

**REGULATION (EU) 2023/956 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 10 May 2023**  
**establishing a carbon border adjustment mechanism**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(3)</sup>,

Whereas:

- (1) In its communication of 11 December 2019 entitled ‘The European Green Deal’ (the ‘European Green Deal’), the Commission set out a new growth strategy. That strategy aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy, where there are no net emissions (emissions after deduction of removals) of greenhouse gases (‘greenhouse gas emissions’) at the latest by 2050 and where economic growth is decoupled from the use of resources. The European Green Deal aims to protect, conserve and enhance the Union’s natural capital, and to protect the health and well-being of citizens from environment-related risks and impacts. At the same time, that transformation must be just and inclusive, leaving no one behind. The Commission also announced in its communication of 12 May 2021 entitled ‘Pathway to a Healthy Planet for All, EU Action Plan: Towards Zero Pollution for Air, Water and Soil’ the promotion of relevant instruments and incentives to better implement the ‘polluter pays’ principle set out in Article 191(2) of the Treaty on the Functioning of the European Union (TFEU) and thus complete the phasing out of ‘pollution for free’ with a view to maximising synergies between decarbonisation and the zero-pollution ambition.
- (2) The Paris Agreement <sup>(4)</sup>, adopted on 12 December 2015 under the United Nations Framework Convention on Climate Change (UNFCCC) (the ‘Paris Agreement’), entered into force on 4 November 2016. The Parties to the Paris Agreement have agreed to hold the increase in the global average temperature well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1,5 °C above pre-industrial levels. Under the Glasgow Climate Pact, adopted on 13 November 2021, the Conference of the Parties to the UNFCCC, serving as the meeting of the Parties to the Paris Agreement, also recognised that limiting the increase in the global average temperature to 1,5 °C above pre-industrial levels would significantly reduce the risks and impacts of climate change, and committed to strengthening the 2030 targets by the end of 2022 to close the ambition gap.

<sup>(1)</sup> OJ C 152, 6.4.2022, p. 181.

<sup>(2)</sup> OJ C 301, 5.8.2022, p. 116.

<sup>(3)</sup> Position of the European Parliament of 18 April 2023 (not yet published in the Official Journal) and decision of the Council of 25 April 2023.

<sup>(4)</sup> OJ L 282, 19.10.2016, p. 4.

- (3) Tackling climate and other environment-related challenges and reaching the objectives of the Paris Agreement are at the core of the European Green Deal. The value of the European Green Deal has only grown in light of the very severe effects of the COVID-19 pandemic on the health and economic well-being of the Union's citizens.
- (4) The Union committed to reducing the Union's economy-wide net greenhouse gas emissions by at least 55 % compared to 1990 levels by 2030, as set out in the submission to the UNFCCC on behalf of the European Union and its Member States on the update of the nationally determined contribution of the European Union and its Member States.
- (5) Regulation (EU) 2021/1119 of the European Parliament and of the Council <sup>(5)</sup> has enshrined in legislation the objective of economy-wide climate neutrality at the latest by 2050. That Regulation also establishes a binding Union domestic reduction target for net greenhouse gas emissions (emissions after deduction of removals) of at least 55 % compared to 1990 levels by 2030.
- (6) The Special Report of the Intergovernmental Panel on Climate Change (IPCC) of 2018 on the impacts of global temperature increases of 1,5 °C above pre-industrial levels and related global greenhouse gas emission pathways provides a strong scientific basis for tackling climate change and illustrates the need to step up climate action. That report confirms that, in order to reduce the likelihood of extreme weather events, greenhouse gas emissions need to be urgently reduced, and that climate change needs to be limited to a global temperature increase of 1,5 °C. Moreover, if mitigation pathways, consistent with limiting global warming to 1,5 °C above pre-industrial levels, are not rapidly activated, much more expensive and complex adaptation measures will have to be taken to avoid the impacts of higher levels of global warming. The contribution of Working Group I to the Sixth Assessment Report of the IPCC entitled 'Climate Change 2021: The Physical Science Basis' recalls that climate change is already affecting every region on Earth and projects that in the coming decades climate change will increase in all regions. That report stresses that, unless there are immediate, rapid and large-scale reductions in greenhouse gas emissions, limiting warming to close to 1,5 °C or even 2 °C will be beyond reach.
- (7) The Union has been pursuing an ambitious policy on climate action and has put in place a regulatory framework to achieve its 2030 target for greenhouse gas emissions reduction. The legislation implementing that target consists, inter alia, of Directive 2003/87/EC of the European Parliament and of the Council <sup>(6)</sup>, which establishes a system for greenhouse gas emission allowance trading within the Union ('EU ETS') and delivers harmonised pricing of greenhouse gas emissions at Union level for energy-intensive sectors and subsectors, of Regulation (EU) 2018/842 of the European Parliament and of the Council <sup>(7)</sup>, which introduces national targets for the reduction of greenhouse gas emissions by 2030, and of Regulation (EU) 2018/841 of the European Parliament and of the Council <sup>(8)</sup>, which requires Member States to compensate greenhouse gas emissions from land use with the removal of greenhouse gases from the atmosphere.
- (8) While the Union has substantially reduced its domestic greenhouse gas emissions, the greenhouse gas emissions embedded in imports to the Union have been increasing, thereby undermining the Union's efforts to reduce its global greenhouse gas emissions footprint. The Union has a responsibility to continue playing a leading role in global climate action.

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<sup>(5)</sup> Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

<sup>(6)</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

<sup>(7)</sup> Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (OJ L 156, 19.6.2018, p. 26).

<sup>(8)</sup> Regulation (EU) 2018/841 of the European Parliament and of the Council of 30 May 2018 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework, and amending Regulation (EU) No 525/2013 and Decision No 529/2013/EU (OJ L 156, 19.6.2018, p. 1).

- (9) As long as a significant number of the Union's international partners have policy approaches that do not achieve the same level of climate ambition, there is a risk of carbon leakage. Carbon leakage occurs if, for reasons of costs related to climate policies, businesses in certain industry sectors or subsectors transfer production to other countries or imports from those countries replace equivalent products that are less intensive in terms of greenhouse gas emissions. Such situations could lead to an increase in the total global emissions, thus jeopardising the reduction of greenhouse gas emissions that is urgently needed if the world is to keep the increase in global average temperature to well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1,5 °C above pre-industrial levels. As the Union increases its climate ambition, that risk of carbon leakage could undermine the effectiveness of Union emission reduction policies.
- (10) The initiative for a carbon border adjustment mechanism (the 'CBAM') is part of the 'Fit for 55' legislative package. The CBAM is to serve as an essential element of the Union's toolbox for meeting the objective of a climate-neutral Union at the latest by 2050 in line with the Paris Agreement by addressing the risk of carbon leakage that results from the Union's increased climate ambition. The CBAM is expected to also contribute to promoting decarbonisation in third countries.
- (11) Existing mechanisms for addressing the risk of carbon leakage in sectors or subsectors where such risk exists consist of the transitional free allocation of EU ETS allowances and financial measures to compensate for indirect emission costs incurred from greenhouse gas emission costs passed on in electricity prices. Those mechanisms are set out in Article 10a(6) and Article 10b of Directive 2003/87/EC, respectively. The free allocation of EU ETS allowances at the level of best performers has been a policy instrument for certain industrial sectors to address the risk of carbon leakage. However, compared to full auctioning, such free allocation weakens the price signal that the system provides and thus affects the incentives for investment into further reducing greenhouse gas emissions.
- (12) The CBAM seeks to replace those existing mechanisms by addressing the risk of carbon leakage in a different way, namely by ensuring equivalent carbon pricing for imports and domestic products. To ensure a gradual transition from the current system of free allowances to the CBAM, the CBAM should be progressively phased in while free allowances in sectors covered by the CBAM are phased out. The combined and transitional application of EU ETS allowances allocated free of charge and of the CBAM should in no case result in more favourable treatment for Union goods compared to goods imported into the customs territory of the Union.
- (13) The carbon price is rising, and companies need long-term visibility, predictability and legal certainty to make their decisions on investment in the decarbonisation of industrial processes. Therefore, in order to strengthen the legal framework for fighting carbon leakage, a clear pathway for gradual further extension of the scope of the CBAM to products, sectors and subsectors at risk of carbon leakage should be established.
- (14) While the objective of the CBAM is to prevent the risk of carbon leakage, this Regulation would also encourage producers from third countries to use technologies that are more efficient in reducing greenhouse gases so that fewer emissions are generated. For that reason, the CBAM is expected to effectively support the reduction of greenhouse gas emissions in third countries.
- (15) As an instrument to prevent carbon leakage and reduce greenhouse gas emissions, the CBAM should ensure that imported products are subject to a regulatory system that applies carbon costs equivalent to those borne under the EU ETS, resulting in a carbon price that is equivalent for imports and domestic products. The CBAM is a climate measure which should support the reduction of global greenhouse gas emissions and prevent the risk of carbon leakage, while ensuring compatibility with World Trade Organization law.

- (16) This Regulation should apply to goods imported into the customs territory of the Union from third countries, except where their production has already been subject to the EU ETS through its application to third countries or territories or to a carbon pricing system that is fully linked with the EU ETS.
- (17) 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.
- (18) With a view to preventing the risk of carbon leakage in offshore installations, this Regulation should apply to goods, or processed products from those goods resulting from an inward processing procedure, that are brought to an artificial island, a fixed or floating structure, or any other structure on the continental shelf or in the exclusive economic zone of a Member State where that continental shelf or exclusive economic zone is adjacent to the customs territory of the Union. Implementing powers should be conferred on the Commission to lay down detailed conditions for the application of the CBAM to such goods.
- (19) The greenhouse gas emissions that should be subject to the CBAM should correspond to those greenhouse gas emissions covered by Annex I to Directive 2003/87/EC, namely carbon dioxide ('CO<sub>2</sub>') as well as, where relevant, nitrous oxide and perfluorocarbons. The CBAM should initially apply to direct emissions of those greenhouse gases from the time of production of goods until the import of those goods into the customs territory of the Union, mirroring the scope of the EU ETS to ensure coherence. The CBAM should also apply to indirect emissions. Those indirect emissions are the emissions arising from the generation of electricity used to produce the goods to which this Regulation applies. The inclusion of indirect emissions would further enhance the environmental effectiveness of the CBAM and its ambition to contribute to fighting climate change. Indirect emissions should, however, not be taken into account initially for the goods in respect of which financial measures apply in the Union that compensate for indirect emissions costs incurred from greenhouse gas emission costs passed on in electricity prices. Those goods are identified in Annex II to this Regulation. Future revisions of the EU ETS in Directive 2003/87/EC and, in particular, revisions of the compensation measures of the indirect costs should be appropriately reflected as regards the scope of application of the CBAM. During the transitional period, data should be collected for the purpose of further specifying the methodology for the calculation of indirect emissions. That methodology should take into account the quantity of electricity used for the production of the goods listed in Annex I to this Regulation, as well as the country of origin, generation source, and the emission factors related to that electricity. The specific methodology should be further specified in order to achieve the most appropriate way to prevent carbon leakage and ensure the environmental integrity of the CBAM.
- (20) The EU ETS and the CBAM share a common objective of pricing greenhouse gas emissions embedded in the same sectors and goods through the use of specific allowances or certificates. Both systems have a regulatory nature and are justified by the need to curb greenhouse gas emissions, in line with the binding environmental target under Union law, set out in Regulation (EU) 2021/1119, to reduce the Union's net greenhouse gas emissions by at least 55 % compared to 1990 levels by 2030 and the objective to reach economy-wide climate neutrality at the latest by 2050.
- (21) While the EU ETS sets the total number of allowances issued (the 'cap') on the greenhouse gas emissions from activities within its scope and allows trading of allowances (the 'cap and trade system'), the CBAM should not establish quantitative limits on imports, so that trade flows are not restricted. Moreover, while the EU ETS applies to installations in the Union, the CBAM should apply to certain goods imported into the customs territory of the Union.
- (22) The CBAM system has some specific features when compared to the EU ETS, including with respect to the calculation of the price of CBAM certificates, the possibilities to trade CBAM certificates and their period of validity. Those features are due to the need to preserve the effectiveness of the CBAM as a measure to prevent carbon leakage over time. They also ensure that the management of the CBAM system is not excessively burdensome, both in terms

of obligations imposed on operators and administrative resources, while at the same time preserving a level of flexibility available to operators equivalent to that under the EU ETS. Ensuring such a balance is of particular importance to small and medium-sized enterprises (SMEs) concerned.

- (23) In order to preserve its effectiveness as a measure to prevent carbon leakage, the CBAM needs to reflect closely the EU ETS price. While on the EU ETS market the price of allowances released onto the market is determined through auctions, the price of CBAM certificates should reasonably reflect the price of such auctions through averages calculated on a weekly basis. Such weekly average prices reflect closely the price fluctuations of the EU ETS and allow a reasonable margin for importers to take advantage of the price changes of the EU ETS while also ensuring that the system remains manageable for administrative authorities.
- (24) Under the EU ETS, the cap determines the supply of emission allowances and provides certainty about maximum emissions of greenhouse gases. The carbon price is determined by the balance of that supply against the market demand. Scarcity is necessary for there to be a price incentive. This Regulation is not intended to impose a cap on the number of CBAM certificates available to importers; if importers were able to carry forward and trade CBAM certificates, that ability could have resulted in situations where the price for CBAM certificates would no longer reflect the evolution of the price in the EU ETS. Such a situation would weaken the incentive for decarbonisation, favouring carbon leakage and impairing the overarching climate objective of the CBAM. It could also result in different prices for operators from different countries. The limits on the possibilities to trade CBAM certificates and to carry them forward are therefore justified by the need to avoid undermining the effectiveness and climate objective of the CBAM and to ensure even-handed treatment of operators from different countries. However, in order to preserve the possibility for importers to optimise their costs, this Regulation should provide for a system where authorities can repurchase a certain amount of excess certificates from importers. Such amount should be set at a level which allows a reasonable margin for importers to leverage their costs over the period of validity of the certificates while preserving the overall price transmission effect, ensuring that the environmental objective of the CBAM is preserved.
- (25) Given that the CBAM would apply to imports of goods into the customs territory of the Union rather than to installations, certain adaptations and simplifications would also need to apply in the CBAM. One such simplification should be the introduction of a simple and accessible declarative system whereby importers report the total verified greenhouse gas emissions embedded in goods imported in a given calendar year. A different timing compared to the compliance cycle of the EU ETS should also be applied to avoid any potential bottleneck that might result from obligations for accredited verifiers under this Regulation and Directive 2003/87/EC.
- (26) Member States should impose penalties for infringements of this Regulation and ensure that such penalties are enforced. More specifically, the penalty amount for the failure of an authorised CBAM declarant to surrender CBAM certificates should be identical to the amount pursuant to Article 16(3) and (4) of Directive 2003/87/EC. 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 is not obliged to surrender CBAM certificates. The imposition of penalties under this Regulation is without prejudice to penalties that may be imposed under Union or national law for the infringement of other relevant obligations, in particular those related to customs rules.
- (27) While the EU ETS applies to certain production processes and activities, the CBAM should target the corresponding imports of goods. That requires clearly identifying imported goods by means of their classification in the Combined Nomenclature ('CN') set out in Council Regulation (EEC) No 2658/87<sup>(9)</sup> and linking them to embedded emissions.

