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*Plenary sitting*

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**A9-0160/2022**

23.5.2022

**\*\*\*I**  
**REPORT**

on the proposal for a regulation of the European Parliament and of the Council  
establishing a carbon border adjustment mechanism  
(COM(2021)0564 – C9-0328/2021 – 2021/0214(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Mohammed Chahim

Rapporteurs for the opinion (\*):  
Fernandes José Manuel, Hayer Valérie, Committee on Budgets  
Kloc Izabela-Helena, Committee on Industry, Research and Energy

(\*) Associated committees – Rule 57 of the Rules of Procedure

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council establishing a carbon border adjustment mechanism (COM(2021)0564 – C9-0328/2021 – 2021/0214(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2021)0564),
  - having regard to Article 294(2) and Article 192(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0328/2021),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 8 December 2021<sup>1</sup>,
  - having regard to the opinion of the Committee of the Regions of 28 April 2022<sup>2</sup>,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the opinions of the Committee on Budgets, the Committee on Industry, Research and Energy, the Committee on Development, the Committee on Economic and Monetary Affairs, and the Committee on Agriculture and Rural Development,
  - having regard to the report of the Committee on the Environment, Public Health and Food Safety (A9-0160/2022),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

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

<sup>2</sup> OJ C ... / Not yet published in the Official Journal.

## Proposal for a regulation

### Recital 1

#### *Text proposed by the Commission*

(1) The Commission has, in its communication on the European Green Deal<sup>31</sup>, set out a new growth strategy that 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 (‘GHG emissions’) in 2050 and where economic growth is decoupled from resource use. The European Green Deal also aims to protect, conserve and enhance the EU’s natural capital, and 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 EU Action Plan: Towards Zero Pollution for Air, Water and Soil<sup>32</sup> the promotion of relevant instruments and incentives to better implement the polluter pays principle as 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.

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<sup>31</sup> Communication from the Commission of 11 December 2019 on the European Green Deal (COM(2019) 640 final).

<sup>32</sup> Communication from the Commission of 12 May 2021 on Pathway to a Healthy Planet for All (COM(2021) 400).

### Amendment 2

#### *Amendment*

(1) The Commission has, in its communication on the European Green Deal<sup>31</sup>, set out a new growth strategy that 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 (‘GHG emissions’) in 2050 *at the latest* and where economic growth is decoupled from resource use. The European Green Deal also aims to protect, conserve and enhance the EU’s natural capital, and 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 EU Action Plan: Towards Zero Pollution for Air, Water and Soil<sup>32</sup> the promotion of relevant instruments and incentives to better implement the polluter pays principle as 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.

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<sup>31</sup> Communication from the Commission of 11 December 2019 on the European Green Deal (COM(2019) 640 final).

<sup>32</sup> Communication from the Commission of 12 May 2021 on Pathway to a Healthy Planet for All (COM(2021) 400).

**Proposal for a regulation**  
**Recital 2**

*Text proposed by the Commission*

(2) The Paris Agreement<sup>33</sup>, adopted in December 2015 under the United Nations Framework Convention on Climate Change ('UNFCCC') entered into force in November 2016. The Parties to the Paris Agreement, in its Article 2, 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.

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<sup>33</sup> OJ L 282, 19.10.2016, p.4.

**Amendment 3**

**Proposal for a regulation**  
**Recital 5**

*Text proposed by the Commission*

(5) Regulation (EU) 2021/1119 of the European Parliament and of the Council<sup>35</sup> has enshrined in legislation the target of economy-wide climate neutrality by 2050. That Regulation also establishes a binding Union reduction commitment of GHG emissions of at least 55 per cent below 1990 levels by 2030.

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<sup>35</sup> Regulation (EU) 2021/1119 of the European Parliament and of the Council of

*Amendment*

(2) The Paris Agreement<sup>33</sup>, adopted in December 2015 under the United Nations Framework Convention on Climate Change ('UNFCCC'), entered into force in November 2016. The Parties to the Paris Agreement, in its Article 2, 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 Parties also recognised that limiting the increase in the global average temperature 1,5 °C above pre-industrial levels would significantly reduce the risks and impacts of climate change, and committed to strengthen the 2030 targets by the end of 2022 to close the ambition gap.***

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<sup>33</sup> OJ L 282, 19.10.2016, p.4.

*Amendment*

(5) Regulation (EU) 2021/1119 of the European Parliament and of the Council<sup>35</sup> has enshrined in legislation the target of economy-wide climate neutrality by 2050 ***at the latest***. That Regulation also establishes a binding Union reduction commitment of GHG emissions of at least 55 per cent below 1990 levels by 2030.

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<sup>35</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 Regulation (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

30 June 2021 establishing the framework for achieving climate neutrality and amending Regulation (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

#### Amendment 4

### Proposal for a regulation

#### Recital 6

##### *Text proposed by the Commission*

(6) The Special Report of the Intergovernmental Panel on Climate Change (IPCC) on the impacts of global temperature increases of 1.5°C above pre-industrial levels and related global GHG emission pathways<sup>36</sup> 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, GHG emissions need to be urgently reduced, **and that climate change needs to be limited to a global temperature increase of 1.5°C.**

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<sup>36</sup> IPCC, 2018: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J.B.R. Matthews, Y. Chen, X. Zhou, M.I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, and T. Waterfield (eds.)].

##### *Amendment*

(6) The Special Report of the Intergovernmental Panel on Climate Change (IPCC) on the impacts of global temperature increases of 1.5°C above pre-industrial levels and related global GHG emission pathways<sup>36</sup> provides a strong scientific basis for tackling climate change and illustrates the need to step up climate action. That report confirms that ***the negative impacts of climate change and the need for adaptation measures will be significantly higher if the increase in global average temperature is above 1, 5 °C, and that*** in order to reduce the likelihood of extreme weather events, GHG emissions need to be urgently reduced.

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<sup>36</sup> IPCC, 2018: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J.B.R. Matthews, Y. Chen, X. Zhou, M.I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, and T. Waterfield (eds.)].



