuine arrangements or artificial splitting are considered to be present. This will in many cases shift the burden of proof from the NCA to the importer.
- Furthermore, although not directly related to the issue mentioned under 'problem', we would like to support the German text proposals on art. 25a, paragraph 2.

Text proposal:

'Article 25a

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

Article 25a(4) is amended as follows:

4.In concluding whether an importer has exceeded the threshold in accordance with paragraph 3, 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 are therefore, having regard to all relevant facts and circumstances, not genuine.

A practice or an arrangement or a series thereof shall be regarded as not genuine where they are not put into place for valid commercial reasons which reflect economic reality. All importers involved in such a practice or arrangement shall be jointly liable for the penalty applied in accordance with Article 26(2). The Commission shall publish guidance with rules to proof non genuine practices or arrangements.

In such cases, the competent authority shall consider that the importer has been involved in a serious infringement of this Regulation for the purpose of Article 17(2), point (a).

PUBLIC

GENERAL OBSERVATIONS

- We are positive and endorse the objectives of the proposal, namely to simplify and improve the CBAM in a cost-efficient manner without compromising the achievement of its policy objectives. The government is committed to maintaining the climate target and ensuring that the environmental integrity of the CBAM remains safeguarded.
- Therefore, we support the adjustment of the de minimis, which ensures our policy objectives are upheld.
- We support the discretionary authority granted to Member States in relation to enforcement. We understand that this may be particularly useful in the year 2026. However, it is important to ensure that this discretion does not lead to significantly divergent enforcement practices among Member States.
- We appreciate the clear Staff Working Document. As a general matter of policy we value that proposals are accompanied by a robust impact assessment and note that this is regrettably not the case here. This notwithstanding we think the proposal contains many positive aspects.
- DEN suggested a few remarks we can support. First of all, we support the remark regarding the availability of a calculator to calculate the CO2-emissions. Furthermore, we share Denmark's concerns regarding data sharing via surv3, in particular regarding the sharing of (customs) data for declarations without an EORI number (in accordance with Article 6(2) of Delegated Regulation (EU) 2015/2446).

AUSTRIA

Specific comments by AT

to Commission Proposal 2025/0039 (COD) 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

18th March 2025

PUBLIC

Staff working document (SWD 2025/58 final) p. 5, 11

Q: The SWD states:

> "*Importers that expect to stay below the annual cumulative threshold, and thus qualify for the exemption, can, when lodging an import declaration for a CBAM good, self-identify as an occasional CBAM importer and thereby be granted a derogation from the authorization obligation*".

However, the proposed amendment of the regulation appears to neither feature the term occasional CBAM importer nor self-identification. Can you clarify why the terms are only mentioned in the SWD and not in the legal text?

Article 2 (3a)

Q: Why is hydrogen excluded from the new 50-tons mass threshold?

AT: The threshold-simplification should also apply to hydrogen.

Article 2 (3a)

Q: How can small, non-authorized importers that unexpectedly exceed the 50-tons threshold switch to the standard CBAM regime for large importers during the calendar year?

AT: A simple and flexible solution should allow importers who unexpectedly exceed the threshold to flexibly (re-)enter the standard CBAM regime by obtaining retroactive

authorisation (e.g., within one or two months after crossing the threshold) without disproportionate penalties or interruptions in importing activities!

Article 6 (1)

Q: Does an indirect customs representative acting as an authorized CBAM declarant for multiple importers need to submit one or multiple CBAM declarations?

Article 6 / Article 9

Q: Could you clarify how to account for a carbon price paid in the following scenario?

1. A product is produced within the EU in an installation subject to EU ETS I – a carbon price has to be paid.
2. This product is exported to a third country and processed in a way such that its origin changes.
3. The product is reimported to the EU and – due to the change of origin – considered as an import from a third country subject to CBAM.

How can the carbon price paid in step 1 be claimed, given the origin of the product has changed?

Article 7 (2)

Q: What does "adequately" mean in relation to the inability to calculate embedded emissions?

AT: If "adequately" is not clearly defined, this qualifier should be replaced with "alternatively, default values can be used."

Article 9 (3a)

Q: What are the criteria, so far only vaguely summarized as *"cannot be determined",* for using the newly introduced default carbon prices?

