Council of the European Union
General Secretariat

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Interinstitutional files:
2025/0419 (COD)

Brussels, 25 March 2026

WK 4455/2026 INIT

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DOCUMENT PARTIALLY ACCESSIBLE TO THE PUBLIC (18.05.2026)

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MEETING DOCUMENT

From:	Presidency
To:	Delegations
Subject:	AHWP CBAM meeting of 1 April 2026 - Presidency steering note

Delegations will attached the Presidency steering note.

CBAM – PRESIDENCY STEERING NOTE

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The purpose of this steering note is to facilitate the discussions in the meeting of the AHWP CBAM on 1 April 2026.

The main objective of this meeting is to determine the views of delegations on the suggested amendments to the Commission proposal, as well as to permit a more detailed discussion on some of the issues that are set out in the Annexes of this steering note (outermost regions, [redacted], imported electricity, [redacted]).

The Presidency's objective, following the discussions in the AHWP on 1 April 2026 is to draft its second compromise text, taking into considerations further observations by Member States, and continue discussion on the remaining open issues, as appropriate.

With a view to reaching the objective of a general approach in June, the Presidency invites delegations to indicate the issues that would block them from accepting the overall compromise text and indicate, where possible, a compromise solution (ideally, in the form of drafting suggestions).

The discussions will be organised in the order set out in this steering note.

1. Discussion on the compromise text

Delegations will be invited to provide their comments on the first Presidency compromise text set out in doc. ST 7572/26. In this document, delegations will also find explanatory boxes prepared in collaboration with Commission, to clarify the main adjustments proposed in the Presidency compromise text.

Please note also that some of the specific issues are singled out for a separate discussion under item 2 of this steering note (not as part of a discussion on the Presidency compromise text).

2. Discussion on the Annexes to the steering note

The Presidency suggests discussing several selected issues that have not been reflected in the first compromise text. On the basis of bilateral contacts with delegations, the Presidency suggests that these issues deserve in-depth analysis and discussions with delegations, before a decision can be made on whether these issues should be resolved in the second Presidency compromise text.

The objective of this meeting is to determine, for each issue below, whether delegations agree with or oppose the policy solutions put forward by Member States to address these issues. Depending on the feedback received by delegations, the Presidency may take up these policy issues in the 2nd presidency text.

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The Presidency suggests that these topics are discussed in the order of appearance of the Annexes to this steering note:

a) outermost regions (Annex I);

b) imported electricity (Annex II);

c) [redacted]

d) [redacted]

3. Product scope of CBAM

The Presidency did not modify the list of CN codes proposed by the Commission. While the analysis of the CN codes proposed for extension of CBAM scope is ongoing, the Commission will be invited to address the questions raised by Member states, and to provide further explanations on the reasoning of its current proposal with regard to the selection of the CN codes.

Delegations are invited to provide concrete suggestions of CN codes that they would like to be added or removed from the Annex I of the CBAM regulation. Such suggestions would preferably be accompanied by technical justifications (e.g. addition of components for completeness or addition of goods within same HS family to minimise circumvention risk or other) to facilitate the work of assessing coherence with the existing list in Annex I.

Annex I

OUTERMOST REGIONS

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ECOFIN Council (10 March 2026)

AOB by France - Targeted adjustments of the CBAM in order to take into account the specific characteristics of Outermost regions

Explanatory Note

The Carbon Border Adjustment Mechanism (CBAM) is an indispensable tool for implementing European climate ambitions, as it creates strong incentives for decarbonisation of the EU industry covered by the ETS. A cornerstone of the European Green Deal and the Clean Industry Pact, it aims to combat carbon leakage by strengthening the carbon price signal, while ensuring fair treatment with industries in third countries.

The CBAM came into force on 1 January 2026 and applies indiscriminately to the entire customs territory of the European Union. This includes the outermost regions (OR) of the European Union, namely Guadeloupe, French Guiana, Martinique, Mayotte, Réunion and Saint Martin. **The specific characteristics and constraints of the outermost regions are referred to in Article 349 of the TFEU,** relating to their remoteness, isolation, small size, relief and economic dependence on a small number of products, without undermining the integrity and coherence of the Union's legal order, including the internal market and common policies.