## Amendment 5

### Proposal for a regulation Recital 7 a (new)

*Text proposed by the Commission*

*Amendment*

***(7a) Around 27 % of global CO<sub>2</sub> emissions from fuel combustion currently relate to internationally traded goods and, while the Union has substantially reduced its domestic GHG emissions, the GHG emissions embedded in imports to the Union have been constantly increasing, thereby undermining the Union's efforts to reduce its global GHG footprint. The Union has a responsibility to continue playing a leading role in global climate action, in cooperation with all of the world's other economies, as it is only through actions by all Parties that it will be possible to achieve the objectives set out in the Paris Agreement.***

## Amendment 6

### Proposal for a regulation Recital 8

*Text proposed by the Commission*

*Amendment*

(8) As long as a significant number of the Union's international partners ***have policy approaches that*** do not ***result in*** 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 were to transfer production to other countries or imports from those countries would replace equivalent but less GHG emissions intensive products. That could lead to an increase in their total emissions globally, thus jeopardising the reduction of GHG emissions that is urgently needed if the

(8) As long as a significant number of the Union's international partners do not ***achieve*** the same level of climate ambition, ***and as the Union increases its climate ambition,*** there ***could be*** a risk of carbon leakage. Carbon leakage occurs if, for reasons of costs related to climate policies, businesses in certain industry sectors or subsectors were to transfer production to other countries or imports from those countries would replace equivalent but less GHG emissions intensive products. That could lead to an increase in their total emissions globally ***while undermining the effectiveness of Union emission reduction***

world is to keep the global average temperature to well below 2 °C above pre-industrial levels.

*policies*, thus jeopardising the reduction of GHG emissions that is urgently needed if the world is to keep the global average temperature to well below 2 °C above pre-industrial levels.

## Amendment 7

### Proposal for a regulation

#### Recital 9

##### *Text proposed by the Commission*

(9) The initiative for a carbon border adjustment mechanism ('CBAM') is a part of the 'Fit for 55 Package'. That mechanism is to serve as an essential element of the EU toolbox to meet the objective of a climate-neutral Union by 2050 in line with the Paris Agreement by **addressing risks of** carbon leakage resulting from the increased Union climate ambition.

##### *Amendment*

(9) The initiative for a carbon border adjustment mechanism ('CBAM') is a part of the 'Fit for 55 Package'. That mechanism is to serve as an essential element of the EU toolbox to meet the objective of a climate-neutral Union by 2050 **at the latest** in line with the Paris Agreement by **preventing** carbon leakage resulting from the increased Union climate ambition. ***It can also contribute to establishing a level playing field for decarbonisation costs, to increasing the demand for low-carbon products and processes, as well as to avoiding distortions of competition and promoting fair trade.***

## Amendment 8

### Proposal for a regulation

#### Recital 10

##### *Text proposed by the Commission*

(10) Existing mechanisms to address the risk of carbon leakage in sectors or sub-sectors at risk of carbon leakage are the transitional free allocation of EU ETS allowances and financial measures to compensate for indirect emission costs incurred from GHG emission costs passed on in electricity prices respectively laid down in Articles 10a(6) and 10b of

##### *Amendment*

(10) Existing mechanisms to address the risk of carbon leakage in sectors or sub-sectors at risk of carbon leakage are the transitional free allocation of EU ETS allowances and financial measures to compensate for indirect emission costs incurred from GHG emission costs passed on in electricity prices respectively laid down in Articles 10a(6) and 10b of

Directive 2003/87/EC. However, free allocation under the EU ETS *weakens* the price signal that the system provides for the installations receiving *it* compared to full auctioning and thus *affects* the incentives for investment into further abatement of emissions.

Directive 2003/87/EC. ***Free allocation at the level of best performers has been a policy instrument for certain industrial sectors to address the risk of carbon leakage in the absence of a fair level playing field.*** However, *both* free allocation under the EU ETS ***and compensation for indirect emission costs weaken*** the price signal that the system provides for the installations receiving *them*, compared to full auctioning, and thus *reduce* the incentives for investment into further abatement of emissions.

## Amendment 9

### Proposal for a regulation Recital 11 a (new)

*Text proposed by the Commission*

*Amendment*

***(11a) Installations under the EU ETS are facing a rising carbon price and companies need long-term visibility, predictability and legal certainty to make their investment decisions. A clear pathway for the gradual inclusion of the remaining sectors and subsectors at risk of carbon leakage should therefore be established. This will strengthen the new legal framework to fight carbon leakage, provide the necessary time to ensure a smooth implementation of the CBAM and allow installations and companies make the necessary investments in the decarbonisation of industrial processes in a stable and predictable legal context.***

## Amendment 10

### Proposal for a regulation Recital 12

*Text proposed by the Commission*

*Amendment*

(12) While the objective of the CBAM

(12) While the objective of the CBAM

is to prevent the risk of carbon leakage, this Regulation would also encourage the use of more GHG emissions-efficient technologies by producers from third countries, so that less emissions per unit of output are generated.

is to prevent the risk of carbon leakage, this Regulation would also encourage the use of more GHG emissions-efficient technologies by producers from third countries, so that less emissions per unit of output are generated. ***For that reason the CBAM could be an effective measure to lower emissions in third countries while ensuring a level playing field for Union industry.***

## Amendment 11

### Proposal for a regulation

#### Recital 13

*Text proposed by the Commission*

(13) As an instrument to prevent carbon leakage and reduce GHG emissions the CBAM should ensure that imported products are subject to a regulatory system that applies carbon costs equivalent to the ones that otherwise would have been borne under the EU ETS. The CBAM is a climate measure which should prevent the risk of carbon leakage ***and support the Union's increased ambition on climate mitigation,*** while ensuring ***WTO*** compatibility.