<sup>(9)</sup> Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

- (28) The goods or processed products covered by the CBAM should reflect the activities covered by the EU ETS as that system is based on quantitative and qualitative criteria linked to the environmental objective of Directive 2003/87/EC and is the most comprehensive greenhouse gas emissions regulatory system in the Union.
- (29) Defining the scope of the CBAM in a way that reflects the activities covered by the EU ETS would also contribute to ensuring that imported products are granted a treatment that is not less favourable than that accorded to like products of domestic origin.
- (30) Whilst the ultimate objective of the CBAM is one of broad product coverage, it would be prudent to start with a selected number of sectors with relatively homogeneous goods where there is a risk of carbon leakage. Union sectors deemed to be at risk of carbon leakage are listed in Commission Delegated Decision (EU) 2019/708 <sup>(10)</sup>.
- (31) The goods, to which this Regulation should apply, should be selected after careful analysis of their relevance in terms of cumulated greenhouse gas emissions and risk of carbon leakage in the corresponding EU ETS sectors, while limiting complexity and administrative burden on the operators concerned. In particular, the selection should take into account basic materials and basic products covered by the EU ETS with the objective of ensuring that emissions embedded in emission-intensive products imported into the Union are subject to a carbon price that is equivalent to that applied to Union products, and of mitigating the risk of carbon leakage. The relevant criteria to narrow the selection should be: first, relevance of sectors in terms of emissions, namely whether the sector is one of the largest aggregate emitters of greenhouse gas emissions; second, the sector's exposure to significant risk of carbon leakage, as defined pursuant to Directive 2003/87/EC; and third, the need to balance broad product coverage in terms of greenhouse gas emissions, while limiting complexity and administrative burden.
- (32) The use of the first criterion would allow the listing of the following industrial sectors in terms of cumulated emissions: iron and steel, refineries, cement, aluminium, organic basic chemicals, hydrogen and fertilisers.
- (33) Certain sectors listed in Delegated Decision (EU) 2019/708 should not, however, be addressed in this Regulation at this stage, due to their particular characteristics.
- (34) In particular, organic chemicals should not be included in the scope of this Regulation due to technical limitations that at the time of the adoption of this Regulation do not allow to define clearly the embedded emissions of such imported goods. For those goods the applicable benchmark under the EU ETS is a basic parameter, which does not allow for an unambiguous allocation of emissions embedded in individual imported goods. A more targeted allocation to organic chemicals requires more data and analysis.
- (35) Similar technical constraints apply to refinery products, for which it is not possible to unambiguously assign greenhouse gas emissions to individual output products. At the same time, the relevant benchmark in the EU ETS does not directly relate to specific products, such as petrol, diesel or kerosene, but to all refinery output.
- (36) Aluminium products should be included in the CBAM as they are highly exposed to carbon leakage. Moreover, in several industrial applications they are in direct competition with steel products because of characteristics which closely resemble those of steel products.
- (37) At the time of the adoption of this Regulation, imports of hydrogen into the Union are relatively low. However, that situation is expected to change significantly in the coming years as the Union's 'Fit for 55' package promotes the use of renewable hydrogen. For the decarbonisation of industry as a whole, the demand for renewable hydrogen will increase, and consequently lead to non-integrated production processes in downstream products where hydrogen is a precursor. The inclusion of hydrogen in the scope of the CBAM is the appropriate means to further foster the decarbonisation of hydrogen.

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<sup>(10)</sup> Commission Delegated Decision (EU) 2019/708 of 15 February 2019 supplementing Directive 2003/87/EC of the European Parliament and of the Council concerning the determination of sectors and subsectors deemed at risk of carbon leakage for the period 2021 to 2030 (OJ L 120, 8.5.2019, p. 20).

- (38) Similarly, certain products should be included in the scope of the CBAM despite their low level of embedded emissions occurring during their production process, as their exclusion would increase the likelihood of circumventing the inclusion of steel products in the CBAM by modifying the pattern of trade towards downstream products.
- (39) Conversely, this Regulation should not initially apply to certain products the production of which does not entail meaningful emissions such as ferrous scrap, some ferro-alloys and certain fertilisers.
- (40) The importation of electricity should be included in the scope of this Regulation, as that sector is responsible for 30 % of the total greenhouse gas emissions in the Union. The Union's increased climate ambition would widen the gap in carbon costs between electricity production within the Union and third countries. That gap, combined with the progress in connecting the Union electricity grid to that of its neighbours, would increase the risk of carbon leakage due to the increase in imports of electricity, a significant part of which is produced by coal-fired power plants.
- (41) In order to avoid excessive administrative burden as regards competent national administrations and importers, it is appropriate to specify the limited cases in which the obligations under this Regulation should not apply. That *de minimis* provision, however, is without prejudice to a continued application of the provisions under Union or national law that are necessary to ensure compliance with the obligations under this Regulation as well as, in particular, with customs legislation, including the prevention of fraud.
- (42) As importers of goods covered by this Regulation should not have to fulfil their obligations under this Regulation at the time of importation, specific administrative measures should be applied to ensure that such obligations are fulfilled at a later stage. Therefore, importers should only be entitled to import goods that are subject to this Regulation after they have been granted an authorisation by competent authorities.
- (43) The customs authorities should not allow the importation of goods by any person other than an authorised CBAM declarant. In accordance with Articles 46 and 48 of Regulation (EU) No 952/2013 of the European Parliament and of the Council <sup>(1)</sup>, the customs authorities are entitled to carry out checks on the goods, including with respect to the identification of the authorised CBAM declarant, the eight-digit CN code, the quantity and the country of origin of the imported goods, the date of declaration and the customs procedure. The Commission should include the risks relating to the CBAM in the establishment of the common risk criteria and standards pursuant to Article 50 of Regulation (EU) No 952/2013.
- (44) During a transitional period, the customs authorities should inform customs declarants of the obligation to report information, so as to contribute to the gathering of information as well as to awareness on the need to request the status of authorised CBAM declarants where applicable. Such information should be communicated by the customs authorities in an appropriate manner to ensure that customs declarants are made aware of such obligation.
- (45) The CBAM should be based on a declarative system in which an authorised CBAM declarant, who could represent more than one importer, would submit annually a declaration of the embedded emissions in the goods imported into the customs territory of the Union and would surrender the number of CBAM certificates which correspond to those declared emissions. The first CBAM declaration, in respect of the calendar year 2026, should be submitted by 31 May 2027.
- (46) An authorised CBAM declarant should be allowed to claim a reduction in the number of CBAM certificates to be surrendered corresponding to the carbon price already effectively paid in the country of origin for the declared embedded emissions.

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<sup>(1)</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

- (47) The declared embedded emissions should be verified by a person accredited by a national accreditation body appointed in accordance with Regulation (EC) No 765/2008 of the European Parliament and of the Council <sup>(12)</sup> or pursuant to Commission Implementing Regulation (EU) 2018/2067 <sup>(13)</sup>.
- (48) The CBAM should allow operators of production installations in third countries to register in the CBAM registry and to make their verified embedded emissions from production of goods available to authorised CBAM declarants. An operator should be able to choose that its name, address and contact information in the CBAM registry are not made accessible to the public.
- (49) CBAM certificates would differ from EU ETS allowances for which daily auctioning is an essential feature. The need to set a clear price for CBAM certificates would make daily publication excessively burdensome and confusing for operators, as daily prices risk becoming obsolete upon publication. Thus, the publication of CBAM prices on a weekly basis would more accurately reflect the pricing trend of EU ETS allowances released onto the market and pursue the same climate objective. The calculation of the price of CBAM certificates should therefore be set on the basis of a longer timeframe, namely on a weekly basis, than on the timeframe established by the EU ETS, namely on a daily basis. The Commission should be tasked with calculating and publishing that average price.
- (50) In order to give authorised CBAM declarants flexibility in complying with their obligations under this Regulation and allow them to benefit from fluctuations in the price of EU ETS allowances, CBAM certificates should be valid for a limited period of time from the date of their purchase. The authorised CBAM declarant should be allowed to re-sell a portion of the certificates bought in excess. With a view to surrendering CBAM certificates, the authorised CBAM declarant should accumulate the number of certificates required during the year which corresponds with the thresholds set at the end of each quarter.
- (51) The physical characteristics of electricity as a product justify a slightly different design within the CBAM as compared to other goods. Default values should be used under clearly specified conditions, and it should be possible for authorised CBAM declarants to claim the calculation of their obligations under this Regulation based on actual emissions. Electricity trade is different from trade in other goods, in particular because it is traded through interconnected electricity grids, using power exchanges and specific forms of trading. Market coupling is a densely regulated form of electricity trade which enables the aggregation of bids and offers across the Union.
- (52) To avoid the risk of circumvention and improve the traceability of actual CO<sub>2</sub> emissions from import of electricity and its use in goods, the calculation of actual emissions should only be permitted under certain strict conditions. In particular, it should be necessary to demonstrate a firm nomination of the allocated interconnection capacity and that there is a direct contractual relation between the purchaser and the producer of the renewable electricity, or between the purchaser and the producer of electricity having lower than default value emissions.
- (53) To reduce the risk of carbon leakage, the Commission should take action to address practices of circumvention. The Commission should evaluate the risk of such circumvention in all sectors to which this Regulation applies.
- (54) Contracting Parties to the Treaty establishing the Energy Community concluded by Council Decision 2006/500/EC <sup>(14)</sup> and, Parties to Association Agreements, including Deep and Comprehensive Free Trade Areas, are committed to decarbonisation processes that should eventually result in the adoption of carbon pricing mechanisms similar or equivalent to the EU ETS or in their participation in the EU ETS.

<sup>(12)</sup> Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

<sup>(13)</sup> Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ L 334, 31.12.2018, p. 94).

<sup>(14)</sup> Council Decision 2006/500/EC of 29 May 2006 on the conclusion by the European Community of the Energy Community Treaty (OJ L 198, 20.7.2006, p. 15).



- (55) The integration of third countries into the Union electricity market is an important factor for those countries to accelerate their transition to energy systems with high shares of renewable energies. Market coupling for electricity, as set out in Commission Regulation (EU) 2015/1222 <sup>(15)</sup>, enables third countries to better integrate electricity from renewable energies into the electricity market, to exchange such electricity in an efficient manner within a wider area, balancing supply and demand with the larger Union market, and to reduce the CO<sub>2</sub> emission intensity of their electricity generation. Integration of third countries into the Union electricity market also contributes to the security of electricity supplies in those countries and in the neighbouring Member States.
- (56) Once the electricity markets of third countries are closely integrated into that of the Union through market coupling, technical solutions should be found to ensure the application of the CBAM to electricity exported from those countries into the customs territory of the Union. If technical solutions cannot be found, third countries whose markets are coupled with that of the Union should benefit from a time-limited exemption from the CBAM until 2030 with regard solely to the export of electricity, provided that certain conditions are met. Those third countries should, however, develop a roadmap and commit to implementing a carbon pricing mechanism providing for a price that is equivalent to the EU ETS, and should commit to achieving carbon neutrality at the latest by 2050 as well as to align with Union legislation in the areas of environment, climate, competition and energy. Such exemption should be withdrawn at any time if there are reasons to believe that the country in question does not fulfil its commitments or if it has not adopted by 2030 an emissions trading system equivalent to the EU ETS.
- (57) Transitional provisions should apply for a limited period of time. For that purpose, the CBAM should apply without financial adjustment, with the objective of facilitating its smooth roll-out, thereby reducing the risk of disruptive impacts on trade. Importers should have to report on a quarterly basis the embedded emissions in goods imported during the previous quarter of the calendar year, setting out direct and indirect emissions as well as any carbon price effectively paid abroad. The last CBAM report, which is the report to be submitted for the last quarter of 2025, should be submitted by 31 January 2026.
- (58) To facilitate and ensure a proper functioning of the CBAM, the Commission should provide support to the competent authorities in carrying out their functions and duties under this Regulation. The Commission should coordinate, issue guidelines and support the exchange of best practices.
- (59) In order to apply this Regulation in a cost-efficient way, the Commission should manage the CBAM registry containing data on the authorised CBAM declarants, operators and installations in third countries.
- (60) A common central platform should be established for the sale and repurchase of CBAM certificates. With a view to overseeing the transactions on the common central platform, the Commission should facilitate the exchange of information and the cooperation between competent authorities, as well as between those authorities and the Commission. Furthermore, a rapid flow of information between the common central platform and the CBAM registry should be established.
- (61) To contribute to the effective application of this Regulation, the Commission should carry out risk-based controls and should review the content of CBAM declarations accordingly.
- (62) In order to further enable a uniform application of this Regulation, the Commission should, as a preliminary input, make available to the competent authorities its own calculations regarding the CBAM certificates to be surrendered, on the basis of its review of the CBAM declarations. Such preliminary input should be provided for indicative purposes only and without prejudice to the definitive calculation to be made by the competent authority. In particular, no right of appeal or other remedial measure should be possible against such preliminary input made by the Commission.

<sup>(15)</sup> Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (OJ L 197, 25.7.2015, p. 24).