These territories are largely dependent on imports from outside the EU: on average, **80% of the French ORs' supply of products covered by the CBAM comes from non-EU countries**. This dependence is mainly due to the limited opportunities for economies of scale for local industrial development, their remoteness and their integration into regional value chains.

Overseas economies are also already weakened by a high cost of living, businesses that are in poorer financial health than their counterparts in continental Europe, and economic development that faces the challenges of job creation and attracting investment. These challenges are sometimes exacerbated. This is the case, for example, **with the specific context of Mayotte's reconstruction needs following Cyclone Chido**, given that the territory is dependent on cement imports from neighbouring countries.

In this context, initial estimates show that the CBAM has a disproportionate economic impact on the ORs, without it being possible to remedy this, as in the rest of the Union's customs territory, by reallocating sources of supply. The additional cost represents on

average 31.9% of the import cost of the products concerned from countries falling within the scope of the CBAM. **For cement alone, this increase will reach between 68% and 70% in 2026**.

From the point of view of the integrity of the CBAM, **the risk of circumvention via the ORs would remain negligible, both because of the nature of the uses and the infrastructural constraints** and considering the heavy nature of the products and the remoteness of these regions (the French outermost regions are all more than 6,000 km from continental Europe). In practical terms, the ports concerned are characterised by low trade volumes, already high utilisation rates and a focus on local supply. The share of imports is thus nearly ten times higher than that of exports, **while transhipped goods account for no more than 5% of trade flows.** In addition, transhipment strategies are also severely constrained by the limited capacity of port infrastructure.

It is therefore crucial that the next version of the compromise on the revision of the CBAM Regulation takes account of this specific situation and, in line with Article 349 TFEU, includes a proposal for a targeted adjustment allowing, where necessary, the adaptation of the applying conditions of the mechanism for certain ORs and certain products, provided that the products covered by this adjustment are intended for local use and cannot subsequently be introduced on the European internal market.

The amendment proposed in the annex strikes a balance between taking account of the specific situation of the outermost regions and preserving the integrity and coherence of the Union's legal order, insofar as: (i) it allows the Member States concerned to take measures, or not to take measures, depending on the specific supply constraints of each OR for certain products; (ii) it ensures that these measures do not undermine the environmental integrity of the CBAM and the coherence of the internal market; (iii) it allows the Commission to ensure that they are necessary and proportionate and do not give rise to circumvention, failing which it may request their suspension.

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EXPLANATION OF PROPOSED AMENDMENTS ON OUTERMOST REGIONS

The amendment would give the possibility for MS to introduce derogations to the application of CBAM for certain goods, provided that COM and other MS are notified and informed about the reasons and the measures to ensure CBAM integrity is preserved – 3 months before it is implemented. COM should have the right to object. After entry into force, the MS would have the obligation to issue a report on the assessment on the impacts, including on the inflows of CBAM goods to the territory of the Union, and COM could have the possibility to suspend the derogation.

The reasoning is the following : given their specific characteristics, OMRs are particularly exposed to the price effects resulting from the CBAM, which can be explained by i) a very high dependence on extra-EU imports of CBAM goods, given their distance from the European continent; ii) absence of local industrial production of primary CBAM goods; iii) cost-of-living challenges ; iv) Specific reconstruction needs, and therefore demand for construction materials such as cement and steel, particularly in the case of Mayotte. A first estimate assesses the total cost of the CBAM at EUR 36.6 million for all Overseas Departments and Regions as of 2026. Cement imports, whose prices could increase by around 60% in La Réunion and Martinique, account for the bulk of the impacts.

This amendment would directly result from recital 17 of the CBAM regulation : *With a view to ensuring that the transition to a carbon-neutral economy is continuously accompanied by economic and social cohesion, account should be taken, upon future revision of this Regulation, of the special characteristics and constraints of the outermost regions referred to in Article 349 TFEU as well as of island States which are part of the customs territory of the Union, without undermining the integrity and coherence of the Union legal order, including the internal market and common policies.*

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OUTERMOST REGIONS: DRAFTING SUGGESTIONS