*Amendment*

(13) As an instrument to prevent carbon leakage and reduce GHG emissions the CBAM should ensure that imported products are subject to a regulatory system that applies carbon costs equivalent to the ones that otherwise would have been borne under the EU ETS, ***resulting in an equivalent carbon pricing for imports and domestic products and a level playing field.*** The CBAM is a climate measure which should ***support the reduction of emissions in the Union in line with the European Green Deal and Regulation (EU) 2021/1119*** and prevent the risk of carbon leakage, while ensuring compatibility ***with WTO rules.***

## Amendment 12

### Proposal for a regulation

#### Recital 13 a (new)

*Text proposed by the Commission*

*Amendment*

***(13a) The Commission should analyse the administrative costs incurred by the CBAM, while ensuring that staff receive adequate training to perform their duties.***

## Amendment 13

### Proposal for a regulation

#### Recital 15

*Text proposed by the Commission*

(15) In order to exclude from the CBAM third countries or territories fully integrated into, or linked, to the EU ETS in the event of future agreements, the power to adopt acts in accordance with Article 290 of TFEU should be delegated to the Commission in respect of amending the list of countries in Annex II. Conversely, those third countries or territories should be excluded from the list in Annex II and be subject to CBAM whereby they do not effectively charge the ETS price on goods exported to the Union.

*Amendment*

(15) In order to exclude from the CBAM third countries or territories fully integrated into, or linked, to the EU ETS in the event of future agreements, the power to adopt acts in accordance with Article 290 of TFEU should be delegated to the Commission in respect of amending the list of countries in Annex II. Conversely, those third countries or territories should be excluded from the list in Annex II and be subject to CBAM whereby they do not effectively charge the ETS price on goods exported to the Union. ***The Commission will monitor and address the possible practices of circumvention in third countries.***

## Amendment 14

### Proposal for a regulation

#### Recital 15 a (new)

*Text proposed by the Commission*

*Amendment*

***(15a) With a view to ensuring that the ecological transition in the outermost regions is accompanied by economic and social cohesion, an impact assessment should be carried out before the end of the transition period on the potential economic and social impacts specific to those regions. The Commission should ensure compliance with Article 349 TFEU and propose appropriate measures for the outermost regions in implementing the CBAM, in particular because of the specific customs and tax arrangements that apply to the outermost regions.***

## Amendment 15

### Proposal for a regulation

#### Recital 17

*Text proposed by the Commission*

(17) The GHG emissions to be regulated by the CBAM should correspond to those GHG emissions covered by Annex I to the EU ETS in Directive 2003/87/EC, namely carbon dioxide ('CO<sub>2</sub>') as well as, where relevant, nitrous oxide ('N<sub>2</sub>O') and perfluorocarbons ('PFCs'). The CBAM should **initially** apply to direct emissions of those GHG from the production of goods up to the time of import into the customs territory of the Union, **and after the end of a transition period and upon further assessment**, as well to indirect emissions, mirroring the scope of the EU ETS.

*Amendment*

(17) The GHG emissions to be regulated by the CBAM should correspond to those GHG emissions covered by Annex I to the EU ETS in Directive 2003/87/EC, namely carbon dioxide ('CO<sub>2</sub>') as well as, where relevant, nitrous oxide ('N<sub>2</sub>O') and perfluorocarbons ('PFCs'). The CBAM should **reflect future revisions of the EU ETS in terms of regulated GHG emissions. The CBAM should** apply to direct emissions of those GHG from the production of goods up to the time of import into the customs territory of the Union as well to indirect emissions, mirroring the scope of the EU ETS. **Coherence between the CBAM and the EU ETS is essential to respect the principles of the WTO.**

## Amendment 16

### Proposal for a regulation

#### Recital 19

*Text proposed by the Commission*

(19) However, while the EU ETS sets an absolute cap on the GHG emissions from the activities under its scope and allows tradability of allowances (so called 'cap and trade system'), the CBAM should not establish quantitative limits to import, so as to ensure that trade flows are not restricted. Moreover, while the EU ETS applies to installations based in the Union, the CBAM should be applied to certain goods imported into the customs territory of the Union.

*Amendment*

(19) However, while the EU ETS sets an absolute cap on the GHG emissions from the activities under its scope and allows tradability of allowances (so called 'cap and trade system'), the CBAM should not establish quantitative limits to import, so as to ensure that trade flows are not restricted **or disrupted**. Moreover, while the EU ETS applies to installations based in the Union, the CBAM should be applied to certain goods imported into the customs territory of the Union **to ensure a level playing field and prevent the risk of carbon leakage**

*while ensuring compatibility with WTO rules.*

## **Amendment 17**

### **Proposal for a regulation**

#### **Recital 20**

*Text proposed by the Commission*

(20) The CBAM system has some specific features compared with the EU ETS, including on the calculation of the price of CBAM certificates, on the possibilities to trade certificates and on their validity over time. These are due to the need to preserve the effectiveness of the CBAM as a measure preventing carbon leakage over time and to ensure that the management of the system is not excessively burdensome in terms of obligations imposed on the operators and of resources for the administration, while at the same time preserving an equivalent level of flexibility available to operators under the EU ETS.

*Amendment*

(20) The CBAM system has some specific features compared with the EU ETS, including on the calculation of the price of CBAM certificates, on the possibilities to trade certificates and on their validity over time. These are due to the need to preserve the effectiveness of the CBAM as a measure preventing carbon leakage over time and to ensure that the management of the system is not excessively burdensome in terms of obligations imposed on the operators, ***in particular small and medium-sized enterprises (SMEs)***, and of resources for the administration, while at the same time preserving an equivalent level of flexibility available to operators under the EU ETS.

## **Amendment 18**

### **Proposal for a regulation**

#### **Recital 21**

*Text proposed by the Commission*

(21) In order to preserve its effectiveness as a carbon leakage measure, the CBAM needs to reflect closely the EU ETS price. While on the EU ETS market the price of allowances 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

*Amendment*

(21) In order to preserve its effectiveness as a carbon leakage measure ***and to ensure compatibility with WTO rules***, the CBAM needs to reflect closely the EU ETS price. While on the EU ETS market the price of allowances 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



reasonable margin for importers to take advantage of the price changes of the EU ETS while at the same ensuring that the system remains manageable for the administrative authorities.