- (63) Member States should also be able to carry out reviews of individual CBAM declarations for enforcement purposes. The conclusions of the reviews of individual CBAM declarations should be shared with the Commission. Those conclusions should also be made available to other competent authorities via the CBAM registry.
- (64) Member States should be responsible for correctly establishing and collecting revenues arising from the application of this Regulation.
- (65) The Commission should regularly evaluate the application of this Regulation and report to the European Parliament and to the Council. Those reports should in particular focus on possibilities to enhance climate actions towards reaching the objective of a climate-neutral Union at the latest by 2050. The Commission should, as part of that reporting, collect the information necessary with a view to the further extension of the scope of this Regulation to embedded indirect emissions in the goods listed in Annex II as soon as possible, as well as to other goods and services that could be at risk of carbon leakage, such as downstream products, and to developing methods of calculating embedded emissions based on the environmental footprint methods, as set out in Commission Recommendation 2013/179/EU <sup>(16)</sup>. Those reports should also contain an assessment of the impact of the CBAM on carbon leakage, including in relation to exports, and its economic, social and territorial impact throughout the Union, taking into account also the special characteristics and constraints of outermost regions referred to in Article 349 TFEU and of island States which are part of the customs territory of the Union.
- (66) Practices of circumvention of this Regulation should be monitored and addressed by the Commission, including where operators could slightly modify their goods without altering their essential characteristics, or artificially split shipments, in order to avoid the obligations under this Regulation. Situations where goods would be sent to a third country or region prior to their importation to the Union market, with the aim of avoiding the obligations under this Regulation, or where operators in third countries would export their less greenhouse gas emissions intensive products to the Union and keep their more greenhouse gas emissions intensive products for other markets, or reorganisation by exporters or producers of their patterns and channels of sale and production, or any other kinds of dual production and dual sale practices, with the aim of avoiding the obligations under this Regulation, should also be monitored.
- (67) In full respect of the principles set out in this Regulation, work on extending the scope of this Regulation should have the aim of including, by 2030, all the sectors covered by Directive 2003/87/EC. Therefore, when reviewing and evaluating the application of this Regulation, the Commission should maintain a reference to this timeline, and give priority to including within the scope of this Regulation greenhouse gas emissions embedded in goods that are most exposed to carbon leakage and that are most carbon intensive, as well as in downstream products that contain a significant share of at least one of the goods within the scope of this Regulation. Should the Commission not submit a legislative proposal for such an extension, by 2030, of the scope of this Regulation, it should inform the European Parliament and the Council of the reasons and take the necessary steps towards achieving the objective of including, as soon as possible, all the sectors covered by Directive 2003/87/EC.
- (68) The Commission should also present a report to the European Parliament and to the Council on the application of this Regulation two years from the end of the transitional period, and every two years thereafter. The timing for the submission of the reports should follow the timetables on the functioning of the carbon market pursuant to Article 10(5) of Directive 2003/87/EC. The reports should contain an assessment of the impacts of the CBAM.
- (69) In order to allow for a rapid and effective response to unforeseeable, exceptional and unprovoked circumstances that have destructive consequences on the economic and industrial infrastructure of one or more third countries subject to the CBAM, the Commission should submit to the European Parliament and to the Council a legislative proposal, as appropriate, amending this Regulation. Such a legislative proposal should set out the measures that are most appropriate in light of the circumstances that the third country or countries are facing, while preserving the objectives of this Regulation. Those measures should be limited in time.

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<sup>(16)</sup> Commission Recommendation 2013/179/EU of 9 April 2013 on the use of common methods to measure and communicate the life cycle environmental performance of products and organisations (OJ L 124, 4.5.2013, p. 1).

- (70) A dialogue with third countries should continue and there should be space for cooperation and solutions that could inform the specific choices to be made on the details of the CBAM during its implementation, in particular during the transitional period.
- (71) The Commission should strive to engage in an even-handed manner and in line with the international obligations of the Union with the third countries whose trade to the Union is affected by this Regulation, in order to explore the possibility for dialogue and cooperation regarding the implementation of specific elements of the CBAM. The Commission should also explore the possibility of concluding agreements that take into account the carbon pricing mechanism of third countries. The Union should provide technical assistance for those purposes to developing countries and to least developed countries as identified by the United Nations (LDCs).
- (72) The establishment of the CBAM calls for the development of bilateral, multilateral and international cooperation with third countries. For that purpose, a forum of countries with carbon pricing instruments or other comparable instruments ('Climate Club') should be set up, in order to promote the implementation of ambitious climate policies in all countries and pave the way for a global carbon pricing framework. The Climate Club should be open, voluntary, non-exclusive and directed in particular at aiming for high climate ambition in line with the Paris Agreement. The Climate Club could function under the auspices of a multilateral international organisation and should facilitate the comparison and, where appropriate, coordination of relevant measures with an impact on emission reduction. The Climate Club should also support the comparability of relevant climate measures by ensuring the quality of climate monitoring, reporting and verification among its members and providing means for engagement and transparency between the Union and its trade partners.
- (73) In order to further support the achievement of the goals of the Paris Agreement in third countries, it is desirable that the Union continue to provide financial support through the Union budget towards climate mitigation and adaptation in LDCs, including in their efforts towards the decarbonisation and transformation of their manufacturing industries. That Union support should also contribute to facilitating the adaptation of the industries concerned to the new regulatory requirements stemming from this Regulation.
- (74) As the CBAM aims to encourage cleaner production, the Union is committed to working with and supporting low and middle-income third countries towards the decarbonisation of their manufacturing industries as part of the external dimension of the European Green Deal and in line with the Paris Agreement. The Union should continue to support those countries through the Union budget, especially LDCs, in order to contribute to ensuring their adaptation to the obligations under this Regulation. The Union should also continue to support climate mitigation and adaptation in those countries, including in their efforts towards the decarbonisation and transformation of their manufacturing industries, within the ceiling of the multi-annual financial framework and the financial support provided by the Union to international climate finance. The Union is working towards introducing a new own resource based on the revenues generated by the sale of CBAM certificates.
- (75) This Regulation is without prejudice to Regulations (EU) 2016/679<sup>(17)</sup> and (EU) 2018/1725<sup>(18)</sup> of the European Parliament and of the Council.
- (76) In the interest of efficiency, Council Regulation (EC) No 515/97<sup>(19)</sup> should apply *mutatis mutandis* to this Regulation.

<sup>(17)</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>(18)</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

<sup>(19)</sup> Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ L 82, 22.3.1997, p. 1).

- (77) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of:
- supplementing this Regulation by laying down requirements and procedures for third countries or territories that have been removed from the list in point 2 of Annex III, to ensure the application of this Regulation to those countries or territories with regard to electricity;
  - amending the list of third countries and territories listed in point 1 or 2 of Annex III, either by adding those countries or territories to that list, in order to exclude from the CBAM those third countries or territories that are fully integrated into, or linked to, the EU ETS in the event of future agreements, or by removing third countries or territories from that list, thereby subjecting them to the CBAM, where they do not effectively charge the EU ETS price on goods exported to the Union;
  - supplementing this Regulation by specifying the conditions for granting accreditation to verifiers, control and oversight of accredited verifiers, withdrawal of accreditation, and mutual recognition and peer evaluation of the accreditation bodies;
  - supplementing this Regulation by further defining the timing, administration and other aspects of the sale and repurchase of CBAM certificates; and
  - amending the list of goods in Annex I by adding, in certain circumstances, goods that have been slightly modified, in order to strengthen measures that address practices of circumvention.

It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>(20)</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (78) Such consultations should be conducted in a transparent manner and may include prior consultations of stakeholders, such as competent bodies, industry (including SMEs), social partners such as trade unions, civil society organisations and environmental organisations.
- (79) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(21)</sup>.
- (80) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties. The CBAM should therefore rely on appropriate and effective mechanisms for avoiding losses of revenues.
- (81) Since the objectives of this Regulation, namely to prevent the risk of carbon leakage and thereby reduce global carbon emissions, cannot be sufficiently achieved by the Member States, but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (82) In order to allow for the timely adoption of delegated and implementing acts under this Regulation, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

<sup>(20)</sup> OJ L 123, 12.5.2016, p. 1.

<sup>(21)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### SUBJECT MATTER, SCOPE AND DEFINITIONS

#### *Article 1*

#### **Subject matter**

1. This Regulation establishes a carbon border adjustment mechanism (the 'CBAM') to address greenhouse gas emissions embedded in the goods listed in Annex I on their importation into the customs territory of the Union in order to prevent the risk of carbon leakage, thereby reducing global carbon emissions and supporting the goals of the Paris Agreement, also by creating incentives for the reduction of emissions by operators in third countries.
2. The CBAM complements the system for greenhouse gas emission allowance trading within the Union established under Directive 2003/87/EC (the 'EU ETS') by applying an equivalent set of rules to imports into the customs territory of the Union of the goods referred to in Article 2 of this Regulation.
3. The CBAM is set to replace the mechanisms established under Directive 2003/87/EC to prevent the risk of carbon leakage by reflecting the extent to which EU ETS allowances are allocated free of charge in accordance with Article 10a of that Directive.

#### *Article 2*

#### **Scope**

1. This Regulation applies to goods listed in Annex I originating in a third country, where those goods, or processed products from those goods resulting from the inward processing procedure referred to in Article 256 of Regulation (EU) No 952/2013, are imported into the customs territory of the Union.
2. This Regulation also applies to goods listed in Annex I to this Regulation originating in a third country, where those goods, or processed products from those goods resulting from the inward processing procedure referred to in Article 256 of Regulation (EU) No 952/2013, are brought to an artificial island, a fixed or floating structure, or any other structure on the continental shelf or in the exclusive economic zone of a Member State that is adjacent to the customs territory of the Union.

The Commission shall adopt implementing acts laying down detailed conditions for the application of the CBAM to such goods, in particular as regards the notions equivalent to those of importation into the customs territory of the Union and of release for free circulation, as regards the procedures relating to the submission of the CBAM declaration in respect of such goods and the controls to be carried out by customs authorities. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2) of this Regulation.

3. By way of derogation from paragraphs 1 and 2, this Regulation shall not apply to:
  - (a) goods listed in Annex I to this Regulation which are imported into the customs territory of the Union provided that the intrinsic value of such goods does not exceed, per consignment, the value specified for goods of negligible value as referred to in Article 23 of Council Regulation (EC) No 1186/2009 <sup>(22)</sup>;
  - (b) goods contained in the personal luggage of travellers coming from a third country provided that the intrinsic value of such goods does not exceed the value specified for goods of negligible value as referred to in Article 23 of Regulation (EC) No 1186/2009;

<sup>(22)</sup> Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty (OJ L 324, 10.12.2009, p. 23).

(c) goods to be moved or used in the context of military activities pursuant to Article 1, point (49), of Commission Delegated Regulation (EU) 2015/2446 <sup>(23)</sup>.

4. By way of derogation from paragraphs 1 and 2, this Regulation shall not apply to goods originating in the third countries and territories listed in point 1 of Annex III.

5. Imported goods shall be considered as originating in third countries in accordance with the rules for non-preferential origin as referred to in Article 59 of Regulation (EU) No 952/2013.

6. Third countries and territories shall be listed in point 1 of Annex III where they fulfil all the following conditions:

(a) the EU ETS applies to that third country or territory or an agreement has been concluded between that third country or territory and the Union fully linking the EU ETS and the emission trading system of that third country or territory;

(b) the carbon price paid in the country in which the goods originate is effectively charged on the greenhouse gas emissions embedded in those goods without any rebates beyond those also applied in accordance with the EU ETS.

7. If a third country or territory has an electricity market which is integrated with the Union internal market for electricity through market coupling, and there is no technical solution for the application of the CBAM to the importation of electricity into the customs territory of the Union from that third country or territory, such importation of electricity from that country or territory shall be exempt from the application of the CBAM, provided that the Commission has assessed that all of the following conditions have been fulfilled in accordance with paragraph 8:

(a) the third country or territory has concluded an agreement with the Union which sets out an obligation to apply Union law in the field of electricity, including the legislation on the development of renewable energy sources, as well as other rules in the field of energy, environment and competition;

(b) the domestic legislation in that third country or territory implements the main provisions of Union electricity market legislation, including on the development of renewable energy sources and the market coupling of electricity markets;

(c) the third country or territory has submitted a roadmap to the Commission which contains a timetable for the adoption of measures to implement the conditions set out in points (d) and (e);

(d) the third country or territory has committed to climate neutrality by 2050 and, where applicable, has accordingly formally formulated and communicated to the United Nations Framework Convention on Climate Change (UNFCCC) a mid-century, long-term low greenhouse gas emissions development strategy aligned with that objective, and has implemented that commitment in its domestic legislation;

(e) the third country or territory has, when implementing the roadmap referred to in point (c), demonstrated its fulfilment of the set deadlines and the substantial progress towards the alignment of domestic legislation with Union law in the field of climate action on the basis of that roadmap, including towards carbon pricing at a level equivalent to that in the Union in particular insofar as the generation of electricity is concerned; the implementation of an emissions trading system for electricity, with a price equivalent to the EU ETS, is to be finalised by 1 January 2030;

(f) the third country or territory has put in place an effective system to prevent indirect import of electricity into the Union from other third countries or territories that do not fulfil the conditions set out in points (a) to (e).

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<sup>(23)</sup> Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

8. A third country or territory that fulfils all the conditions set out in paragraph 7, shall be listed in point 2 of Annex III, and shall submit two reports on the fulfilment of those conditions, the first report by 1 July 2025 and the second by 31 December 2027. By 31 December 2025 and by 1 July 2028, the Commission shall assess, in particular on the basis of the roadmap referred to in paragraph 7, point (c), and the reports received from the third country or territory, if that third country or territory continues to fulfil the conditions set out in paragraph 7.

9. A third country or territory listed in point 2 of Annex III shall be removed from that list where one or more of the following conditions applies:

- (a) the Commission has reasons to consider that that third country or territory has not shown sufficient progress to comply with one of the conditions set out in paragraph 7, or that third country or territory has taken action that is incompatible with the objectives set out in the Union climate and environmental legislation;
- (b) that third country or territory has taken steps that are contrary to its decarbonisation objectives, such as providing public support for the establishment of new generation capacity that emits more than 550 grammes of carbon dioxide ('CO<sub>2</sub>') of fossil fuel origin per kilowatt-hour of electricity;
- (c) the Commission has evidence that, as a result of increased exports of electricity to the Union, the emissions per kilowatt-hour of electricity produced in that third country or territory have increased by at least 5 % compared to 1 January 2026.

10. The Commission is empowered to adopt delegated acts in accordance with Article 28 in order to supplement this Regulation by laying down requirements and procedures for third countries or territories that have been removed from the list in point 2 of Annex III, to ensure the application of this Regulation to those countries or territories with regard to electricity. If in such cases market coupling remains incompatible with the application of this Regulation, the Commission may decide to exclude those third countries or territories from Union market coupling and require explicit capacity allocation at the border between the Union and those third countries or territories, so that the CBAM can apply.

11. The Commission is empowered to adopt delegated acts in accordance with Article 28 in order to amend the lists of third countries or territories listed in point 1 or 2 of Annex III by adding or removing a third country or territory, depending on whether the conditions set out in paragraph 6, 7 or 9 of this Article are fulfilled in respect of that third country or territory.

12. The Union may conclude agreements with third countries or territories with a view to taking into account carbon pricing mechanisms in such countries or territories for the purposes of the application of Article 9.

