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From: General Secretariat of the Council
To: Simplification

Subject: Explanatory note - CBAM SIMPLIFICATION - 3rd Presidency compromise

Delegations will find attached an explanatory note on the third Presidency compromise text for CBAM (circulated in doc. ST 8226/25), in preparation for the meeting of the Antici Group (Simplification) on 30 April 2025.

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EXPLANATORY NOTE

CBAM SIMPLIFICATION – Presidency 3rd compromise text

Antici Group on Simplification (AGS)

30 April 2025, Wednesday

The purpose of this explanatory note is to provide delegations with additional information, clarifications and reasoning for the amendments proposed by the Presidency in the Presidency 3rd compromise text (ST 8226/25).

ARTICLE	REASONING
<i>Recitals:</i>	
Recital (2)	A reference to that Commission proposal is considered redundant in the recital.
Recital (3)	Amendment for further clarification of the obligation of importer who exceeds the threshold and intends to continue to import CBAM goods.
Recital (3a)	Amendment corresponding to revised article on the imports of hydrogen and electricity. Please see further explanation on Art. 1(1a) – Article 2a(4) of the CBAM Regulation.
Recital (5)	Editorial amendment.
Recital (6) and (6a)	Amendment for the purpose of further clarification of the indirect customs representatives in the context of the introduction of the single mass-based threshold.
Recital (7)	Amendment reflecting changes in Article 25a.
Recital (8a)	New recital on the provisional regime as described in Art. 17(7a).
Recital (13a)	A new recital that clarifies the situation concerning electricity and hydrogen exclusively generated in the exclusive economic zone or on the continental shelf. In the context of hydrogen production correct reference to Articles of Commission Delegated Regulation has been made.
Recital (16a)	New recital providing clarity on Art. 9.
Recital (18a)	New recital providing clarity on Art. 18.
Recital (19)	Amendment providing further clarification, reflecting wording in Article 11(1).
Recital (19a)	New recital providing explanation of changes in Art. 20(5a) and 20(6).
Recital (24)	Amendments providing clarity on Art. 26
Recital (24a)	New recital providing clarity on Art. 26.
Recital (28)	Recital considered redundant in the light of Recital 5 introduced in respect of Article 2a in the previous Presidency compromises
<i>Article 1(1a) – Art. 2a of the CBAM Regulation (De minimis exemption):</i>	

Article 1(1a) = Art. 2a(3)	In order to ensure that stakeholders have sufficient time to prepare, the Commission assessment whether the single mass-based threshold applies to no more than 1% of the emissions embedded in the imported goods and processed products should be concluded by 30 April (instead of July) followed by the delegated act.
Article 1(1a) = Art. 2a(4)	In order to ensure equal treatment of all the importers of goods that fall under the scope of de minimis exemption PRES PL revised the previous amendment. The amendment clarifies that imports of hydrogen or electricity do not benefit of de minimis threshold but other goods imported by the same importer do.
Article 1(3) – Art. 5 of the CBAM Regulation (Application for authorization):	
Article 1(3)(ca) = Art. 5(2a)	Amendment for the purpose of further clarification of indirect customs representative's obligations.
Article 1(7) – Art. 9. of the CBAM Regulation (Carbon price paid in a third country):	
Article 1(7) = Art. 9(1)	Amendment for further clarification on the carbon price paid. Where default values for emissions are used, only default carbon prices can be claimed. Where embedded emissions are reported based on verified actual values, declarants can claim, if available, either a carbon price effectively paid abroad or default carbon prices. As this clarification addresses the issue with precursors produced in the EU, Article 9(5) which was introduced in the previous compromise text is removed (see below).
Article 1(7) = Art. 9(3a)	Amendment to clarify the reduction that may be claimed by an authorized CBAM declarant. Additionally, in order to enhance transparency PRES PL revised the second subparagraph of this amendment and reintroduced original phrase “publish the methodology”.
Article 1(7) = Art. 9(5)	Paragraph redundant in light of amendments to Art. 9(3).
Article 1(9) – Art. 10a. of the CBAM Regulation (Registration of accredited verifiers):	
Article 1(9) = Art. 10a(1)	The amendment proposed to reflect the timeline of the operationalization of the IT system.
Article 1(9) = Art. 10a(2)(f)	Editorial change.
Article 1(9) = Art. 10a(3)	The amendment providing further clarity that this process will be automatic, as explained by the Commission, via the CBAM registry.
Article 1(9) = Art. 10a(5)	The amendment providing further clarity on the process of verification and avoiding confusing overlap with Art. 10(5)(b).
Article 1(10) – Art. 11. Of the CBAM Regulation (Competent authorities):	
Article 1(1)(b) = Art. 11(3)	The amendment providing further clarity on the process of providing information by the competent authorities on the implementation of CBAM.
Article 1(12) – Art. 17 of the CBAM Regulation (Authorization):	

Article 1(12)(aaaa) = Art. 17(7a)	The amendment providing clarification that the provisional regime applies as well to the indirect customs representatives. One month was added (deadline changed to 31/03/2026) as well as phrase “during this period” was further specified.
Article 1(14) – Art. 20 of the CBAM Regulation	
Article (14)(ba) = Art. 20(5a) Article (14)(c) = Art. 20(6)	Provision that the costs of the establishment, operation and management of the common central platform should be initially financed by the Union budget, to which the revenues of the fees payable by authorized CBAM declarants should be assigned. An empowerment of the Commission to decide at the occasion of subsequent joint procurement procedures, by means of delegated acts, that the fees would finance those costs directly, without the involvement of the Union budget.
Article 1(16) – Art. 22 of the CBAM Regulation (Surrender of CBAM certificates)	
Article 1(16)(c) = Art. 22(2a)	In light of the amendments to Article 26 on penalties PRES PL reverted to the original Commission provision. However a change in the starting date for complying with the obligation has been kept due to the concerns of some delegations.
Article 1(19) – Art. 25 of the CBAM Regulation (Rules applicable to the importation of goods):	
Article 1(19)(a) = Art. 25(2)	The amendment for the purpose of clarification.
Article 1(20) – Art. 25a of the CBAM Regulation (Monitoring and enforcement of the threshold laid down in point 1 of Annex VII)	
Article 1(20) = Art. 25a(1)	The amendment confirming that the Commission shall monitor the threshold and further specifying information communicated with competent authorities.
Article 1(20) = Art. 25a(3)	The amendment distinguishing decision on exceedance of the single mass-based threshold and decision on penalties.
Article 1(21) – Art. 26 of the CBAM Regulation (Penalties)	
Article 1(21)(b) = Art. 26(1a)	The amendment clarifying that also in case of incorrect information coming from the independent person certifying the carbon price documentation NCA can impose lower penalty.
Article 1(21)(ba) = Art. 26(2a)	Amendment clarifying that the penalty for those importers importing CBAM goods without authorization should be not be lower than the penalty to those who have a CBAM authorization.
Article 1(21)(baa) = Art. 26(3)	PRES PL reintroduced original wording of the proposal with reference to the new paragraph 1a.
Article 1(24) – Art.30 of the CBAM Regulation (Review and reporting by the Commission)	
Article 1(24)(b) = Article 30(6)(b)(v)	Amendment to provide clarity that both – the possibility of increasing this threshold and introducing a supplementary consignment-based threshold – will be reviewed.