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 at the same ensuring that the system remains manageable for the administrative authorities.

## Amendment 19

### Proposal for a regulation Recital 23

*Text proposed by the Commission*

(23) Given that the CBAM applies 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 regime. One of those simplifications should consist in a declarative system where importers should report the total verified GHG 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 resulting from obligations for accredited verifiers under this Regulation and the EU ETS.

*Amendment*

(23) Given that the CBAM applies 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 regime. One of those simplifications should consist in a ***simple and accessible*** declarative system where importers should report the total verified GHG 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 resulting from obligations for accredited verifiers under this Regulation and the EU ETS.

## Amendment 20

### Proposal for a regulation Recital 23 a (new)

*Text proposed by the Commission*

*Amendment*

***(23a) Given the unique nature of the CBAM and the need for close coordination at Union level, a CBAM authority should be established to properly implement and monitor this Regulation.***



## Amendment 21

### Proposal for a regulation Recital 24

*Text proposed by the Commission*

(24) *In terms of sanctions*, Member States should apply penalties to infringements of this Regulation and ensure that they are implemented. The amount of *those* penalties should be *identical to penalties currently applied within the Union in case of infringement of EU ETS according to Article 16(3) and (4) of Directive 2003/87/EC*.

*Amendment*

(24) *The CBAM should be carefully designed and supervised by the CBAM authority and customs authorities, inter alia, to prevent, identify and penalise any type of practice of circumvention, including abuse or fraud. The CBAM authority and Member States, in accordance with their national law, should apply administrative or criminal penalties to infringements of this Regulation and ensure that they are implemented. The amount of the penalties for authorised declarants who fail to surrender, by 31 May each year, a number of CBAM certificates corresponding to the emissions embedded in goods imported during the previous year or who submit false information related to embedded emissions to the CBAM authority with a view to obtaining a favourable individual treatment should be equivalent to three times the average price of CBAM certificates in the previous year for each CBAM certificate that the authorised declarant did not surrender in accordance with Article 22. Payment of the penalty should not release the authorised declarant from the obligation to surrender the outstanding number of CBAM certificates to the CBAM authority.*

## Amendment 22

### Proposal for a regulation Recital 26

*Text proposed by the Commission*

(26) The product coverage of the CBAM should reflect the activities covered by the EU ETS as that scheme is based on

*Amendment*

(26) The product coverage of the CBAM should reflect the activities covered by the EU ETS as that scheme is based on

quantitative and qualitative criteria linked to the environmental objective of Directive 2003/87/EC and is the most comprehensive GHG emissions regulatory system in the Union.

quantitative and qualitative criteria linked to the environmental objective of Directive 2003/87/EC and is the most comprehensive GHG emissions regulatory system in the Union. ***The Commission should establish a timeline for the gradual inclusion of all goods under the sectors covered by Directive 2003/87/EC by 1 January 2030. Priority should be given to goods that are most exposed to carbon leakage and are most carbon intensive.***

## Amendment 23

### Proposal for a regulation Recital 29

#### *Text proposed by the Commission*

(29) The goods under this Regulation should be selected after a careful analysis of their relevance in terms of cumulated GHG emissions and risk of carbon leakage in the corresponding EU ETS sectors while limiting complexity and administrative burden. In particular, the actual selection should take into account basic materials and basic products covered by the EU ETS with the objective of ensuring that imports of energy intensive products into the Union are on equal footing with EU products in terms of EU ETS carbon pricing, and to mitigate risks of carbon leakage. Other relevant criteria to narrow the selection should be: firstly, relevance of sectors in terms of emissions, namely whether the sector is one of the largest aggregate emitters of GHG emissions; secondly, sector's exposure to significant risk of carbon leakage, as defined pursuant to Directive 2003/87/EC; thirdly, the need to balance broad coverage in terms of GHG emissions while limiting complexity and administrative effort.

#### *Amendment*

(29) The goods under this Regulation should be selected after a careful analysis of their relevance in terms of cumulated GHG emissions and risk of carbon leakage in the corresponding EU ETS sectors while limiting complexity and administrative burden ***for Union industry, companies and SMEs***. In particular, the actual selection should take into account basic materials and basic products covered by the EU ETS with the objective of ensuring that imports of energy intensive products into the Union are on equal footing with EU products in terms of EU ETS carbon pricing, and to mitigate risks of carbon leakage. Other relevant criteria to narrow the selection should be: firstly, relevance of sectors in terms of emissions, namely whether the sector is one of the largest aggregate emitters of GHG emissions; secondly, sector's exposure to significant risk of carbon leakage, as defined pursuant to Directive 2003/87/EC; thirdly, the need to balance broad coverage in terms of GHG emissions while limiting complexity and administrative effort. ***Specific attention should also be paid to avoid any risk of market distortions between the different***

*sectors covered by the CBAM.*

## Amendment 24

### Proposal for a regulation Recital 30

*Text proposed by the Commission*

(30) The use of the first criterion allows listing the following industrial sector in terms of cumulated emissions: iron and steel, refineries, cement, organic basic chemicals, and fertilisers.

*Amendment*

(30) The use of the first criterion allows listing the following industrial sector in terms of cumulated emissions: iron and steel, refineries, cement, **aluminium**, organic basic chemicals, **hydrogen**, **polymers**, and fertilisers.

## Amendment 25

### Proposal for a regulation Recital 32

*Text proposed by the Commission*

***(32) In particular, organic chemicals are not included in the scope of this Regulation due to technical limitations that do not allow to clearly define the embedded emissions of imported goods. For these 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 will require more data and analysis.***

*Amendment*

***deleted***

## Amendment 26

### Proposal for a regulation Recital 33

*Text proposed by the Commission*

(33) ***Similar*** technical constraints apply to refinery products, for which it is not possible to unambiguously assign GHG

*Amendment*

(33) ***Some*** technical constraints apply to refinery products, for which it is not possible to unambiguously assign GHG

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 gasoline, diesel or kerosene, but to all refinery output.