Article 10a (5)

PUBLIC

Q: In our view, the current wording puts an unacceptable obligation on verifiers to verify embedded emissions upon request by an operator and, on top, lacks a clear regulation of remuneration.

AT: We propose deleting or adapting this paragraph.

Article 25a (4)

Q: We would kindly ask for clarification what is meant by:

> *"... 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 are therefore, having regard to all relevant facts and circumstances, not genuine.*
>
> *A practice or an arrangement or a series thereof shall be regarded as non-genuine where they are not put into place for valid commercial reasons which reflect economic reality."*

Article 26 (2)

Q: If no simple pathway exists for importers that unexpectedly exceed the threshold to flexibly (re-)enter the standard CBAM regime (cf. question on Art. 2 (3a)), in our view, the NCA is obliged to impose a penalty of 3 to 5 times the usual penalty. Can you confirm this interpretation?

AT: We consider a penalty of 3 to 5 times as excessive in this case. We propose deleting the lower bound and using "up to 5 times the usual penalty" instead.

Article 5 (5) h

Q: What is the rationale that indirect customs representatives still need to include the contact information of the importers when applying for authorization.

AT: From our practical experience, logistic companies acting as indirect customs representatives often do not know in advance which companies they are acting for. This

PUBLIC

makes it almost impossible to use an indirect customs representative at short notice if an importer is not an authorized CBAM declarant.

Article 5 (5) f

AT: We propose to add *"AEO Status"* and *"Rating"* as additional eligible supporting documents.

Article 5 (5) f

Q: Please clarify whether the focus is on CBAM goods only or on all imported goods.

AT: We propose to use *"expected emissions based on default values"*, which is easier to estimate and more directly linked to the number of interest regarding potential financial obligations of importers, instead of *"estimated monetary value"*.

Article 11 (1)

AT: In AT, a-priori the NCA does not have the legal power to enforce guarantees on behalf of the COM. We ask the COM to explicitly delegate this power to the NCA. We suggest the following wording:

> "Each national competent authority shall have all the necessary power to carry out its tasks and duties in order to implement this Regulation."

Article 17 (5)

Q: Please clarify that the CBAM Factor needs to be considered when calculating the CBAM obligation for the guarantee.

AT: We propose to clarify that the NCA has the empowerment to define a certain threshold for guarantee obligations (e.g. CBAM obligations in the value of 10.000 Euro).

PUBLIC

SLOVAK

Comments of the Slovak Republic to the Antici Group on Simplification

on 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

18. March 2025

PUBLIC

The Slovak Republic welcomes the Commission legislative proposal amending the Regulation 2023/956 as regards simplifying and strengthening the Carbon Border Adjustment Mechanism. **The Slovak Republic maintains the general scrutiny reservation** but looks **positively on the proposed changes** to the CBAM Regulation:

The Slovak Republic agrees that by proposed changes, the objectives of this regulation will be achieved in a more efficient way and the administrative burden and workload on the part of importers as well as on the competent authorities will be reduced significantly.

The exemption of around 90 % of companies is welcomed because it still ensures that over 99 % of emissions are covered. This means a significant reduction in administrative complexity while keeping CBAM's main objective.

Slovakia also believes that simplifying complex EU rules is important to maintain competitiveness of the European Industry.

Slovakia supports the proposal to set a new threshold based on cumulative mass of 50 tonnes per importer and calendar year *reflecting the average emissions intensity of the volume of imported CBAM goods as it is the simplest design for importers and they will not have to obtain or provide any data additional to those provided in the customs declaration.*

Slovakia welcomes that the proposal will also strengthen the monitoring and supervision of CBAM, especially the ability of the Commission to process data and exchange relevant information with national authorities to ensure that the utility of the information reported by stakeholders is maximised. We believe that it will also enable both the Commission to better detect risks and national authorities to be better equipped to take appropriate actions where needed.

Slovakia welcomes that the consultation procedure will be optional for the competent authority *and the competent authority will consult other competent authorities and the Commission when considered necessary.*

The Slovak Republic *considers important to* provide authorised CBAM declarants flexibility to comply with their obligations and ***supports the proposal of a later date of submission of CBAM declaration - August instead of May*** *of the year following the year of import of CBAM goods. It will* 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.