### Article 3

#### Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) 'goods' means goods listed in Annex I;
- (2) 'greenhouse gases' means greenhouse gases as specified in Annex I in relation to each of the goods listed in that Annex;
- (3) 'emissions' means the release of greenhouse gases into the atmosphere from the production of goods;
- (4) 'importation' means release for free circulation as provided for in Article 201 of Regulation (EU) No 952/2013;
- (5) 'EU ETS' means the system for greenhouse gas emissions allowance trading within the Union in respect of activities listed in Annex I to Directive 2003/87/EC other than aviation activities;
- (6) 'customs territory of the Union' means the territory defined in Article 4 of Regulation (EU) No 952/2013;
- (7) 'third country' means a country or territory outside the customs territory of the Union;

- (8) 'continental shelf' means a continental shelf as defined in Article 76 of the United Nations Convention on the Law of the Sea;
- (9) 'exclusive economic zone' means an exclusive economic zone as defined in Article 55 of the United Nations Convention on the Law of the Sea and which has been declared as an exclusive economic zone by a Member State pursuant to that convention;
- (10) 'intrinsic value' means the intrinsic value for commercial goods as defined in Article 1, point (48), of Delegated Regulation (EU) 2015/2446;
- (11) 'market coupling' means the allocation of transmission capacity through a Union system which simultaneously matches orders and allocates cross-zonal capacities as set out in Regulation (EU) 2015/1222;
- (12) 'explicit capacity allocation' means the allocation of cross-border transmission capacity separate from the trade of electricity;
- (13) 'competent authority' means the authority designated by each Member State in accordance with Article 11;
- (14) 'customs authorities' means the customs administrations of Member States as defined in Article 5, point (1), of Regulation (EU) No 952/2013;
- (15) 'importer' means either the person lodging a customs declaration for release for free circulation of goods in its own name and on its own behalf or, where the customs declaration is lodged by an indirect customs representative in accordance with Article 18 of Regulation (EU) No 952/2013, the person on whose behalf such a declaration is lodged;
- (16) 'customs declarant' means a declarant as defined in Article 5, point (15), of Regulation (EU) No 952/2013 lodging a customs declaration for release for free circulation of goods in its own name or the person in whose name such a declaration is lodged;
- (17) 'authorised CBAM declarant' means a person authorised by a competent authority in accordance with Article 17;
- (18) 'person' means a natural person, a legal person or any association of persons which is not a legal person but which is recognised under Union or national law as having the capacity to perform legal acts;
- (19) 'established in a Member State' means:
  - (a) in the case of a natural person, any person whose place of residence is in a Member State;
  - (b) in the case of a legal person or an association of persons, any person whose registered office, central headquarters or permanent business establishment is in a Member State;
- (20) 'Economic Operators Registration and Identification number (EORI number)' means the number assigned by the customs authority when the registration for customs purposes has been carried out in accordance with Article 9 of Regulation (EU) No 952/2013;
- (21) 'direct emissions' means emissions from the production processes of goods, including emissions from the production of heating and cooling that is consumed during the production processes, irrespective of the location of the production of the heating or cooling;
- (22) 'embedded emissions' means direct emissions released during the production of goods and indirect emissions from the production of electricity that is consumed during the production processes, calculated in accordance with the methods set out in Annex IV and further specified in the implementing acts adopted pursuant to Article 7(7);
- (23) 'tonne of CO<sub>2</sub>e' means one metric tonne of CO<sub>2</sub>, or an amount of any other greenhouse gas listed in Annex I with an equivalent global warming potential;
- (24) 'CBAM certificate' means a certificate in electronic format corresponding to one tonne of CO<sub>2</sub>e of embedded emissions in goods;



- (25) 'surrender' means offsetting of CBAM certificates against the declared embedded emissions in imported goods or against the embedded emissions in imported goods that should have been declared;
- (26) 'production processes' means the chemical and physical processes carried out to produce goods in an installation;
- (27) 'default value' means a value, which is calculated or drawn from secondary data, which represents the embedded emissions in goods;
- (28) 'actual emissions' means the emissions calculated based on primary data from the production processes of goods and from the production of electricity consumed during those processes as determined in accordance with the methods set out in Annex IV;
- (29) 'carbon price' means the monetary amount paid in a third country, under a carbon emissions reduction scheme, in the form of a tax, levy or fee or in the form of emission allowances under a greenhouse gas emissions trading system, calculated on greenhouse gases covered by such a measure, and released during the production of goods;
- (30) 'installation' means a stationary technical unit where a production process is carried out;
- (31) 'operator' means any person who operates or controls an installation in a third country;
- (32) 'national accreditation body' means a national accreditation body as appointed by each Member State pursuant to Article 4(1) of Regulation (EC) No 765/2008;
- (33) 'EU ETS allowance' means an allowance as defined in Article 3, point (a), of Directive 2003/87/EC in respect of activities listed in Annex I to that Directive other than aviation activities;
- (34) 'indirect emissions' means emissions from the production of electricity which is consumed during the production processes of goods, irrespective of the location of the production of the consumed electricity.

## CHAPTER II

### OBLIGATIONS AND RIGHTS OF AUTHORISED CBAM DECLARANTS

#### *Article 4*

#### **Importation of goods**

Goods shall be imported into the customs territory of the Union only by an authorised CBAM declarant.

#### *Article 5*

#### **Application for authorisation**

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'). Where such an importer appoints an indirect customs representative in accordance with Article 18 of Regulation (EU) No 952/2013 and the indirect customs representative agrees to act as an authorised CBAM declarant, the indirect customs representative shall submit the application for an authorisation.
2. Where an importer is not established in a Member State, the indirect customs representative shall submit the application for an authorisation.
3. The application for an authorisation shall be submitted via the CBAM registry established in accordance with Article 14.

4. By way of derogation from paragraph 1, where transmission capacity for the import of electricity is allocated through explicit capacity allocation, the person to whom capacity has been allocated for import and who nominates that capacity for import shall, for the purposes of this Regulation, be regarded as an authorised CBAM declarant in the Member State where the person has declared the importation of electricity in the customs declaration. Imports are to be measured per border for time periods no longer than one hour and no deduction of export or transit in the same hour shall be possible.

The competent authority of the Member State in which the customs declaration has been lodged shall register the person in the CBAM registry.

5. The application for an authorisation shall include the following information about the applicant:

- (a) name, address and contact information;
- (b) EORI number;
- (c) main economic activity carried out in the Union;
- (d) certification by the tax authority in the Member State where the applicant is established that the applicant is not subject to an outstanding recovery order for national tax debts;
- (e) declaration of honour that the applicant was not involved in any serious infringements or repeated infringements of customs legislation, taxation rules or market abuse rules during the five years preceding the year of the application, including that it has no record of serious criminal offences relating to its economic activity;
- (f) information necessary to demonstrate the applicant's financial and operational capacity to fulfil its obligations under this Regulation and, if decided by the competent authority on the basis of a risk assessment, supporting documents confirming that information, such as the profit and loss account and the balance sheet for up to the last three financial years for which the accounts were closed;
- (g) estimated monetary value and volume of imports of goods into the customs territory of the Union by type of goods, for the calendar year during which the application is submitted, and for the following calendar year;
- (h) names and contact information of the persons on behalf of whom the applicant is acting, if applicable.

6. The applicant may withdraw its application at any time.

7. The authorised CBAM declarant shall inform without delay the competent authority, via the CBAM registry, of any changes to the information provided under paragraph 5 of this Article that have occurred after the decision granting the status of the authorised CBAM declarant has been adopted pursuant to Article 17 that may influence that decision or the content of the authorisation granted thereunder.

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. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

#### *Article 6*

#### **CBAM declaration**

1. By 31 May 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.

2. The CBAM declaration shall contain the following information:
  - (a) the total quantity of each type of goods imported during the preceding calendar year, expressed in megawatt-hours for electricity and in tonnes for other goods;
  - (b) the total embedded emissions in the goods referred to in point (a) of this paragraph, expressed in tonnes of CO<sub>2</sub>e emissions per megawatt-hour of electricity or, for other goods, in tonnes of CO<sub>2</sub>e emissions per tonne of each type of goods, calculated in accordance with Article 7 and verified in accordance with Article 8;
  - (c) the total number of CBAM certificates to be surrendered, corresponding to the total embedded emissions referred to in point (b) of this paragraph after the reduction that is due on the account of the carbon price paid in a country of origin in accordance with Article 9 and the adjustment necessary to reflect the extent to which EU ETS allowances are allocated free of charge in accordance with Article 31;
  - (d) copies of verification reports, issued by accredited verifiers, under Article 8 and Annex VI.
3. Where processed products resulting from an inward processing procedure as referred to in Article 256 of Regulation (EU) No 952/2013 are imported, the authorised CBAM declarant shall report in the CBAM declaration the emissions embedded in the goods that were placed under the inward processing procedure and resulted in the imported processed products, even where the processed products are not goods listed in Annex I to this Regulation. This paragraph shall also apply where the processed products resulting from the inward processing procedure are returned goods as referred to in Article 205 of Regulation (EU) No 952/2013.
4. Where the imported goods listed in Annex I to this Regulation are processed products resulting from an outward processing procedure as referred to in Article 259 of Regulation (EU) No 952/2013, the authorised CBAM declarant shall report in the CBAM declaration only the emissions of the processing operation undertaken outside the customs territory of the Union.
5. Where the imported goods are returned goods as referred to in Article 203 of Regulation (EU) No 952/2013, the authorised CBAM declarant shall report separately, in the CBAM declaration, 'zero' for the total embedded emissions corresponding to those goods.
6. The Commission is empowered to adopt implementing acts concerning the standard format of the CBAM declaration, including detailed information for each installation and country of origin and type of goods to be reported which supports the totals referred to in paragraph 2 of this Article, in particular as regards embedded emissions and carbon price paid, the procedure for submitting the CBAM declaration via the CBAM registry, and the arrangements for surrendering the CBAM certificates referred to in paragraph 2, point (c), of this Article, in accordance with Article 22(1), in particular as regards the process and the selection by the authorised CBAM declarant of certificates to be surrendered. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

#### 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 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 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 laying 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; 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; and
  - (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 <sup>(24)</sup>, Implementing Regulation (EU) 2018/2067 and Commission Delegated Regulation (EU) 2019/331 <sup>(25)</sup>. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2) of this Regulation.

## Article 8

### Verification of embedded emissions

1. The authorised CBAM declarant shall ensure that the total embedded emissions declared in the CBAM declaration submitted pursuant to Article 6 are verified by a verifier accredited pursuant to Article 18, based on the verification principles set out in Annex VI.
2. For embedded emissions in goods produced in installations in a third country registered in accordance with Article 10, the authorised CBAM declarant may choose to use verified information disclosed to it in accordance with Article 10(7) to fulfil the obligation referred to in paragraph 1 of this Article.

<sup>(24)</sup> Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ L 334, 31.12.2018, p. 1).

<sup>(25)</sup> Commission Delegated Regulation (EU) 2019/331 of 19 December 2018 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ L 59, 27.2.2019, p. 8).

3. The Commission is empowered to adopt implementing acts for the application of the verification principles set out in Annex VI as regards:

- (a) the possibility to waive, in duly justified circumstances and without putting at risk a reliable estimation of the embedded emissions, the obligation for the verifier to visit the installation where relevant goods are produced;
- (b) the definition of thresholds for deciding whether misstatements or non-conformities are material; and
- (c) the supporting documentation needed for the verification report, including its format.

Where it adopts the implementing acts referred to in the first subparagraph, the Commission shall seek equivalence and coherence with the procedures set out in Implementing Regulation (EU) 2018/2067. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2) of this Regulation.

#### Article 9

### Carbon price paid in a third country

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

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

3. The authorised CBAM declarant shall keep the records referred to in paragraph 2 until the end of the fourth year after the year during which the CBAM declaration has been or should have been submitted.

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

#### Article 10

### Registration of operators and of installations in third countries

1. The Commission shall, upon request by an operator of an installation located in a third country, register the information on that operator and on its installation in the CBAM registry referred to in Article 14.

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

- (a) the name, address and contact information of the operator;

- (b) the location of each installation including the complete address and geographical coordinates expressed in longitude and latitude, including six decimals;
  - (c) the main economic activity of the installation.
3. The Commission shall notify the operator of the registration in the CBAM registry. The registration shall be valid for a period of five years from the date of its notification to the operator of the installation.
4. The operator shall inform the Commission without delay of any changes in the information referred to in paragraph 2 arising after the registration, and the Commission shall update the relevant information in the CBAM registry.
5. The operator shall:
- (a) determine the embedded emissions calculated in accordance with the methods set out in Annex IV, by type of goods produced at the installation referred to in paragraph 1 of this Article;
  - (b) ensure that the embedded emissions referred to in point (a) of this paragraph are verified in accordance with the verification principles set out in Annex VI by a verifier accredited pursuant to Article 18;
  - (c) keep a copy of the verification report as well as records of the information required to calculate the embedded emissions in goods in accordance with the requirements laid down in Annex V for a period of four years after the verification has been performed.
6. The records referred to in paragraph 5, point (c), of this Article shall be sufficiently detailed to enable the verification of the embedded emissions in accordance with Article 8 and Annex VI, and to enable the review, in accordance with Article 19, of the CBAM declaration made by an authorised CBAM declarant to whom the relevant information was disclosed in accordance with paragraph 7 of this Article.
7. An operator may disclose the information on the verification of embedded emissions referred to in paragraph 5 of this Article to an authorised CBAM declarant. The authorised CBAM declarant shall be entitled to use that disclosed information in order to fulfil the obligation referred to in Article 8.
8. The operator may, at any time, ask to be deregistered from the CBAM registry. The Commission shall, upon such request, and after notifying the competent authorities, deregister the operator and delete the information on that operator and on its installation from the CBAM registry, provided that such information is not necessary for the review of CBAM declarations that have been submitted. The Commission may, after having given the operator concerned the possibility to be heard and having consulted with the relevant competent authorities, also deregister the information if the Commission finds that the information on that operator is no longer accurate. The Commission shall inform the competent authorities of such deregistrations.

### CHAPTER III

#### COMPETENT AUTHORITIES

##### *Article 11*

#### **Competent authorities**

1. Each Member State shall designate the competent authority to carry out the functions and duties under this Regulation and inform the Commission thereof.

The Commission shall make available to the Member States a list of all competent authorities and publish that information in the *Official Journal of the European Union* and make that information available in the CBAM registry.

2. Competent authorities shall exchange any information that is essential or relevant to the exercise of their functions and duties under this Regulation.

*Article 12***Commission**

In addition to the other tasks that it exercises under this Regulation, the Commission shall assist the competent authorities in carrying out their functions and duties under this Regulation and shall coordinate their activities by supporting the exchange of, and issuing guidelines on, best practices within the scope of this Regulation, and by promoting an adequate exchange of information and cooperation between competent authorities as well as between competent authorities and the Commission.