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 gasoline, diesel or kerosene, but to all refinery output. ***In order to extend the scope of this Regulation in a timely manner, the Commission should develop a fair methodology to calculate embedded emissions from refinery products before the end of the transition phase.***

## Amendment 27

### Proposal for a regulation Recital 34

#### *Text proposed by the Commission*

(34) ***However***, 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 closely resembling those of steel products. Inclusion of aluminium is also relevant as the scope of the CBAM ***may be extended to cover*** also indirect emissions ***in the future***.

#### *Amendment*

(34) 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 closely resembling those of steel products. Inclusion of aluminium is also relevant as the scope of the CBAM also ***covers*** indirect emissions.

## Amendment 28

### Proposal for a regulation Recital 36

#### *Text proposed by the Commission*

(36) Conversely, this Regulation should not apply to certain products whose production does not entail meaningful emissions like ferrous scrap (under CN code 7204), ferro-alloys (CN code 7202) and certain fertilisers (under CN code 3105 60 00).

#### *Amendment*

(36) Conversely, this Regulation should not apply ***at a first stage*** to certain products whose production does not entail meaningful emissions like ferrous scrap (under CN code 7204), ferro-alloys (CN code 7202) and certain fertilisers (under CN code 3105 60 00).

## Amendment 29

### Proposal for a regulation Recital 40

*Text proposed by the Commission*

(40) An authorised declarant should be allowed to claim a reduction in the number of CBAM certificates to be surrendered corresponding to the carbon price already paid for those emissions in other jurisdictions.

*Amendment*

(40) An authorised declarant should be allowed to claim a reduction in the number of CBAM certificates to be surrendered corresponding to the ***explicit*** carbon price already paid for those emissions in other jurisdictions.

## Amendment 30

### Proposal for a regulation Recital 45

*Text proposed by the Commission*

(45) The physical characteristics of electricity as a product, in particular the impossibility to follow the actual flow of electrons, justifies a slightly different design for the CBAM. ***Default values should be used as a standard approach and*** it should be possible for authorised declarants to claim the calculation of their CBAM obligations based on actual emissions. Electricity trade is different from trade in other goods, notably because it is traded via interconnected electricity grids, using power exchanges and specific forms of trading. Market coupling is a densely regulated form of electricity trade which allows to aggregate bids and offers across the Union.

*Amendment*

(45) The physical characteristics of electricity as a product, in particular the impossibility to follow the actual flow of electrons, justifies a slightly different design for the CBAM. It should be possible for authorised declarants to claim the calculation of their CBAM obligations based on actual ***verified*** emissions. ***Default values should only be used if data on actual emissions is unavailable.*** Electricity trade is different from trade in other goods, notably because it is traded via interconnected electricity grids, using power exchanges and specific forms of trading. Market coupling is a densely regulated form of electricity trade which allows to aggregate bids and offers across the Union.

## Amendment 31

### Proposal for a regulation Recital 46 a (new)

***(46a) To reduce the risk of carbon leakage as well as to ensure a level playing field for Union industry, all practices of circumvention should be prohibited. The Commission should evaluate the risk of practices of circumvention in all sectors included in Annex I, especially the likelihood of transshipment, modified trade patterns towards downstream products, as well as resource shuffling, cost absorption, manipulation of emissions data, wrongful labelling of goods and slight modifications of the product so as to import a product under a different combined nomenclature ('CN') code. The Commission should be empowered to adopt, where appropriate, delegated acts to strengthen anti-circumvention measures.***

## Amendment 32

### Proposal for a regulation

#### Recital 49

*Text proposed by the Commission*

(49) Once third countries will be closely integrated into the Union electricity market via market coupling, technical solutions should be found to ensure the application of the CBAM to electricity exported from such countries into the customs territory of the Union. If technical solutions cannot be found, third countries that are market coupled should benefit from a time limited exemption from the CBAM until at the latest 2030 with regard solely to the export of electricity, provided that certain conditions are satisfied. However, those third countries should develop a roadmap and commit to implement **a** carbon pricing mechanism providing for an equivalent price as the EU ETS, and should commit to

*Amendment*

(49) Once third countries will be closely integrated into the Union electricity market via market coupling, technical solutions should be found to ensure the application of the CBAM to electricity exported from such countries into the customs territory of the Union. If technical solutions cannot be found, third countries that are market coupled should benefit from a time limited exemption from the CBAM until at the latest 2030 with regard solely to the export of electricity, provided that certain conditions are satisfied. However, those third countries should develop a roadmap and commit to implement **an explicit** carbon pricing mechanism providing for an equivalent price as the EU ETS, and should

achieving carbon neutrality by 2050 *[as well as?]* to align with Union legislation in the areas of environment, climate, competition and energy. That exemption should be withdrawn at any time if there are reasons to believe that the country in question does not fulfil its commitments or it has not adopted by 2030 an ETS equivalent to the EU ETS.

commit to achieving carbon neutrality by 2050 *at the latest* to align with Union legislation in the areas of environment, climate, competition and energy. That exemption should be withdrawn at any time if there are reasons to believe that the country in question does not fulfil its commitments or it has not adopted by 2030 an ETS equivalent to the EU ETS.

### **Amendment 33**

#### **Proposal for a regulation Recital 50**

*Text proposed by the Commission*

(50) A transitional period should apply during the period 2023 until **2025**. A CBAM without financial adjustment should apply, with the objective to facilitate a smooth roll out of the mechanism hence reducing the risk of disruptive impacts on trade. Declarants should have to report on a quarterly basis the actual embedded emissions in goods imported during the transitional period, detailing direct and indirect emissions as well as any carbon price paid abroad.

*Amendment*

(50) A transitional period should apply during the period **1 January 2023** until **31 December 2024**. A CBAM without financial adjustment should apply, with the objective to facilitate a smooth roll out of the mechanism hence reducing the risk of disruptive impacts on trade **and Union industry**. Declarants should have to report on a quarterly basis the actual embedded emissions in goods imported during the transitional period, detailing direct and indirect emissions as well as any carbon price paid abroad.