Slovakia agrees that the embedded emissions of precursors *that have already been subject to the EU ETS or to a carbon pricing system that is fully linked with the EU ETS,* ***should not be accounted for in the calculation of the embedded emissions of complex goods.***

Slovakia supports the proposal to add ***electricity*** *to the list of CBAM goods for which* ***only direct emissions are to be taken into account*** *in the calculation of the embedded emissions.*

Additionally, **we would like to draw attention** once again **to the growing number of obligations that will gradually arise for NCAs** from the CBAM Regulation. In addition to granting the status of an authorised CBAM declarant, in the future this will also include, for example, the sale of CBAM certificates, their repurchase, etc.

We would therefore **welcome confirmation or at least a promise from the Commission that transactions related to the sale and repurchase of CBAM certificates will be carried out automatically via a common central platform** (as presented by the Commission at the meeting on CCP/JPA) **with minimal administrative burden on NCAs**, as the delegated regulation on the conditions for the sale and repurchase of CBAM certificates should not be submitted for negotiation until the second quarter of 2025.

PUBLIC

FINLAND

FI Comments, CBAM

XII) Scope (incl. threshold)

- The Commission proposes changes to article 2 that introduce a new mass-based de minimis -threshold for CBAM-imports for exempting importers from CBAM obligations. Does this mean that CBA importers exceeding the threshold would be liable only for the CBAM imports exceeding that threshold? Or would it mean that also the CBAM imports up to that threshold would be included in the CBAM obligations. The staff working document sheds some light on this topic, but we wonder whether some reflection is needed in the article level too.

XIII) Enforcement (incl. monitoring, circumvention, penalties)

- The Commission proposes that the Commission and National Competent Authorities for CBAM are jointly responsible for the monitoring of occasional importers and for detecting those who exceed the 50 t threshold. In art 25a, it is unclear **who has the primary responsibility on monitoring the threshold.** Can you elaborate how the detection would work in practice, and how occasional importers who exceed the threshold are treated?
- According to article 25 customs authorities shall not allow importation of goods by any other person than an authorized CBAM declarant. With the new de minimis rule**, how would monitoring be organized at the moment of import? Or would the de minimis threshold mean importation of goods would be monitored ex-post?**
- In article 25(2) of the CBAM Regulation, the Commission proposes certain new information needs (the form of identification declared in accordance with Article 6(2) of Delegated Regulation (EU) 2015/2446, and the name, address and contact information, of the importer or of the authorised CBAM declarant). Can the Commission clarify whether these would need changes to the Annex of delegated act (EU) 2015/2447?

XIV) Authorisation (incl: CBAM representative)

- It is unclear for us whether the intention of the amendments in art 17(1) of the CBAM Regulation to the consultation process is to make the consultation process **voluntary in all cases or only in the case when the competent authority is giving a favourable decision**. If the intention is that the consultation process is voluntary both in the case of a favourable and non-favourable decision, there might be some need for rewording in art 17(1).

- Has the Commission considered **simplifications to the requirement of the guarantee?** As it stands the guarantee is required from new companies and we wonder whether the Commission considered making the criteria more flexible.

XV) Reporting (incl. registry access, deadlines, customs-related issues)

- In article 6(2)a of the CBAM Regulation, the Commission proposes that in the CBAM declaration the declarants shall include information also on imported goods below the threshold laid down in point 1 of Annex VII. May the Commission further clarify the reasoning behind this addition?

PUBLIC

18 March 2025

FI written comments CBAM omnibus

- This paper consists of questions and comments of clarifying nature

Art 17

- We understand the Commission intention with the amendments to art 17 is that the consultation process is voluntary in all cases.
- In art 17(1), the word "favourable" may be misinterpreted so that the consultation process is voluntary only when the competent authority is taking a favourable decision. Some rewording may be needed for clarification.

> Before granting the status of authorised CBAM declarant, the competent authority may consult relevant competent authorities or the Commission via the CBAM registry about the fulfilment of the necessary conditions and criteria for taking a **favourable** decision.