Article 1(1)(f) (Article 2(13))	**Member States may exempt from the application of this Regulation goods listed in Annex I that are placed on the market in the outermost regions of the Union within the meaning of Article 349 TFEU.** **When a Member State intends to adopt exemption measures in application of the first subparagraph, it shall notify the Commission and other Member States of that intention by specifying the outermost regions and products covered by those measures. The Member State shall also specify the reasons supporting these measures, their intended date of entry into force, and the intended measures to preserve the integrity of the CBAM and to limit new risks of circumvention. These intended measures shall ensure that the goods covered by the exemption measures are exclusively intended for local use in the relevant outermost regions.** **The notification referred to in the second subparagraph shall occur at least three months before the intended date of entry into force of the exemption measures. Where the Commission has not raised any objections within three months of receiving the notification, the exemption measures shall enter into force on the intended date.** **By 31 December of each year, Member States in which measures referred to in the first subparagraph are in force shall submit to the Commission a report assessing the impact of these measures on the flow of exempted goods from the relevant outermost regions. Where a measure has led to proven cases of circumvention that would have not otherwise occurred, the Commission shall, within six months after the relevant Member State has**	**ADDITION NEEDED** See recital below. Similar wording exists in Article 2(3) of Directive 2024/3110

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	communicated this report, request this Member State to amend this measure to prevent circumvention. Where the Commission finds that the changes made by the Member State are insufficient to ensure the integrity of the CBAM, taking into account the reasons supporting the relevant measures, it may require the Member State to terminate these measures within three months following the notification to the Member State.	
After Recital 49 [Numbering should be updated]	**With a view to ensuring that the transition to a carbon-neutral economy is continuously accompanied by economic and social cohesion, account should be taken of the special characteristics and constraints of the outermost regions referred to in Article 349 TFEU. Due to their remoteness, insularity, limited production, market power, and storing capacity, and strong dependence on imports from neighbouring third countries, those regions may face particular challenges in the application of this Regulation. The application of this Regulation to certain goods may have a more pronounced impact on prices and supply conditions in those regions, which are already characterised by higher costs of living and greater economic vulnerability. It is therefore appropriate to allow targeted adaptations, provided that the integrity and coherence of the Union legal order, including the internal market and common policies, are preserved.**	**ADDITION NEEDED**
After Recital 49 [Numbering should be updated]	**In order to address those specific circumstances, Member States should be able, in duly justified cases, to provide for limited exemptions for goods listed in Annex I that are placed on the market in outermost regions, where such goods are intended exclusively for local use. The risk of circumvention of this Regulation should remain limited in light of, *inter alia*, the limited scale of trade flows, restricted port capacities and the predominantly local use**	**ADDITION NEEDED**

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	of imports in those outermost regions, and should be effectively mitigated through appropriate safeguards, notification requirements and regular monitoring by the Commission. Such exemptions should therefore be subject to prior notification, periodic reporting and review, ensuring that they remain proportionate and consistent with the objectives of this Regulation.	

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DRAFTING SUGGESTIONS

Proposal of new Article 2 paragraph 13 of CBAM regulation

Member States may provide for derogations from the application of this Regulation for certain goods listed in Annex I to this Regulation which are released for free circulation in an outermost region of the European Union within the meaning of Article 349 of the Treaty on the Functioning of the European Union.

Member States shall, where applicable, notify the European Commission and Member States of their intention to adapt CBAM implementation rules in one or more outermost regions under their jurisdiction, indicating the territories and products covered by the derogation. They shall also indicate the reasons justifying the derogation, the planned date of application and the measures envisaged to preserve the integrity of CBAM and limit new risks of circumvention. These measures shall ensure that the products covered by the derogation are intended exclusively for local use in the outermost region concerned.

The notification shall be made no later than three months before the desired date of application. If the Commission does not raise any objection within three months of receiving the notification, the derogations shall enter into force.

The Member State shall submit to the Commission a bi-annual report assessing the impact of these derogations on the flows of the exempted goods from the outermost region concerned towards continental European Union. Where the derogation provided to an outermost region gives rise to proven cases of circumvention, the Commission shall request the Member State to amend its derogation in order to prevent such circumvention within [6] months. If the Commission considers that the amendments made by the Member State are insufficient to guarantee the integrity of CBAM, it may require the derogation to be withdrawn within [3] months.