*Article 13***Professional secrecy and disclosure of information**

1. All information acquired by the competent authority or the Commission in the course of performing their duties which is by its nature confidential or which is provided on a confidential basis shall be covered by the obligation of professional secrecy. Such information shall not be disclosed by the competent authority or the Commission without the express prior permission of the person or authority that provided it or by virtue of Union or national law.
2. By way of derogation from paragraph 1, the competent authorities and the Commission may share such information with each other, the customs authorities, the authorities in charge of administrative or criminal penalties, and the European Public Prosecutor's Office, for the purposes of ensuring compliance of persons with their obligations under this Regulation and the application of customs legislation. Such shared information shall be covered by professional secrecy and shall not be disclosed to any other person or authority except by virtue of Union or national law.

*Article 14***CBAM registry**

1. The Commission shall establish a CBAM registry of authorised CBAM declarants in the form of a standardised electronic database containing the data regarding the CBAM certificates of those authorised CBAM declarants. The Commission shall make the information in the CBAM registry available automatically and in real time to customs authorities and competent authorities.
2. The CBAM registry referred to in paragraph 1 shall contain accounts with information about each authorised CBAM declarant, in particular:
  - (a) the name, address and contact information of the authorised CBAM declarant;
  - (b) the EORI number of the authorised CBAM declarant;
  - (c) the CBAM account number;
  - (d) the identification number, the sale price, the date of sale, and the date of surrender, repurchase or cancellation of CBAM certificates for each authorised CBAM declarant.
3. The CBAM registry shall contain, in a separate section of the registry, the information about the operators and installations in third countries registered in accordance with Article 10(2).
4. The information in the CBAM registry referred to in paragraphs 2 and 3 shall be confidential, with the exception of the names, addresses and contact information of the operators and the location of installations in third countries. An operator may choose not to have its name, address and contact information made accessible to the public. The public information in the CBAM registry shall be made accessible by the Commission in an interoperable format.
5. The Commission shall publish, on a yearly basis, for each of the goods listed in Annex I, the aggregated emissions embedded in the imported goods.

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

#### *Article 15*

##### **Risk analysis**

1. The Commission shall carry out risk-based controls on the data and the transactions recorded in the CBAM registry, referred to in Article 14, to ensure that there are no irregularities in the purchase, holding, surrender, repurchase and cancellation of CBAM certificates.
2. If the Commission identifies irregularities as a result of the controls carried out under paragraph 1, it shall inform the competent authorities concerned so that further investigations are carried out in order to correct the identified irregularities.

#### *Article 16*

##### **Accounts in the CBAM registry**

1. The Commission shall assign to each authorised CBAM declarant a unique CBAM account number.
2. Each authorised CBAM declarant shall be granted access to its account in the CBAM registry.
3. The Commission shall set up the account as soon as the authorisation referred to in Article 17(1) is granted and shall notify the authorised CBAM declarant thereof.
4. If the authorised CBAM declarant has ceased its economic activity or its authorisation has been revoked, the Commission shall close the account of that authorised CBAM declarant, provided that the authorised CBAM declarant has complied with all its obligations under this Regulation.

#### *Article 17*

##### **Authorisation**

1. Where an application for an authorisation is submitted in accordance with Article 5, the competent authority in the Member State in which the applicant is established shall grant the status of authorised CBAM declarant provided that the criteria set out in paragraph 2 of this Article are complied with. The status of authorised CBAM declarant shall be recognised in all Member States.

Before granting the status of authorised CBAM declarant, the competent authority shall conduct a consultation procedure on the application for an authorisation via the CBAM registry. The consultation procedure shall involve the competent authorities in the other Member States and the Commission and shall not exceed 15 working days.

2. The criteria for granting the status of authorised CBAM declarant shall be the following:
  - (a) the applicant has not been involved in a serious infringement or in repeated infringements of customs legislation, taxation rules, market abuse rules or this Regulation and delegated and implementing acts adopted under this Regulation, and in particular the applicant has no record of serious criminal offences relating to its economic activity during the five years preceding the application;
  - (b) the applicant demonstrates its financial and operational capacity to fulfil its obligations under this Regulation;



- (c) the applicant is established in the Member State where the application is submitted; and
- (d) the applicant has been assigned an EORI number in accordance with Article 9 of Regulation (EU) No 952/2013.

3. Where the competent authority finds that the criteria set out in paragraph 2 of this Article are not fulfilled, or where the applicant has failed to provide information listed in Article 5(5), the granting of the status of authorised CBAM declarant shall be refused. Such decision to refuse the status of authorised CBAM declarant shall provide the reasons for the refusal and include information on the possibility to appeal.

4. A decision of the competent authority granting the status of authorised CBAM declarant shall be registered in the CBAM registry and shall contain the following information:

- (a) the name, address and contact information of the authorised CBAM declarant;
- (b) the EORI number of the authorised CBAM declarant;
- (c) the CBAM account number assigned to the authorised CBAM declarant in accordance with Article 16(1);
- (d) the guarantee required in accordance with paragraph 5 of this Article.

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

The competent authority shall fix the amount of such guarantee at the amount, calculated as the aggregate value of the number of CBAM certificates that the authorised CBAM declarant would have to surrender in accordance with Article 22 in respect of the imports of goods reported in accordance with Article 5(5), point (g). The guarantee provided shall be a bank guarantee, payable at first demand, by a financial institution operating in the Union or another form of guarantee which provides equivalent assurance.

6. Where the competent authority establishes that the guarantee provided does not ensure, or is no longer sufficient to ensure, the financial and operational capacity of the authorised CBAM declarant to fulfil its obligations under this Regulation, it shall require the authorised CBAM declarant to choose between providing an additional guarantee or replacing the initial guarantee with a new guarantee in accordance with paragraph 5.

7. The competent authority shall release the guarantee immediately after 31 May of the second year in which the authorised CBAM declarant has surrendered CBAM certificates in accordance with Article 22.

8. The competent authority shall revoke the status of authorised CBAM declarant where:

- (a) the authorised CBAM declarant requests a revocation; or
- (b) the authorised CBAM declarant no longer meets the criteria set out in paragraph 2 or 6 of this Article, or has been involved in a serious or repeated infringement of the obligation to surrender CBAM certificates referred to in Article 22(1) or of the obligation to ensure a sufficient number of CBAM certificates on its account in the CBAM registry at the end of each quarter referred to in Article 22(2).

Before revoking the status of authorised CBAM declarant, the competent authority shall give the authorised CBAM declarant the possibility to be heard and shall conduct a consultation procedure on the possible revocation of such status. The consultation procedure shall involve the competent authorities in the other Member States and the Commission and shall not exceed 15 working days.

Any decision of revocation shall contain the reasons for the decision as well as information about the right to appeal.

9. The competent authority shall register in the CBAM registry information on:
- (a) the applicants whose application for an authorisation has been refused pursuant to paragraph 3; and
  - (b) the persons whose status of authorised CBAM declarant has been revoked pursuant to paragraph 8.
10. The Commission shall adopt, by means of implementing acts, the conditions for:
- (a) the application of the criteria referred to in paragraph 2 of this Article, including that of not having been involved in a serious infringement or in repeated infringements under paragraph 2, point (a), of this Article;
  - (b) the application of the guarantee referred to in paragraphs 5, 6 and 7 of this Article;
  - (c) the application of the criteria of a serious or repeated infringement referred to in paragraph 8 of this Article;
  - (d) the consequences of the revocation of the status of authorised CBAM declarant referred to in paragraph 8 of this Article; and
  - (e) the specific deadlines and format of the consultation procedure referred to in paragraphs 1 and 8 of this Article.

The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 29(2).

#### Article 18

##### **Accreditation of verifiers**

1. Any person accredited in accordance with Implementing Regulation (EU) 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 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 be adopted in accordance with the examination procedure referred to in Article 29(2) of this Regulation.
2. A national accreditation body may, on request, accredit a person to be a verifier for the purpose of this Regulation where it considers, on the basis of the documentation submitted to it, that such person has the capacity to apply the verification principles referred to in Annex VI when performing the tasks of verification of the embedded emissions pursuant to Articles 8 and 10.
3. 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 2 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.

#### Article 19

##### **Review of CBAM declarations**

1. The Commission shall have the oversight role in the review of CBAM declarations.
2. The Commission may review CBAM declarations, in accordance with a review strategy, including risk factors, within the period ending with the fourth year after the year during which the CBAM declarations should have been submitted.

The review may consist in verifying the information provided in the CBAM declaration and in verification reports on the basis of the information communicated by the customs authorities in accordance with Article 25, any other relevant evidence, and on the basis of any audit deemed necessary, including at the premises of the authorised CBAM declarant.

The Commission shall communicate the initiation and the results of the review to the competent authority of the Member State where the CBAM declarant is established, via the CBAM registry.

The competent authority of the Member State where the authorised CBAM declarant is established may also review a CBAM declaration within the period referred to in the first subparagraph of this paragraph. The competent authority shall communicate the initiation and the results of a review to the Commission, via the CBAM registry.

3. The Commission shall periodically set out specific risk factors and points for attention, based on a risk analysis in relation to the implementation of the CBAM at Union level, taking into account information contained in the CBAM registry, data communicated by customs authorities, and other relevant information sources, including the controls and checks carried out pursuant to Article 15(2) and Article 25.

The Commission shall also facilitate the exchange of information with competent authorities about fraudulent activities and the penalties imposed in accordance with Article 26.

4. Where an authorised CBAM declarant fails to submit a CBAM declaration in accordance with Article 6, or where the Commission considers, on the basis of its review under paragraph 2 of this Article, that the declared number of CBAM certificates is incorrect, the Commission shall assess the obligations under this Regulation of that authorised CBAM declarant on the basis of the information at its disposal. The Commission shall establish a preliminary calculation of the total number of CBAM certificates which should have been surrendered, at the latest by the 31 December of the year following that in which the CBAM declaration should have been submitted, or at the latest by 31 December of the fourth year following that in which the incorrect CBAM declaration has been submitted, as applicable. The Commission shall provide to competent authorities such a preliminary calculation, for indicative purposes and without prejudice to the definitive calculation established by the competent authority of the Member State where the authorised CBAM declarant is established.

5. Where the competent authority concludes that the declared number of CBAM certificates to be surrendered is incorrect, or that no CBAM declaration has been submitted in accordance with Article 6, it shall determine the number of CBAM certificates which should have been surrendered by the authorised CBAM declarant, taking into account the information submitted by the Commission.

The competent authority shall notify the authorised CBAM declarant of its decision on the number of CBAM certificates determined and shall request that the authorised CBAM declarant surrender the additional CBAM certificates within one month.

The competent authority's decision shall contain the reasons for the decision as well as information about the right to appeal. The decision shall also be notified via the CBAM registry.

Where the competent authority, after receiving the preliminary calculation from the Commission in accordance with paragraphs 2 and 4 of this Article, decides not to take any action, the competent authority shall inform the Commission accordingly, via the CBAM registry.

6. Where the competent authority concludes that the number of CBAM certificates surrendered exceeds the number which should have been surrendered, it shall inform the Commission without delay. The CBAM certificates surrendered in excess shall be repurchased in accordance with Article 23.

#### CHAPTER IV

#### CBAM CERTIFICATES

##### *Article 20*

#### **Sale of CBAM certificates**

1. A Member State shall sell CBAM certificates on a common central platform to authorised CBAM declarants established in that Member State.

2. The Commission shall establish and manage the common central platform following a joint procurement procedure between the Commission and the Member States.

The Commission and the competent authorities shall have access to the information in the common central platform.

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

4. CBAM certificates shall be sold to authorised CBAM declarants at the price calculated in accordance with Article 21.

5. The Commission shall ensure that each CBAM certificate is assigned a unique identification number upon its creation. The Commission shall register the unique identification number and the price and date of sale of the CBAM certificate in the CBAM registry in the account of the authorised CBAM declarant purchasing that certificate.

6. 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 and repurchase of CBAM certificates, seeking coherence with the procedures of Commission Regulation (EU) No 1031/2010 <sup>(26)</sup>.

#### Article 21

##### Price of CBAM certificates

1. The Commission shall calculate the price of CBAM certificates as the average of the closing prices of EU ETS allowances on the auction platform, in accordance with the procedures laid down in Regulation (EU) No 1031/2010, for each calendar week.

For those calendar weeks in which no auctions are scheduled on the auction platform, the price of CBAM certificates shall be the average of the closing prices of EU ETS allowances of the last week in which auctions on the auction platform took place.

2. The Commission shall publish the average price, as referred to in the second subparagraph of paragraph 1, on its website or in any other appropriate manner on the first working day of the following calendar week. That price shall apply from the first working day following that of its publication to the first working day of the following calendar week.

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

#### Article 22

##### Surrender of CBAM certificates

1. By 31 May 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. The Commission shall remove surrendered CBAM certificates from the CBAM registry. The authorised CBAM declarant shall ensure that the required number of CBAM certificates is available on its account in the CBAM registry.

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<sup>(26)</sup> Commission Regulation (EU) No 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a system for greenhouse gas emission allowances trading within the Union (OJ L 302, 18.11.2010, p. 1).

2. The authorised CBAM declarant shall ensure that the number of CBAM certificates on its account in the CBAM registry at the end of each quarter corresponds to at least 80 % of the embedded emissions, determined by reference to default values in accordance with the methods set out in Annex IV, in all goods it has imported since the beginning of the calendar year.

3. Where the Commission finds that the number of CBAM certificates in the account of an authorised CBAM declarant does not comply with the obligations pursuant to paragraph 2, it shall inform, via the CBAM registry, the competent authority of the Member State where the authorised CBAM declarant is established.

The competent authority shall notify the authorised CBAM declarant of the need to ensure a sufficient number of CBAM certificates in its account within one month of such notification.

The competent authority shall register the notification to, and the response from, the authorised CBAM declarant in the CBAM registry.

#### *Article 23*

### **Repurchase of CBAM certificates**

1. 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 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. The authorised CBAM declarant shall submit the repurchase request by 30 June of each year during which CBAM certificates were surrendered.

2. The number of certificates subject to repurchase as referred to in paragraph 1 shall be limited to one third of the total number of CBAM certificates purchased by the authorised CBAM declarant during the previous calendar year.

3. The repurchase price for each CBAM certificate shall be the price paid by the authorised CBAM declarant for that certificate at the time of purchase.