### **Amendment 34**

#### **Proposal for a regulation Recital 51**

*Text proposed by the Commission*

***(51) To facilitate and ensure a proper functioning of the CBAM, the Commission should provide support to the competent authorities responsible for the application of this Regulation in carrying out their obligations.***

*Amendment*

***deleted***



## Amendment 35

### Proposal for a regulation Recital 51 a (new)

*Text proposed by the Commission*

*Amendment*

***(51a) It is necessary to ensure that parties affected by decisions made by the CBAM authority have access to the necessary remedies. An appropriate appeal mechanism should therefore be set up so that decisions of the CBAM authority can be subject to appeal to a Board of Appeal, the decisions of which can be subject to action before the Court of Justice of the European Union in accordance with the TFEU.***

## Amendment 36

### Proposal for a regulation Recital 52

*Text proposed by the Commission*

*Amendment*

(52) The Commission should evaluate the application of this Regulation ***before the end of the transitional period*** and report to the European Parliament and the Council. The ***report*** of the Commission should in particular focus on possibilities to enhance climate actions towards the objective of a climate neutral Union by 2050. The Commission should, as part of ***that*** evaluation, initiate collection of information necessary to possibly extend the scope ***to indirect emissions, as well as*** to other goods and services at risk of carbon leakage, and to develop methods of calculating embedded emissions based on the environmental footprint methods<sup>47</sup>.

(52) The Commission should ***regularly*** evaluate the application of this Regulation and report to the European Parliament and the Council. The ***reports*** of the Commission should in particular focus on possibilities to enhance climate actions towards the objective of a climate neutral Union by 2050. The Commission should, as part of ***the first*** evaluation, initiate collection of information necessary to possibly ***further*** extend the scope ***of Annex I***, to other goods and services at risk of carbon leakage, ***such as downstream products***, and to develop methods of calculating embedded emissions based on the environmental footprint methods<sup>47</sup>. ***The Commission should focus its subsequent evaluations on the impact on competitiveness of Union industry and downstream industry, impact on SMEs, possible disproportionate administrative burden, possible practices of***



*circumvention, distortion in trade patterns and possibilities to enhance climate actions towards a climate neutral Union by 2050 and accompanying those evaluations, where appropriate, with legislative proposals.*

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<sup>47</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).

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<sup>47</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).

### **Amendment 37**

#### **Proposal for a regulation Recital 52 a (new)**

*Text proposed by the Commission*

*Amendment*

*(52a) In order to allow for a rapid and effective response to unforeseeable, exceptional and unprovoked circumstances that have destructive consequences for the economic and industrial infrastructure of one or more third countries subject to the CBAM, the Commission should put forward 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.*

### **Amendment 38**

#### **Proposal for a regulation Recital 53 a (new)**

*Text proposed by the Commission*

*Amendment*

*(53a) Alongside dialogue with third*

*countries, the Commission should, at each stage after the entry into force of this Regulation, engage with all interested parties of the sectors covered by this Regulation, including industry representatives, trade unions and civil society.*

**Amendment 39**  
**Proposal for a regulation**  
**Recital 54 a (new)**

*Text proposed by the Commission*

*Amendment*

*(54a) The Commission should actively pursue the establishment of an international “Carbon club” in order to ensure continuous exchange in good faith with the Union’s trade partners. This should be an open non-exclusive international forum, which could be located under an appropriate multilateral organisation such as the WTO or the relevant and open body of the OECD for instance. Its objective should be to allow for the comparison and coordination of carbon pricing measures as well as non-carbon pricing measures with an impact on emission reduction. The Carbon club should also support the comparability of climate measures by ensuring the quality of climate monitoring, reporting and verification among its members. Membership of the club should be informal, open and on a voluntary basis for countries aiming at high climate ambition in line with the Paris Agreement. Given that the CBAM is a first-of-a-kind measure, which is meant to be a cooperative tool designed to fight carbon leakage, such a Carbon club will provide the means for engagement and transparency between the Union and its trade partners.*

## Amendment 40

### Proposal for a regulation Recital 55

#### *Text proposed by the Commission*

(55) As the CBAM aims to encourage cleaner production processes, the EU stands ready to work with low and middle-income countries towards the de-carbonisation of their manufacturing industries. Moreover, the Union should support less developed countries with the necessary technical assistance in order to facilitate their adaptation to the new obligations established by this regulation.

#### *Amendment*

(55) As the CBAM aims to encourage cleaner production processes, the EU stands ready to work with low and middle-income countries towards the de-carbonisation of their manufacturing industries. Moreover, the Union should support less developed countries with the necessary technical assistance in order to facilitate their adaptation to the new obligations established by this regulation. ***While the revenues generated by the sale of CBAM certificates will enter the Union budget as general income and should not be assigned to any specific Union budget expenditure, in light of the universality principle governing the Union budget, the Union should finance least developed countries' efforts towards the de-carbonisation of their manufacturing industries with an annual amount corresponding at least to the level of revenues generated by the sale of CBAM certificates. Such funding should be provided through the financial support provided by the Union to international climate finance and the relevant geographic programmes and the thematic programme Global Challenges of the Neighbourhood, Development and International Cooperation Instrument established by Regulation (EU) 2021/947 of the European Parliament and of the Council<sup>1a</sup>. The necessary adjustments to the budgetary appropriation of that instrument should be made through the Union annual budgetary procedure until 2027 and then included in the next multiannual financial framework.***

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***1<sup>a</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).***

#### **Amendment 41**

##### **Proposal for a regulation Recital 57 a (new)**

*Text proposed by the Commission*

*Amendment*

***(57a) The Commission should regularly monitor any changes in trade flows from least developed countries attributable to the CBAM in order to evaluate the efficiency of this Regulation, including its contribution to the prevention of carbon leakage and its impact on trade flows between the Union and least developed countries. The Commission should also regularly monitor the technical assistance provided to least developed countries in order to evaluate its effectiveness in contributing to the decarbonisation process in those countries.***

#### **Amendment 42**

##### **Proposal for a regulation Recital 59**

*Text proposed by the Commission*

*Amendment*

(59) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work,

(59) 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 on Better Law-Making of 13 April 2016<sup>51</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.