Art 23

- In the amendments proposed to article 23(2), the amount of certificates that the authorized CBAM declarant can ask to be repurchased has increased.
- In the WP 14 March, we understand the implications of this change were discussed. For example, a situation could arise that the CBAM declarant buys certificates in each quarter but at the end of the calendar year, the CBAM imports of that declarant do not exceed the 50 tonnes threshold. If it is the case that in this situation the repurchase obligation should be at 100%, this should be reflected in the wording of the article. Otherwise, too much room for interpretation could create unclarity.

Art 25

- In article 25(2) of the CBAM Regulation, the Commission proposes certain new information needs (the form of identification declared in accordance with Article 6(2) of Delegated Regulation (EU) 2015/2446, and the name, address and contact information, of the importer or of the authorised CBAM declarant). Can the Commission clarify whether these would need changes to the Annex of implementing act (EU) 2015/2447 and what is the timetable foreseen for these changes?

Annex VI

- Should the subpoint (iii) of Article 1(28) in the amendment still include the phrase "if actual emissions are used"? Without this specification actual emissions seem to be needed for all precursors even when default values are used.

SWD

- You mention in the SWD that the new CBAM de minimis will also benefit third-country operators in the form of reduced administrative costs. Can you elaborate more on the impact of the proposal for third-country operators?

PUBLIC

SWEDEN

Written comments by Sweden on the Proposal for a Regulation amending Regulation (EU) 2023/956 as regards simplifying and strengthening the Carbon Border Adjustment Mechanism

PUBLIC

Sweden is preliminary positive to the proposal, with reservation for study and parliamentary scrutiny. The comments and questions below serve to clarify and further simplify the regulation. In addition, there is also some drafting proposals that in some cases relates to the questions and comments.

Comments and Questions

- In article 2.3a the COM is empowered to adopt delegated acts to amend the mass threshold set out in Annex VII. SE acknowledge the need for flexibility in this regard. What is the COMs and the legal service of the Council´s view of this empowerment with regard to the prohibition for delegated acts to change the essential elements of the basic act?
- SE has some doubts about the proposed definition of importer in article 3 (15). The handling of bill of discharge is not digitalised which means that the data will not go directly into the Surveillance system and the customs authorities must somehow manually transfer the data to the COM and the Surveillance system. SE has in the expert group on customs dealing with this issue, CEG-SPE, for several years been hesitant to the current simplification, thus SE sees a risk with this simplification as it will entail additional work for the customs authorities.
- Against this background, SE would like some clarifications on the need for the proposed amendment of the definition of importer that includes a possibility to lodge a bill of discharge instead of customs declaration for release for free circulation.
- In recital 14 it is stated that “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. However, necessary changes in the legal text are missing. Additions should be made either in article 7 or in annex IV.
- In Article 5(7), it is proposed to add paragraph (a) regarding that an approved CBAM declarant may delegate the submission of CBAM declarations to a third party. The COM writes in its working document that one of the requirements for these third parties/representatives to access the CBAM register is that they have an EORI number and are established in the EU. However, the purpose of having an EORI number for such representatives is unclear. It should be considered whether it is necessary for them to have an EORI number, as this is something that is used by operators engaged in customs related activities, which the representative may not be. The issuance of EORI numbers would imply additional administration for the Swedish Customs.
- There is a risk of circumvention regarding the use of default values (article 7) and default carbon prices (article 9) if they are tied to the country from where the product is exported into EU. It should be clarified that default values and default carbon prices shall relate to the country of each production step.