#### *Article 24*

### **Cancellation of CBAM certificates**

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

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

## CHAPTER V

## RULES APPLICABLE TO THE IMPORTATION OF GOODS

## Article 25

**Rules applicable to the importation of goods**

1. The customs authorities shall not allow the importation of goods by any person other than an authorised CBAM declarant.
2. The customs authorities shall periodically and automatically, in particular by means of the surveillance mechanism established pursuant to Article 56(5) of Regulation (EU) No 952/2013, communicate to the Commission specific information on the goods declared for importation. That information shall include the EORI number and 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.
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 is established and shall, for each CBAM declarant, cross-check that information with the data in the CBAM registry pursuant to Article 14.
4. The customs authorities may communicate, in accordance with Article 12(1) of Regulation (EU) No 952/2013, confidential information acquired by the customs authorities in the course of performing their duties, or provided to the customs authorities on a confidential basis, to the Commission and the competent authority of the Member State that has granted the status of the authorised CBAM declarant.
5. Regulation (EC) No 515/97 shall apply *mutatis mutandis* to this Regulation.
6. The Commission is empowered to adopt implementing acts defining the scope of information and the periodicity, timing and means for communicating that information pursuant to paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

## CHAPTER VI

## ENFORCEMENT

## Article 26

**Penalties**

1. An authorised CBAM declarant who fails to surrender, by 31 May of each year, the number of CBAM certificates that corresponds to the emissions embedded in goods imported during the preceding calendar year shall be held liable for the payment of a penalty. Such a penalty shall be identical to the excess emissions penalty set out in Article 16(3) of Directive 2003/87/EC and increased pursuant to Article 16(4) of that Directive, applicable in the year of importation of the goods. Such a penalty shall apply for each CBAM certificate that the authorised CBAM declarant has not surrendered.
2. Where a person other than an authorised CBAM declarant introduces goods into the customs territory of the Union without complying with the obligations under this Regulation, that person shall be held liable for the payment of a penalty. Such a penalty shall be effective, proportionate and dissuasive and shall, depending in particular on the duration, gravity, scope, intentional nature and repetition of such non-compliance and the level of cooperation of the person with the competent authority, be an amount from three to five times the penalty referred to in paragraph 1, applicable in the year of introduction of the goods, for each CBAM certificate that the person has not surrendered.
3. The payment of the penalty shall not release the authorised CBAM declarant from the obligation to surrender the outstanding number of CBAM certificates in a given year.

4. If the competent authority determines, including in light of the preliminary calculations made by the Commission in accordance with Article 19, that an authorised CBAM declarant has failed to comply with the obligation to surrender CBAM certificates as set out in paragraph 1 of this Article, or that a person has introduced goods into the customs territory of the Union without complying with the obligations under this Regulation as set out in paragraph 2 of this Article, the competent authority shall impose the penalty pursuant to paragraph 1 or 2 of this Article, as applicable. To that end, the competent authority shall notify the authorised CBAM declarant or, where paragraph 2 of this Article applies, the person:

- (a) that the competent authority has concluded that the authorised CBAM declarant or the person referred to in paragraph 2 of this Article failed to comply with the obligations under this Regulation;
- (b) of the reasons for its conclusion;
- (c) of the amount of the penalty imposed on the authorised CBAM declarant or on the person referred to in paragraph 2 of this Article;
- (d) of the date from which the penalty is due;
- (e) of the action that the authorised CBAM declarant or the person referred to in paragraph 2 of this Article is to take to pay the penalty; and
- (f) of the right of the authorised CBAM declarant or of the person referred to in paragraph 2 of this Article to appeal.

5. Where the penalty has not been paid by the due date referred to in paragraph 4, point (d), the competent authority shall secure payment of that penalty by all means available to it under the national law of the Member State concerned.

6. Member States shall communicate the decisions on penalties referred to in paragraphs 1 and 2 to the Commission and shall register the final payment referred to in paragraph 5 in the CBAM registry.

#### Article 27

#### **Circumvention**

1. The Commission shall take action in accordance with this Article, based on relevant and objective data, to address practices of circumvention of this Regulation.

2. Practices of circumvention shall be defined as a change in the pattern of trade in goods, which stems from a practice, process or work, for which there is insufficient due cause or economic justification other than to avoid, wholly or partially, any of the obligations laid down in this Regulation. Such practice, process or work may consist of, but is not limited to:

- (a) slightly modifying the goods concerned to make those goods fall under CN codes which are not listed in Annex I, except where the modification alters their essential characteristics;
- (b) artificially splitting shipments into consignments the intrinsic value of which does not exceed the threshold referred to in Article 2(3).

3. The Commission shall continuously monitor the situation at Union level with a view to identifying practices of circumvention, including by way of market surveillance or on the basis of any relevant source of information, such as submissions by, and reporting from, civil society organisations.

4. A Member State or any party that has been affected by, or has benefited from, any of the situations referred to in paragraph 2 may notify the Commission if it is confronted with practices of circumvention. Interested parties other than directly affected or benefited parties, such as environmental organisations and non-governmental organisations, which find concrete evidence of practices of circumvention may also notify the Commission.

5. The notification referred to in paragraph 4 shall state the reasons on which it is based and shall include relevant data and statistics to support the claim of circumvention of this Regulation. The Commission shall initiate an investigation into a claim of circumvention either where it has been notified by a Member State, or by an affected, benefited or other interested party, provided that the notification meets the requirements referred to in this paragraph, or where the Commission itself determines that such an investigation is necessary. In carrying out the investigation, the Commission may be assisted by the competent authorities and customs authorities. The Commission shall conclude the investigation within nine months from the date of notification. Where an investigation has been initiated, the Commission shall notify all competent authorities.

6. Where the Commission, taking into account the relevant data, reports and statistics, including those provided by customs authorities, has sufficient reasons to believe that the circumstances referred to in paragraph 2, point (a) of this Article, are occurring in one or more Member States by way of an established pattern, it is empowered to adopt delegated acts in accordance with Article 28 to amend the list of goods in Annex I by adding the relevant slightly modified products referred to in paragraph 2, point (a), of this Article, for anti-circumvention purposes.

## CHAPTER VII

### EXERCISE OF THE DELEGATION AND COMMITTEE PROCEDURE

#### Article 28

##### Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 2(10), 2(11), 18(3), 20(6) and 27(6) shall be conferred on the Commission for a period of five years from 17 May 2023. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for further periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Articles 2(10), 2(11), 18(3), 20(6) and 27(6) may be revoked at any time by the European Parliament or by the Council.
4. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated act already in force.
5. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making.
6. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
7. A delegated act adopted pursuant to Articles 2(10), 2(11), 18(3), 20(6) or 27(6) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.



*Article 29***Committee procedure**

1. The Commission shall be assisted by the CBAM Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

## CHAPTER VIII

**REPORTING AND REVIEW***Article 30***Review and reporting by the Commission**

1. The Commission, in consultation with relevant stakeholders, shall collect the information necessary with a view to extending the scope of this Regulation as indicated in and pursuant to paragraph 2, point (a), and to developing methods of calculating embedded emissions based on environmental footprint methods.
2. Before the end of the transitional period referred to in Article 32, the Commission shall present a report to the European Parliament and to the Council on the application of this Regulation.

The report shall contain an assessment of:

- (a) the possibility to extend the scope to:
  - (i) embedded indirect emissions in the goods listed in Annex II;
  - (ii) embedded emissions in the transport of the goods listed in Annex I and transportation services;
  - (iii) goods at risk of carbon leakage other than those listed in Annex I, and specifically organic chemicals and polymers;
  - (iv) other input materials (precursors) for the goods listed in Annex I;
- (b) the criteria to be used to identify goods to be included in the list in Annex I to this Regulation based on the sectors at risk of carbon leakage identified pursuant to Article 10b of Directive 2003/87/EC; that assessment shall be accompanied by a timetable ending in 2030 for the gradual inclusion of the goods within the scope of this Regulation, taking into account in particular the level of risk of their respective carbon leakage;
- (c) the technical requirements for calculating embedded emissions for other goods to be included in the list in Annex I;
- (d) the progress made in international discussions regarding climate action;
- (e) the governance system, including the administrative costs;
- (f) the impact of this Regulation on goods listed in Annex I imported from developing countries with special interest to the least developed countries as identified by the United Nations (LDCs) and on the effects of the technical assistance given;
- (g) the methodology for the calculation of indirect emissions pursuant to Article 7(7) and point 4.3 of Annex IV.

3. At least one year before the end of the transitional period, the Commission shall present a report to the European Parliament and to the Council that identifies products further down the value chain of the goods listed in Annex I that it recommends to be considered for inclusion within the scope of this Regulation. To that end, the Commission shall develop, in a timely manner, a methodology that should be based on relevance in terms of cumulated greenhouse gas emissions and risk of carbon leakage.

4. The reports referred to in paragraphs 2 and 3 shall, where appropriate, be accompanied by a legislative proposal by the end of the transitional period, including a detailed impact assessment, in particular with a view to extending the scope of this Regulation on the basis of the conclusions drawn in those reports.

5. Every two years from the end of the transitional period, as part of its annual report to the European Parliament and to the Council pursuant to Article 10(5) of Directive 2003/87/EC, the Commission shall assess the effectiveness of the CBAM in addressing the carbon leakage risk of goods produced in the Union for export to third countries which do not apply the EU ETS or a similar carbon pricing mechanism. The report shall in particular assess the development of Union exports in CBAM sectors and the developments as regards trade flows and the embedded emissions of those goods on the global market. Where the report concludes that there is a risk of carbon leakage of goods produced in the Union for export to such third countries which do not apply the EU ETS or a similar carbon pricing mechanism, the Commission shall, where appropriate, present a legislative proposal to address that risk in a manner that complies with World Trade Organization law and that takes into account the decarbonisation of installations in the Union.

6. The Commission shall monitor the functioning of the CBAM with a view to evaluating the impacts and possible adjustments in its application.

Before 1 January 2028, as well as every two years thereafter, the Commission shall present a report to the European Parliament and to the Council on the application of this Regulation and functioning of the CBAM. The report shall contain at least the following:

(a) an assessment of the impact of the CBAM on:

- (i) carbon leakage, including in relation to exports;
- (ii) the sectors covered;
- (iii) internal market, economic and territorial impact throughout the Union;
- (iv) inflation and the price of commodities;
- (v) the effect on industries using goods listed in Annex I;
- (vi) international trade, including resource shuffling; and
- (vii) LDCs;

(b) an assessment of:

- (i) the governance system, including an assessment of the implementation and administration of the authorisation of CBAM declarants by Member States;
- (ii) the scope of this Regulation;
- (iii) practices of circumvention;
- (iv) the application of penalties in Member States;

(c) results of investigations and penalties imposed;

(d) aggregated information on the emission intensity for each country of origin for the different goods listed in Annex I.

7. Where an unforeseeable, exceptional and unprovoked event has occurred that is outside the control of one or more third countries subject to the CBAM, and that event has destructive consequences on the economic and industrial infrastructure of such country or countries concerned, the Commission shall assess the situation and submit to the European Parliament and to the Council a report, accompanied, where appropriate, by a legislative proposal, to amend this Regulation by setting out the necessary provisional measures to address those exceptional circumstances.

8. From the end of the transitional period referred to in Article 32 of this Regulation, as part of the annual reporting pursuant to Article 41 of Regulation (EU) 2021/947 of the European Parliament and of the Council <sup>(27)</sup>, the Commission shall evaluate and report on how the financing under that Regulation has contributed to the decarbonisation of the manufacturing industry in LDCs.

## CHAPTER IX

### COORDINATION WITH FREE ALLOCATION OF ALLOWANCES UNDER THE EU ETS

#### Article 31

##### **Free allocation of allowances under the EU ETS and obligation to surrender CBAM certificates**

1. The CBAM certificates to be surrendered in accordance with Article 22 of this Regulation shall be adjusted to reflect the extent to which EU ETS allowances are allocated free of charge in accordance with Article 10a of Directive 2003/87/EC to installations producing, within the Union, the goods listed in Annex I to this Regulation.

2. The Commission is empowered to adopt implementing acts laying down detailed rules for the calculation of the adjustment as referred to in paragraph 1 of this Article. Such detailed rules shall be elaborated by reference to the principles applied in the EU ETS for the free allocation of allowances to installations producing, within the Union, the goods listed in Annex I, taking account of the different benchmarks used in the EU ETS for free allocation with a view to combining those benchmarks into corresponding values for the goods concerned, and taking into account relevant input materials (precursors). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

## CHAPTER X

### TRANSITIONAL PROVISIONS

#### Article 32

##### **Scope of the transitional period**

During the transitional period from 1 October 2023 until 31 December 2025, the obligations of the importer under this Regulation shall be limited to the reporting obligations set out in Articles 33, 34 and 35 of this Regulation. Where the importer is established in a Member State and appoints an indirect customs representative in accordance with Article 18 of Regulation (EU) No 952/2013, and where the indirect customs representative so agrees, the reporting obligations shall apply to such indirect customs representative. Where the importer is not established in a Member State, the reporting obligations shall apply to the indirect customs representative.

<sup>(27)</sup> Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU of the European Parliament and of the Council and repealing Regulation (EU) 2017/1601 of the European Parliament and of the Council and Council Regulation (EC, Euratom) No 480/2009 (OJ L 209, 14.6.2021, p. 1).

*Article 33***Importation of goods**

1. The customs authorities shall inform the importer or, in the situations covered by Article 32, the indirect customs representative of the reporting obligation referred to in Article 35 no later than at the moment of the release of goods for free circulation.
2. The customs authorities shall periodically and automatically, in particular by means of the surveillance mechanism established pursuant to Article 56(5) of Regulation (EU) No 952/2013 or by electronic means of data transmission, communicate to the Commission information on imported goods, including processed products resulting from the outward processing procedure. Such information shall include the EORI number of the customs declarant and of the importer, the eight-digit CN code, the quantity, the country of origin, the date of the customs declaration and the customs procedure.
3. The Commission shall communicate the information referred to in paragraph 2 to the competent authorities of the Member States where the customs declarant and, where applicable, the importer are established.

*Article 34***Reporting obligation for certain customs procedures**

1. Where processed products resulting from the inward processing procedure as referred to in Article 256 of Regulation (EU) No 952/2013 are imported, the reporting obligation referred to in Article 35 of this Regulation shall include the information on the goods that were placed under the inward processing procedure and resulted in the imported processed products, even if the processed products are not listed in Annex I to this Regulation. This paragraph shall also apply where the processed products resulting from the inward processing procedure are returned goods as referred to in Article 205 of Regulation (EU) No 952/2013.
2. The reporting obligation referred to in Article 35 of this Regulation shall not apply to the import of:
  - (a) processed products resulting from the outward processing procedure as referred to in Article 259 of Regulation (EU) No 952/2013;
  - (b) goods qualifying as returned goods in accordance with Article 203 of Regulation (EU) No 952/2013.