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<sup>51</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

Amendment 43

#### **Proposal for a regulation** **Recital 61**

##### *Text proposed by the Commission*

(61) 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.

#### **Amendment 44**

#### **Proposal for a regulation** **Recital 61 a (new)**

including at *the level of the relevant experts and industrial sectors*, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016<sup>51</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.

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<sup>51</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

##### *Amendment*

(61) 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.  
***According to Europol, carbon credit fraud has cost more than EUR 5 billion in lost government revenues. The CBAM should therefore introduce appropriate and effective mechanisms for avoiding losses of government revenues.***

*Text proposed by the Commission*

*Amendment*

***(61a) The CBAM authority should be funded in a way to guarantee its viable functioning, and enable sound financial management. Any costs of the establishment and operation of the authority should be borne by the general income of the Union budget.***

## **Amendment 45**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. This Regulation establishes a carbon border adjustment mechanism (the ‘CBAM’) for addressing greenhouse gas emissions embedded in the goods referred to in Annex I, upon their importation into the customs territory of the Union, in order to ***prevent the*** risk of carbon leakage.

1. This Regulation establishes a carbon border adjustment mechanism (the ‘CBAM’) for addressing greenhouse gas emissions embedded in the goods referred to in Annex I, upon their importation into the customs territory of the Union, in order to ***reduce global carbon emissions and support the implementation of the goals of the Paris Agreement by preventing any potential*** risk of carbon leakage ***from the Union and incentivise the reduction of emissions in third countries. For that purpose, the CBAM aims to equalise carbon pricing for imports and domestic products that are within the scope of this Regulation.***

## **Amendment 46**

### **Proposal for a regulation**

#### **Article 1 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. The mechanism ***will*** progressively ***become an alternative to*** the mechanisms established under Directive 2003/87/EC to prevent the risk of carbon leakage, notably

3. The mechanism ***is set to*** progressively ***replace*** the mechanisms established under Directive 2003/87/EC to prevent the risk of carbon leakage, notably

the allocation of allowances free of charge in accordance with Article 10a of that Directive.

the allocation of allowances free of charge in accordance with Article 10a of that Directive.

#### **Amendment 47**

##### **Proposal for a regulation Article 2 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. By 1 January 2030 this Regulation shall apply to all sectors covered by Directive 2003/87/EC.***

***The Commission is empowered to adopt a delegated act in accordance with Article 28 supplementing this Regulation by establishing a timeline for the gradual inclusion of all goods under the sectors covered by Directive 2003/87/EC. The Commission shall give priority in that delegated act to goods that are most exposed to carbon leakage and are most carbon intensive. That delegated act shall be adopted by 30 June 2025.***

***The Commission is empowered to adopt a delegated act in accordance with Article 28 supplementing Annex I by adding all goods under the sectors covered in the EU ETS.***

***By... [three years after the date of entry into force of this Regulation] the Commission shall adopt a delegated act in accordance with Article 28 supplementing Annex I by adding downstream products of the goods listed in Annex I. Those downstream products shall contain a significant share of at least one of the goods listed in Annex I.***

#### **Amendment 48**

##### **Proposal for a regulation Article 2 – paragraph 6**

*Text proposed by the Commission*

6. The Commission is empowered to adopt **implementing acts** in order to **determine** the conditions for applying the CBAM to goods referred to in paragraph 2. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).**

*Amendment*

6. The Commission is empowered to adopt **delegated acts in accordance with Article 28** in order to **supplement this Regulation by setting out** the conditions for applying the CBAM to goods referred to in paragraph 2.

**Amendment 49**

**Proposal for a regulation**

**Article 2 – paragraph 7 – point b**

*Text proposed by the Commission*

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

*Amendment*

(b) the national law in that third country or territory implements the main provisions of the Union electricity market legislation, including on the development of renewable energy sources, the coupling of electricity markets, **and implements the Union climate, environment and competition acquis, fully respecting agreed deadlines**;

**Amendment 50**

**Proposal for a regulation**

**Article 2 – paragraph 7 – point e**

*Text proposed by the Commission*

(e) the third country or territory has, when implementing the roadmap pursuant to point (c), demonstrated 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 an equivalent level as the Union at least insofar as the generation of electricity is concerned. The implementation of an emission trading system for electricity,

*Amendment*

(e) the third country or territory has, when implementing the roadmap pursuant to point (c), demonstrated 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 an equivalent level as the Union at least insofar as the generation of electricity is concerned. The implementation of an emission trading system for electricity,



with a price equivalent to the EU ETS, shall be finalised by 1 January **2030**;

with a price equivalent to the EU ETS, shall be finalised by 1 January **2028**;

## **Amendment 51**

### **Proposal for a regulation Article 2 – paragraph 8**

*Text proposed by the Commission*

8. A third country or territory satisfying the conditions set out in paragraph 7, points (a) to (f), shall be listed in Annex II, Section B, of this Regulation, and shall submit **two** reports on the fulfilment of the conditions pursuant to paragraph 7, points (a) to (f), one before 1 July **2025** and another before 1 July 2029. By 31 December **2025** and by 31 December 2029, the Commission shall assess, notably on the basis of the roadmap pursuant to paragraph 7, point (c), and the reports received from the third country or territory, whether that third country or territory continues to respect the conditions set out in paragraph 7.

*Amendment*

8. A third country or territory satisfying the conditions set out in paragraph 7, points (a) to (f), shall be listed in Annex II, Section B, of this Regulation, and shall submit **three comprehensive** reports on the fulfilment of the conditions pursuant to paragraph 7, points (a) to (f), one before 1 July **2024, one before 1 July 2027** and another before 1 July 2029. By 31 December **2024, by 31 December 2027** and by 31 December 2029, the Commission shall assess, notably on the basis of the roadmap pursuant to paragraph 7, point (c), and the reports received from the third country or territory, whether that third country or territory continues to respect the conditions set out in paragraph 7.