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Annex II – IMPORTED ELECTRICITY

(drafting suggestions/explanation)

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DRAFTING SUGGESTIONS

The following amendments are proposed to take into account real time specific emissions from imported electricity, to ensure that the CBAM price on the imported electricity will reflect better the actual embedded emissions (see further explanations below):

Amendment in Article 7(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, **or by reference to a real time specific value set out in point 4.2.2 of Annex IV**, unless the authorized 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."

New point 4.2.2 to Annex IV,

In Annex IV, we suggest adding a new point 4.2.2 which describes the methodology for the real-time specific emission factor.

"**4.2.2. REAL TIME SPECIFIC EMISSIONS FACTOR:** Where data is available in a third country, a group of third countries, or a region within a third country, a real-time specific emission factor based on the carbon intensity of energy production in the third country of origin may be applied if the following criteria are met:

(a) Data on real-time specific emissions are made publicly available by the transmission system operator, statistical bureau or other relevant data sources in the third country of origin, or by the European Network of Transmission System Operators for Electricity or other similar organisations;

(b) Emission data regarding production of electricity in the third country of origin shall be provided on a relevant time-specific granularity and refer to the same period of time of import of electricity from the third country, which shall not be longer than one hour"

By including the new point 4.2.2, the existing point '*4.2.2 Alternative default values'* will then be a new 4.2.3.

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EXPLANATION

Potential Guidance Document

A guidance document could be drafted, if there is a preference for the data-methodology not to be listed in the actual wording of the suggested point 4.2.2.

Implementing and delegated acts

The use of the time-specific emission factors and associated documentation in an importer's CBAM declaration is expected to be subject to the overall verification basis. Therefore, it is a prerequisite that the amendment, with the time-specific emission factors, is reflected in subsequent amendments of the related acts on AV.

Likewise, amendments of the implementing act on methodology will have to reflect the addition of point 4.2.2. Such amendments would be needed in article 8, annex II and annex IV of that IA.

Data availability

An example of third country data which conforms to the criteria of the proposed point 4.2.2 of Annex IV, would be the 'Historic generation mix and carbon intensity' dataset published by the GB Transmission System Operator NESO. Such data both meets the criteria of litra (a) by being an official dataset made public by a third country TSO, as well as meeting the criteria of litra (b) due to the data granularity of 30 minutes intervals. Therefore, all electricity transfers from GB – of which 5 Member States currently have interconnectors with – would be expected to be able to utilize the real time specific emission factor corresponding to their declared imports.

Furthermore, as it is currently a legal obligation for the Energy Community countries to adopt the EU Renewable Energy Directive, this will effectively ensure that in the future EU importers will have access to data from these third countries, which could similarly be used for emissions reporting purposes under point 4.2.2. This would expand the list of data compliant countries to include Albania, Bosnia and Herzegovina, Kosovo, North Macedonia, Montenegro, Serbia, Georgia, Moldova and Ukraine.

Background

The changes proposed by the Commission on import of renewable electricity will still be subject to a CBAM-price automatically assuming a part of the electricity is produced with fossil fuels – even in situations where 100% of the imported electricity is generated from renewable sources. This shortcoming risks having a negative impact on the import

of cheap renewable electricity, which may then be replaced by more expensive fossil-based electricity with-in the EU.

Denmark therefore proposes a voluntary option to use a real-time specific emissions factor. This factor could be based on reliable carbon emissions data in third countries on a relevant granularity (e.g. 15 or 60 minutes).

By adding a voluntary option of a time-specific emissions factor CBAM-declarants in EU Member States will have a better financial incentive for importing electricity from third countries during periods of excess renewable energy production. This further contributes to lower energy prices and the achievement of EU's climate targets, as well as incentivizing investments in the renewable energy sector of electricity exporting third countries.

Denmark would like to recognize that not all electricity ex-porting third countries are currently able to provide real-time specific emissions data. Where this is the case, we evidently welcome the improved standard emissions factor.

However, as it is the case with other CBAM products, there should be a voluntary option to use either the standard emissions factor or higher-quality data, if available.

Denmark does not see this as an issue of unequal treatment – rather this is an opportunity to support lower energy prices for households and to support the competitiveness of the EU.

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