*Article 35***Reporting obligation**

1. Each importer or, in the situations covered by Article 32, the indirect customs representative, having imported goods during a given quarter of a calendar year shall, for that quarter, submit a report ('CBAM report') containing information on the goods imported during that quarter, to the Commission, no later than one month after the end of that quarter.
2. The CBAM report shall include the following information:
  - (a) the total quantity of each type of goods, expressed in megawatt-hours for electricity and in tonnes for other goods, specified for each installation producing the goods in the country of origin;
  - (b) the actual total embedded emissions, expressed in tonnes of CO<sub>2</sub>e emissions per megawatt-hour of electricity or for other goods in tonnes of CO<sub>2</sub>e emissions per tonne of each type of goods, calculated in accordance with the method set out in Annex IV;
  - (c) the total indirect emissions calculated in accordance with the implementing act referred to in paragraph 7;
  - (d) the carbon price due in a country of origin for the embedded emissions in the imported goods, taking into account any rebate or other form of compensation available.

3. The Commission shall periodically communicate to the relevant competent authorities a list of those importers or indirect customs representatives established in the Member State, including the corresponding justifications, which it has reasons to believe have failed to comply with the obligation to submit a CBAM report in accordance with paragraph 1.

4. Where the Commission considers that a CBAM report is incomplete or incorrect, it shall communicate to the competent authority of the Member State where the importer is established or, in the situations covered by Article 32, the indirect customs representative is established, the additional information it considers necessary to complete or correct that report. Such information shall be provided for indicative purposes and without prejudice to the definitive appreciation by that competent authority. That competent authority shall initiate the correction procedure and notify the importer or, in the situations covered by Article 32, the indirect customs representative of the additional information necessary to correct that report. Where appropriate, that importer or that indirect customs representative shall submit a corrected report to the competent authority concerned and to the Commission.

5. Where the competent authority of the Member State referred to in paragraph 4 of this Article initiates a correction procedure, including in consideration of information received in accordance with paragraph 4 of this Article, and determines that the importer or, where applicable in accordance with Article 32, the indirect customs representative has not taken the necessary steps to correct the CBAM report, or where the competent authority concerned determines, including in consideration of information received in accordance with paragraph 3 of this Article, that the importer or, where applicable in accordance with Article 32, the indirect customs representative has failed to comply with the obligation to submit a CBAM report in accordance with paragraph 1 of this Article, that competent authority shall impose an effective, proportionate and dissuasive penalty on the importer or, where applicable in accordance with Article 32, the indirect customs representative. To that end, the competent authority shall notify the importer or, where applicable in accordance with Article 32, the indirect customs representative and inform the Commission, of the following:

- (a) the conclusion, and reasons for that conclusion, that the importer or, where applicable in accordance with Article 32, the indirect customs representative has failed to comply with the obligation of submitting a report for a given quarter or to take the necessary steps to correct the report;
- (b) the amount of the penalty imposed on the importer or, where applicable in accordance with Article 32, the indirect customs representative;
- (c) the date from which the penalty is due;
- (d) the action that the importer or, where applicable in accordance with Article 32, the indirect customs representative is to take to pay the penalty; and
- (e) the right of the importer or, where applicable in accordance with Article 32, the indirect customs representative to appeal.

6. Where the competent authority, after receiving the information from the Commission under this Article, decides not to take any action, the competent authority shall inform the Commission accordingly.

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

- (a) the information to be reported, the means and format for that reporting, including detailed information per country of origin and type of goods to support the totals referred to in paragraph 2, points (a), (b) and (c), and examples of any relevant rebate or other form of compensation available as referred to in paragraph 2, point (d);
- (b) the indicative range of penalties to be imposed pursuant to paragraph 5 and the criteria to take into account for determining the actual amount, including the gravity and duration of the failure to report;
- (c) detailed rules on the conversion of the yearly average carbon price due referred to in paragraph 2, point (d), expressed in foreign currency into euro at the yearly average exchange rate;

- (d) detailed rules on the elements of the calculation methods set out in Annex IV, including determining system boundaries of production processes, emission factors, installation-specific values of actual emissions and their respective application to individual goods as well as laying down methods to ensure the reliability of data, including the level of detail; and
- (e) the means and format for the reporting requirements for indirect emissions in imported goods; that format shall include the quantity of electricity used for the production of the goods listed in Annex I, as well as the country of origin, generation source and emission factors related to that electricity.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2) of this Regulation. They shall apply for goods imported during the transitional period referred to in Article 32 of this Regulation and shall build upon existing legislation for installations that fall within the scope of Directive 2003/87/EC.

#### CHAPTER XI

#### FINAL PROVISIONS

##### Article 36

##### Entry into force

1. This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.
2. It shall apply from 1 October 2023. However:
  - (a) Articles 5, 10, 14, 16 and 17 shall apply from 31 December 2024;
  - (b) Article 2(2) and Articles 4, 6 to 9, 15 and 19, Article 20(1), (3), (4) and (5), Articles 21 to 27 and 31 shall apply from 1 January 2026.

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

Done at Strasbourg, 10 May 2023.

*For the European Parliament*  
*The President*  
R. METSOLA

*For the Council*  
*The President*  
J. ROSWALL

## ANNEX I

**List of goods and greenhouse gases**

1. For the purpose of the identification of goods, this Regulation shall apply to goods falling under the Combined Nomenclature ('CN') codes set out in the following table. The CN codes shall be those under Regulation (EEC) No 2658/87.
2. For the purposes of this Regulation, the greenhouse gases relating to goods referred to in point 1, shall be those set out in the following table for the goods concerned.

**Cement**

CN code	Greenhouse gas
2507 00 80 – Other kaolinic clays	Carbon dioxide
2523 10 00 – Cement clinkers	Carbon dioxide
2523 21 00 – White Portland cement, whether or not artificially coloured	Carbon dioxide
2523 29 00 – Other Portland cement	Carbon dioxide
2523 30 00 – Aluminous cement	Carbon dioxide
2523 90 00 – Other hydraulic cements	Carbon dioxide

**Electricity**

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

**Fertilisers**

CN code	Greenhouse gas
2808 00 00 – Nitric acid; sulphonitric acids	Carbon dioxide and nitrous oxide
2814 – Ammonia, anhydrous or in aqueous solution	Carbon dioxide
2834 21 00 – Nitrates of potassium	Carbon dioxide and nitrous oxide
3102 – Mineral or chemical fertilisers, nitrogenous	Carbon dioxide and nitrous oxide
3105 – Mineral or chemical fertilisers containing two or three of the fertilising elements nitrogen, phosphorus and potassium; other fertilisers; goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg Except: 3105 60 00 – Mineral or chemical fertilisers containing the two fertilising elements phosphorus and potassium	Carbon dioxide and nitrous oxide

## Iron and steel

CN code	Greenhouse gas
72 – Iron and steel Except: 7202 2 – Ferro-silicon 7202 30 00 – Ferro-silico-manganese 7202 50 00 – Ferro-silico-chromium 7202 70 00 – Ferro-molybdenum 7202 80 00 – Ferro-tungsten and ferro-silico-tungsten 7202 91 00 – Ferro-titanium and ferro-silico-titanium 7202 92 00 – Ferro-vanadium 7202 93 00 – Ferro-niobium 7202 99 – Other: 7202 99 10 – Ferro-phosphorus 7202 99 30 – Ferro-silico-magnesium 7202 99 80 – Other 7204 – Ferrous waste and scrap; remelting scrap ingots and steel	Carbon dioxide
2601 12 00 – Agglomerated iron ores and concentrates, other than roasted iron pyrites	Carbon dioxide
7301 – Sheet piling of iron or steel, whether or not drilled, punched or made from assembled elements; welded angles, shapes and sections, of iron or steel	Carbon dioxide
7302 – Railway or tramway track construction material of iron or steel, the following: rails, check-rails and rack rails, switch blades, crossing frogs, point rods and other crossing pieces, sleepers (cross-ties), fish- plates, chairs, chair wedges, sole plates (base plates), rail clips, bedplates, ties and other material specialised for jointing or fixing rails	Carbon dioxide
7303 00 – Tubes, pipes and hollow profiles, of cast iron	Carbon dioxide
7304 – Tubes, pipes and hollow profiles, seamless, of iron (other than cast iron) or steel	Carbon dioxide
7305 – Other tubes and pipes (for example, welded, riveted or similarly closed), having circular cross-sections, the external diameter of which exceeds 406,4 mm, of iron or steel	Carbon dioxide
7306 – Other tubes, pipes and hollow profiles (for example, open seam or welded, riveted or similarly closed), of iron or steel	Carbon dioxide
7307 – Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel	Carbon dioxide
7308 – Structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, lock-gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel	Carbon dioxide



CN code	Greenhouse gas
7309 00 – Reservoirs, tanks, vats and similar containers for any material (other than compressed or liquefied gas), of iron or steel, of a capacity exceeding 300 l, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide
7310 – Tanks, casks, drums, cans, boxes and similar containers, for any material (other than compressed or liquefied gas), of iron or steel, of a capacity not exceeding 300 l, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide
7311 00 – Containers for compressed or liquefied gas, of iron or steel	Carbon dioxide
7318 – Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel	Carbon dioxide
7326 – Other articles of iron or steel	Carbon dioxide

### Aluminium

CN code	Greenhouse gas
7601 – Unwrought aluminium	Carbon dioxide and perfluorocarbons
7603 – Aluminium powders and flakes	Carbon dioxide and perfluorocarbons
7604 – Aluminium bars, rods and profiles	Carbon dioxide and perfluorocarbons
7605 – Aluminium wire	Carbon dioxide and perfluorocarbons
7606 – Aluminium plates, sheets and strip, of a thickness exceeding 0,2 mm	Carbon dioxide and perfluorocarbons
7607 – Aluminium foil (whether or not printed or backed with paper, paper-board, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0,2 mm	Carbon dioxide and perfluorocarbons
7608 – Aluminium tubes and pipes	Carbon dioxide and perfluorocarbons
7609 00 00 – Aluminium tube or pipe fittings (for example, couplings, elbows, sleeves)	Carbon dioxide and perfluorocarbons
7610 – Aluminium structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns); aluminium plates, rods, profiles, tubes and the like, prepared for use in structures	Carbon dioxide and perfluorocarbons
7611 00 00 – Aluminium reservoirs, tanks, vats and similar containers, for any material (other than compressed or liquefied gas), of a capacity exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide and perfluorocarbons

CN code	Greenhouse gas
7612 – Aluminium casks, drums, cans, boxes and similar containers (including rigid or collapsible tubular containers), for any material (other than compressed or liquefied gas), of a capacity not exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide and perfluorocarbons
7613 00 00 – Aluminium containers for compressed or liquefied gas	Carbon dioxide and perfluorocarbons
7614 – Stranded wire, cables, plaited bands and the like, of aluminium, not electrically insulated	Carbon dioxide and perfluorocarbons
7616 – Other articles of aluminium	Carbon dioxide and perfluorocarbons

### Chemicals

CN code	Greenhouse gas
2804 10 00 – Hydrogen	Carbon dioxide

## ANNEX II

## List of goods for which only direct emissions are to be taken into account, pursuant to Article 7(1)

## Iron and steel

CN code	Greenhouse gas
72 – Iron and steel Except: 7202 2 – Ferro-silicon 7202 30 00 – Ferro-silico-manganese 7202 50 00 – Ferro-silico-chromium 7202 70 00 – Ferro-molybdenum 7202 80 00 – Ferro-tungsten and ferro-silico-tungsten 7202 91 00 – Ferro-titanium and ferro-silico-titanium 7202 92 00 – Ferro-vanadium 7202 93 00 – Ferro-niobium 7202 99 – Other: 7202 99 10 – Ferro-phosphorus 7202 99 30 – Ferro-silico-magnesium 7202 99 80 – Other 7204 – Ferrous waste and scrap; remelting scrap ingots and steel	Carbon dioxide
7301 – Sheet piling of iron or steel, whether or not drilled, punched or made from assembled elements; welded angles, shapes and sections, of iron or steel	Carbon dioxide
7302 – Railway or tramway track construction material of iron or steel, the following: rails, check-rails and rack rails, switch blades, crossing frogs, point rods and other crossing pieces, sleepers (cross-ties), fish- plates, chairs, chair wedges, sole plates (base plates), rail clips, bedplates, ties and other material specialised for jointing or fixing rails	Carbon dioxide
7303 00 – Tubes, pipes and hollow profiles, of cast iron	Carbon dioxide
7304 – Tubes, pipes and hollow profiles, seamless, of iron (other than cast iron) or steel	Carbon dioxide
7305 – Other tubes and pipes (for example, welded, riveted or similarly closed), having circular cross-sections, the external diameter of which exceeds 406,4 mm, of iron or steel	Carbon dioxide
7306 – Other tubes, pipes and hollow profiles (for example, open seam or welded, riveted or similarly closed), of iron or steel	Carbon dioxide
7307 – Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel	Carbon dioxide
7308 – Structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, lock-gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel	Carbon dioxide

CN code	Greenhouse gas
7309 00 – Reservoirs, tanks, vats and similar containers for any material (other than compressed or liquefied gas), of iron or steel, of a capacity exceeding 300 l, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide
7310 – Tanks, casks, drums, cans, boxes and similar containers, for any material (other than compressed or liquefied gas), of iron or steel, of a capacity not exceeding 300 l, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide
7311 00 – Containers for compressed or liquefied gas, of iron or steel	Carbon dioxide
7318 – Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel	Carbon dioxide
7326 – Other articles of iron or steel	Carbon dioxide

### Aluminium

CN code	Greenhouse gas
7601 – Unwrought aluminium	Carbon dioxide and perfluorocarbons
7603 – Aluminium powders and flakes	Carbon dioxide and perfluorocarbons
7604 – Aluminium bars, rods and profiles	Carbon dioxide and perfluorocarbons
7605 – Aluminium wire	Carbon dioxide and perfluorocarbons
7606 – Aluminium plates, sheets and strip, of a thickness exceeding 0,2 mm	Carbon dioxide and perfluorocarbons
7607 – Aluminium foil (whether or not printed or backed with paper, paper-board, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0,2 mm	Carbon dioxide and perfluorocarbons
7608 – Aluminium tubes and pipes	Carbon dioxide and perfluorocarbons
7609 00 00 – Aluminium tube or pipe fittings (for example, couplings, elbows, sleeves)	Carbon dioxide and perfluorocarbons
7610 – Aluminium structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns); aluminium plates, rods, profiles, tubes and the like, prepared for use in structures	Carbon dioxide and perfluorocarbons
7611 00 00 – Aluminium reservoirs, tanks, vats and similar containers, for any material (other than compressed or liquefied gas), of a capacity exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide and perfluorocarbons

CN code	Greenhouse gas
7612 – Aluminium casks, drums, cans, boxes and similar containers (including rigid or collapsible tubular containers), for any material (other than compressed or liquefied gas), of a capacity not exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide and perfluorocarbons
7613 00 00 – Aluminium containers for compressed or liquefied gas	Carbon dioxide and perfluorocarbons
7614 – Stranded wire, cables, plaited bands and the like, of aluminium, not electrically insulated	Carbon dioxide and perfluorocarbons
7616 – Other articles of aluminium	Carbon dioxide and perfluorocarbons

### Chemicals

CN code	Greenhouse gas
2804 10 00 – Hydrogen	Carbon dioxide

## ANNEX III

**Third countries and territories outside the scope of this Regulation for the purpose of Article 2**

## 1. THIRD COUNTRIES AND TERRITORIES OUTSIDE THE SCOPE OF THIS REGULATION

This Regulation shall not apply to goods originating in the following countries:

- Iceland
- Liechtenstein
- Norway
- Switzerland

This Regulation shall not apply to goods originating in the following territories:

- Büsingen
- Heligoland
- Livigno
- Ceuta
- Melilla

## 2. THIRD COUNTRIES AND TERRITORIES OUTSIDE THE SCOPE OF THIS REGULATION WITH REGARD TO THE IMPORTATION OF ELECTRICITY INTO THE CUSTOMS TERRITORY OF THE UNION

[Third countries or territories to be added or removed by the Commission pursuant to Article 2(11).]