- The proposed article 10a does not specify details about how the registration of accredited verifiers in the CBAM registry would be conducted. Access to the CBAM registry would normally require an EORI number issued by the customs. An EORI number is normally issued for an economic operator conducting customs activities, which an accredited verifier not normally does. If the task of giving access to the CBAM registry for verifiers is assigned to the NCAs, it means a new task for the Swedish NCA (EPA) that the EPA currently do not have any system for. The COM would then have to implement a system for the application of registration for verifiers which can be used by the NCAs. A better alternative is that the COM is responsible for giving access to the verifiers in line with the procedure for the Operators of Third Country Installations Portal (O3CI). SE propose to align the registration of accredited verifiers with the procedure for registration of operators and of installations in third countries as is regulated in article 10 of the CBAM Regulation. This implies that the COM is responsible for the registration of accredited verifiers in the CBAM registry, which would require changes to the proposed article 10a.
- The proposed new threshold implies more difficulties for the importers to notice when they become subject to the CBAM obligations and the risk for mistakes increases. This may ultimately lead to more penalties being issued and therefore, it will be important that there are technical mechanisms to help the importers monitor when they are closing in on or exceeding the threshold. The main responsibility to monitor if importers are exceeding the threshold should be on the COM, since the COM has access to the surveillance data and import information of all MS. However, it should also be possible for the NCAs to conduct monitoring of the threshold, hence the COM needs to make relevant information available in the CBAM registry. That information should be comprehensive enough to make it possible for NCAs both to identify importers who exceeds the threshold and importers that are on the verge of exceeding the threshold.

Suggested amendments

The proposed amendments below are highlighted in yellow.

Article	**Amendment**	**Comment**
5.1 5.1a	Any importer established in a Member State shall, where the importer expects to exceed the threshold laid down in point 1 of Annex VII,… ~~1a. An importer shall submit the application for authorisation in accordance with paragraph 1 where the importer expects to exceed the threshold laid down in point 1 of Annex VII.~~	Clairification. The criteria for when an importer is obliged to apply for authorisation is regulated in the first paragraph of article 5.

6.1	By 31 May August of each year, and for the first time in 2027 for the year 2026, each authorised CBAM declarant shall, where the importer has exceeded the threshold laid down in point 1 of Annex VII,…	Clarification. An authorised CBAM-declarant is only obliged to submit a CBAM-declaration if the declarant has exceeded the threshold. In addition, consider clarification regarding indirect customs representative that they do not need to include imports from importers not exceeding the threshold in the CBAM declaration.
7 or Annex IV	Embedded emissions of precursors that have already been subject to the EU ETS, or to a carbon pricing system that is fully linked with the EU ETS, are assigned embedded emissions of zero when calculating the embedded emissions of complex goods.	Clarification. For more elaboration on this issue, see above under Comments and Questions.
Art. 10a	SE propose to align the registration of accredited verifiers with the procedure for registration of operators and of installations in third countries as is regulated in article 10 of the CBAM Regulation. This would mean that the COM is responsible for the registration of accredited verifiers in the CBAM registry, which would require changes to the proposed article 10a.	For more elaboration on this issue, see above under Comments and Questions.
11.3	See article 21 of the ETS Directive. It should be clarified what scope and format the information should be provided in, for example a questionnaire. Furthermore, the time frame for the reporting should be clarified.	Need for clarification since it is not clear what type of information should be provided, and under which forms this will be done. If left too unclear, the article risks putting an unnecessary burden on the NCAs to provide information to the COM. As a comparison, article 21 of the ETS Directive (directive 2003/87/EC),

		regulates a similar information reporting for the EU ETS. Proposal to align article 11(3) with how article 21 of the ETS Directive.
25.1	The customs authorities shall, where the competent authority has notified the customs authority in accordance with Article 25a point 3, not allow the importation of goods by any person other than an authorised CBAM declarant.	Clarification. If understood correctly, the customs are only obliged to stop the import of goods when the competent authority has decided so.
25a.1	The c~~ompetent authorities and the~~ Commission shall monitor the importation of goods listed in Annex I and the corresponding threshold laid down in point 1 of Annex VII. The monitoring may also be conducted by the competent authorities and the Commission shall provide necessary information in the CBAM registry to facilitate this. The Commission shall periodically and automatically exchange with competent authorities information necessary for the monitoring of importers in the CBAM registry. The Commission shall ensure the development and availability of a self-monitoring tool that importers may use to monitor the total cumulative net-weight of their imports of CBAM goods to the Union during a calendar year. The use of the self-monitoring tool shall be voluntary. The availability of the tool is without prejudice to the responsibility of the importer to monitor its imports and comply with the CBAM obligations.	The COM should be responsible for the monitoring. Some kind of tool needs to be developed to reduce the number of importers that exceeds the threshold without applying for the status as CBAM declarants.