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## ANNEX IV

**Methods for calculating embedded emissions for the purpose of Article 7**

## 1. DEFINITIONS

For the purposes of this Annex and of Annexes V and VI, the following definitions apply:

- (a) 'simple goods' means goods produced in a production process requiring exclusively input materials (precursors) and fuels having zero embedded emissions;
- (b) 'complex goods' means goods other than simple goods;
- (c) 'specific embedded emissions' means the embedded emissions of one tonne of goods, expressed as tonnes of CO<sub>2</sub>e emissions per tonne of goods;
- (d) 'CO<sub>2</sub> emission factor', means the weighted average of the CO<sub>2</sub> intensity of electricity produced from fossil fuels within a geographic area; the CO<sub>2</sub> emission factor is the result of the division of the CO<sub>2</sub> emission data of the electricity sector by the gross electricity generation based on fossil fuels in the relevant geographic area; it is expressed in tonnes of CO<sub>2</sub> per megawatt-hour;
- (e) 'emission factor for electricity' means the default value, expressed in CO<sub>2</sub>e, representing the emission intensity of electricity consumed in production of goods;
- (f) 'power purchase agreement' means a contract under which a person agrees to purchase electricity directly from an electricity producer;
- (g) 'transmission system operator' means an operator as defined in Article 2, point (35), of Directive (EU) 2019/944 of the European Parliament and of the Council <sup>(1)</sup>.

## 2. DETERMINATION OF ACTUAL SPECIFIC EMBEDDED EMISSIONS FOR SIMPLE GOODS

For determining the specific actual embedded emissions of simple goods produced in a given installation, direct and, where applicable, indirect emissions shall be accounted for. For that purpose, the following equation is to be applied:

$$SEE_g = \frac{AttrEm_g}{AL_g}$$

Where:

- SEE<sub>g</sub> are the specific embedded emissions of goods g, in terms of CO<sub>2</sub>e per tonne;
- AttrEm<sub>g</sub> are the attributed emissions of goods g, and
- AL<sub>g</sub> is the activity level of the goods, being the quantity of the goods produced in the reporting period in that installation.

'Attributed emissions' mean the part of the installation's emissions during the reporting period that are caused by the production process resulting in goods g when applying the system boundaries of the production process defined by the implementing acts adopted pursuant to Article 7(7). The attributed emissions shall be calculated using the following equation:

$$AttrEm_g = DirEm + IndirEm$$

Where:

- DirEm are the direct emissions, resulting from the production process, expressed in tonnes of CO<sub>2</sub>e, within the system boundaries referred to in the implementing act adopted pursuant to Article 7(7), and

<sup>(1)</sup> Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (OJ L 158, 14.6.2019, p. 125).

IndirEm are the indirect emissions resulting from the production of electricity consumed in the production processes of goods, expressed in tonnes of CO<sub>2</sub>e, within the system boundaries referred to in the implementing act adopted pursuant to Article 7(7).

### 3. DETERMINATION OF ACTUAL EMBEDDED EMISSIONS FOR COMPLEX GOODS

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

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

Where:

AttrEm<sub>g</sub> are the attributed emissions of goods g;

AL<sub>g</sub> is the activity level of the goods, being the quantity of goods produced in the reporting period in that installation, and

EE<sub>ImpMat</sub> are the embedded emissions of the input materials (precursors) consumed in the production process. Only input materials (precursors) listed as relevant to the system boundaries of the production process as specified in the implementing act adopted pursuant to Article 7(7) are to be considered. The relevant EE<sub>ImpMat</sub> are calculated as follows:

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

Where:

M<sub>i</sub> is the mass of input material (precursor) i used in the production process, and

SEE<sub>i</sub> are the specific embedded emissions for the input material (precursor) i. For SEE<sub>i</sub> the operator of the installation shall use the value of emissions resulting from the installation where the input material (precursor) was produced, provided that that installation's data can be adequately measured.

### 4. DETERMINATION OF DEFAULT VALUES REFERRED TO IN ARTICLE 7(2) AND (3)

For the purpose of determining default values, only actual values shall be used for the determination of embedded emissions. In the absence of actual data, literature values may be used. The Commission shall publish guidance for the approach taken to correct for waste gases or greenhouse gases used as process input, before collecting the data required to determine the relevant default values for each type of goods listed in Annex I. Default values shall be determined based on the best available data. Best available data shall be based on reliable and publicly available information. Default values shall be revised periodically through the implementing acts adopted pursuant to Article 7(7) based on the most up-to-date and reliable information, including on the basis of information provided by a third country or group of third countries.

#### 4.1. Default values referred to in Article 7(2)

When actual emissions cannot be adequately determined by the authorised CBAM declarant, default values shall be used. Those values shall be set at the average emission intensity of each exporting country and for each of the goods listed in Annex I other than electricity, increased by a proportionately designed mark-up. This mark-up shall be determined in the implementing acts adopted pursuant to Article 7(7) and shall be set at an appropriate level to ensure the environmental integrity of the CBAM, building on the most up-to-date and reliable information, including on the basis of information gathered during the transitional period. 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 X % worst performing EU ETS installations for that type of goods. The value of X shall be determined in the implementing acts adopted pursuant to Article 7(7) and shall be set at an appropriate level to ensure the environmental integrity of the CBAM, building on the most up-to-date and reliable information, including on the basis of information gathered during the transitional period.



#### 4.2. Default values for imported electricity referred to in Article 7(3)

Default values for imported electricity shall be determined for a third country, group of third countries or region within a third country based on either specific default values, in accordance with point 4.2.1, or, if those values are not available, on alternative default values, in accordance with point 4.2.2.

Where the electricity is produced in a third country, group of third countries or region within a third country, and transits through third countries, groups of third countries, regions within a third country or Member States with the purpose of being imported into the Union, the default values to be used are those from the third country, group of third countries or region within a third country where the electricity was produced.

##### 4.2.1. Specific default values for a third country, group of third countries or region within a third country

Specific default values shall be set at the CO<sub>2</sub> emission factor in the third country, group of third countries or region within a third country, based on the best data available to the Commission.

##### 4.2.2. Alternative default values

Where a specific default value is not available for a third country, a group of third countries, or a region within a third country, the alternative default value for electricity shall be set at the CO<sub>2</sub> emission factor in the Union.

Where it can be demonstrated, on the basis of reliable data, that the CO<sub>2</sub> emission factor in a third country, a group of third countries or a region within a third country is lower than the specific default value determined by the Commission or lower than the CO<sub>2</sub> emission factor in the Union, an alternative default value based on that CO<sub>2</sub> emission factor may be used for that third country, group of third countries or region within a third country.

#### 4.3 Default values for embedded indirect emissions

Default values for the indirect emissions embedded in a good produced in a third country shall be determined on a default value calculated on the average, of either the emission factor of the Union electricity grid, the emission factor of the country of origin electricity grid or the CO<sub>2</sub> emission factor of price-setting sources in the country of origin, of the electricity used for the production of that good.

Where a third country, or a group of third countries, demonstrates to the Commission, on the basis of reliable data, that the average electricity mix emission factor or CO<sub>2</sub> emission factor of price-setting sources in the third country or group of third countries is lower than the default value for indirect emissions, an alternative default value based on that average CO<sub>2</sub> emission factor shall be established for this country or group of countries.

The Commission shall adopt, no later than 30 June 2025, an implementing act pursuant to Article 7(7) to further specify which of the calculation methods determined in accordance with the first subparagraph shall apply to the calculation of default values. For that purpose, the Commission shall base itself on the most up-to-date and reliable data, including on data gathered during the transitional period, as regards the quantity of electricity used for the production of the goods listed in Annex I, as well as the country of origin, generation source and emission factors related to that electricity. The specific calculation method shall be determined on the basis of the most appropriate way to achieve both of the following criteria:

- the prevention of carbon leakage;
- ensuring the environmental integrity of the CBAM.

#### 5. CONDITIONS FOR APPLYING ACTUAL EMBEDDED EMISSIONS IN IMPORTED ELECTRICITY

An authorised CBAM declarant may apply actual embedded emissions instead of default values for the calculation referred to in Article 7(3) if the following cumulative criteria are met:

- (a) the amount of electricity for which the use of actual embedded emissions is claimed is covered by a power purchase agreement between the authorised CBAM declarant and a producer of electricity located in a third country;
- (b) the installation producing electricity is either directly connected to the Union transmission system or it can be demonstrated that at the time of export there was no physical network congestion at any point in the network between the installation and the Union transmission system;
- (c) the installation producing electricity does not emit more than 550 grammes of CO<sub>2</sub> of fossil fuel origin per kilowatt-hour of electricity;
- (d) the amount of electricity for which the use of actual embedded emissions is claimed has been firmly nominated to the allocated interconnection capacity by all responsible transmission system operators in the country of origin, the country of destination and, if relevant, each country of transit, and the nominated capacity and the production of electricity by the installation refer to the same period of time, which shall not be longer than one hour;
- (e) the fulfilment of the above criteria is certified by an accredited verifier, who shall receive at least monthly interim reports demonstrating how those criteria are fulfilled.

The accumulated amount of electricity under the power purchase agreement and its corresponding actual embedded emissions shall be excluded from the calculation of the country emission factor or the CO<sub>2</sub> emission factor used for the purpose of the calculation of indirect electricity embedded emissions in goods in accordance with point 4.3, respectively.

#### 6. CONDITIONS TO APPLYING ACTUAL EMBEDDED EMISSIONS FOR INDIRECT EMISSIONS

An authorised CBAM declarant may apply actual embedded emissions instead of default values for the calculation referred to in Article 7(4) if it can demonstrate a direct technical link between the installation in which the imported good is produced and the electricity generation source or if the operator of that installation has concluded a power purchase agreement with a producer of electricity located in a third country for an amount of electricity that is equivalent to the amount for which the use of a specific value is claimed.

#### 7. ADAPTATION OF DEFAULT VALUES REFERRED TO IN ARTICLE 7(2) BASED ON REGION-SPECIFIC FEATURES

Default values can be adapted to particular areas and regions within third countries where specific characteristics prevail in terms of objective emission factors. When data adapted to those specific local characteristics are available and more targeted default values can be determined, the latter may be used.

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

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## ANNEX V

**Bookkeeping requirements for information used for the calculation of embedded emissions for the purpose of Article 7(5)**

## 1. MINIMUM DATA TO BE KEPT BY AN AUTHORISED CBAM DECLARANT FOR IMPORTED GOODS:

## 1. Data identifying the authorised CBAM declarant:

- (a) name;
- (b) CBAM account number.

## 2. Data on imported goods:

- (a) type and quantity of each type of goods;
- (b) country of origin;
- (c) actual emissions or default values.

## 2. MINIMUM DATA TO BE KEPT BY AN AUTHORISED CBAM DECLARANT FOR EMBEDDED EMISSIONS IN IMPORTED GOODS THAT ARE DETERMINED BASED ON ACTUAL EMISSIONS

For each type of imported goods where embedded emissions are determined based on actual emissions, the following additional data shall be kept:

- (a) identification of the installation where the goods were produced;
  - (b) contact information of the operator of the installation where the goods were produced;
  - (c) the verification reports as set out in Annex VI;
  - (d) the specific embedded emissions of the goods.
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## ANNEX VI

**Verification principles and content of verification reports for the purpose of Article 8**

## 1. PRINCIPLES OF VERIFICATION

The following principles shall apply:

- (a) verifiers shall carry out verifications with an attitude of professional scepticism;
- (b) the total embedded emissions to be declared in the CBAM declaration shall be considered as verified only if the verifier finds with reasonable assurance that the verification report is free of material misstatements and of material non-conformities regarding the calculation of embedded emissions in accordance with the rules of Annex IV;
- (c) installation visits by the verifier shall be mandatory except where specific criteria for waiving the installation visit are met;
- (d) for deciding whether misstatements or non-conformities are material, the verifier shall use thresholds given by the implementing acts adopted in accordance with Article 8(3).

For parameters for which no such thresholds are determined, the verifier shall use expert judgement as to whether misstatements or non-conformities, individually or when aggregated with other misstatements or non-conformities, justified by their size and nature, are to be considered material.

## 2. CONTENT OF A VERIFICATION REPORT

The verifier shall prepare a verification report establishing the embedded emissions of the goods and specifying all issues relevant to the work carried out and including, at least, the following information:

- (a) identification of the installations where the goods were produced;
- (b) contact information of the operator of the installations where the goods were produced;
- (c) the applicable reporting period;
- (d) name and contact information of the verifier;
- (e) accreditation number of the verifier, and name of the accreditation body;
- (f) the date of the installations visits, if applicable, or the reasons for not carrying out an installation visit;
- (g) quantities of each type of declared goods produced in the reporting period;
- (h) quantification of direct emissions of the installation during the reporting period;
- (i) a description on how the installation's emissions are attributed to different types of goods;
- (j) quantitative information on the goods, emissions and energy flows not associated with those goods;
- (k) in case of complex goods:
  - (i) quantities of each input material (precursor) used;
  - (ii) the specific embedded emissions associated with each of the input materials (precursors) used;
  - (iii) if actual emissions are used: the identification of the installations where the input material (precursor) has been produced and the actual emissions from the production of that material;

- (l) the verifier's statement confirming that he or she finds with reasonable assurance that the report is free of material misstatements and of material non-conformities regarding the calculation rules of Annex IV;
  - (m) information on material misstatements found and corrected;
  - (n) information of material non-conformities with calculation rules set out in Annex IV found and corrected.
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