## **Amendment 52**

### **Proposal for a regulation Article 2 – paragraph 9 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

***(ba) if the Commission has evidence that, as a result of increased exports of electricity to the Union, the emissions from electricity production in the country or territory have increased.***

## **Amendment 53**

**Proposal for a regulation**  
**Article 2 – paragraph 12**

*Text proposed by the Commission*

12. The Union, may conclude agreements with third countries with a view to take account of carbon pricing mechanisms in these countries in the application of Article 9.

*Amendment*

12. The Union, may conclude agreements with third countries with a view to take account of carbon pricing mechanisms in these countries in the application of Article 9. ***Such agreements shall not lead to undue preferential treatment of imports from the third countries as regards the CBAM certificates to be surrendered and shall take into account any carbon pricing mechanisms that are considered to be practices of circumvention within the meaning of Article 27(2).***

**Amendment 54**

**Proposal for a regulation**  
**Article 3 – paragraph 1 – point 11**

*Text proposed by the Commission*

(11) ‘**competent** authority’ means the authority, **designated by each Member State** in accordance with Article 11 of this Regulation;

*Amendment*

(11) ‘**CBAM** authority’ means the authority **established** in accordance with Article 11 of this Regulation;

**Amendment 55**

**Proposal for a regulation**  
**Article 3 – paragraph 1 – point 15**

*Text proposed by the Commission*

(15) ‘direct emissions’ mean emissions from the production processes of goods over which the producer has direct control;

*Amendment*

(15) ‘direct emissions’ mean emissions from the production processes of goods over which the producer has direct control, ***including emissions from the production of heating and cooling consumed during the production processes;***

## Amendment 56

### Proposal for a regulation Article 3 – paragraph 1 – point 16

*Text proposed by the Commission*

(16) ‘embedded emissions’ mean direct emissions released during the production of goods, calculated pursuant to the methods set out in Annex III;

*Amendment*

(16) ‘embedded emissions’ mean direct ***and indirect*** emissions released during the production ***of goods and the electricity consumed during the production processes*** of goods, calculated pursuant to the methods set out in Annex III;

## Amendment 57

### Proposal for a regulation Article 3 – paragraph 1 – point 18

*Text proposed by the Commission*

(18) ‘CBAM certificate’ means a certificate in electronic format corresponding to one tonne of embedded emissions in goods;

*Amendment*

(18) ‘CBAM certificate’ means a certificate, ***common to all Member States***, in electronic format corresponding to one tonne of embedded emissions in goods;

## Amendment 58

### Proposal for a regulation Article 3 – paragraph 1 – point 22

*Text proposed by the Commission*

(22) ‘actual emissions’ mean the emissions calculated based on primary data from the production processes of goods;

*Amendment*

(22) ‘actual emissions’ mean the emissions calculated ***and verified*** based on primary data from the production processes of goods ***and from the production of electricity consumed during the production processes of goods***;

## Amendment 59

### Proposal for a regulation Article 3 – paragraph 1 – point 23

*Text proposed by the Commission*

(23) ‘carbon price’ means the monetary amount paid in a third country in the form of a tax or 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;

*Amendment*

(23) ‘carbon price’ means the monetary amount paid in a third country in the form of a tax, **fee** or 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;

**Amendment 60**

**Proposal for a regulation**  
**Article 3 – paragraph 1 – point 28**

*Text proposed by the Commission*

(28) ‘indirect emissions’ mean emissions from the production of electricity, **heating and cooling**, which is consumed during the production processes of goods.

*Amendment*

(28) ‘indirect emissions’ mean **greenhouse gas** emissions from the production **processes** of electricity which is consumed during the production processes of goods;

**Amendment 61**

**Proposal for a regulation**  
**Article 3 – paragraph 1 – point 28 a (new)**

*Text proposed by the Commission*

*Amendment*

**(28a) ‘least developed country’ means a country included in the list of such countries established by the United Nations Economic and Social Council;**

**Amendment 62**

**Proposal for a regulation**  
**Article 3 – paragraph 1 – point 28 b (new)**

*Text proposed by the Commission*

*Amendment*

**(28b) ‘CBAM factor’ means a factor**

*reducing the free allocation of allowances for the installations producing the goods covered in Annex I;*

### **Amendment 63**

#### **Proposal for a regulation**

#### **Article 3 – paragraph 1 – point 28 c (new)**

*Text proposed by the Commission*

*Amendment*

*(28c) ‘downstream products’ means products produced by using goods as listed in Annex I.*

### **Amendment 64**

#### **Proposal for a regulation**

#### **Article 4 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

Goods shall only be imported into the customs territory of the Union by a declarant that is authorised by the **competent** authority in accordance with Article 17 (‘authorised declarant’).

Goods shall only be imported into the customs territory of the Union by a declarant that is authorised by the **CBAM** authority in accordance with Article 17 (‘authorised declarant’).

*(The designation ‘CBAM authority’ applies throughout the text. Adopting it will necessitate corresponding changes throughout)*

### **Amendment 65**

#### **Proposal for a regulation**

#### **Article 5 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Any declarant shall, prior to importing goods as referred to in Article 2, apply to the **competent** authority at the place where it is established, for an authorisation to import those goods into the

1. Any declarant shall, prior to importing goods as referred to in Article 2, apply to the **CBAM** authority at the place where it is established, for an authorisation to import those goods into the customs

customs territory of the Union.

territory of the Union.

## Amendment 66

### Proposal for a regulation

#### Article 5 – paragraph 3 – point e

##### *Text proposed by the Commission*

(e) declaration on honour that the declarant was not involved in any serious infringements or repeated infringements of customs legislation, taxation rules and 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;

##### *Amendment*

(e) declaration on honour that **the declarant or, where applicable, a board member of** the declarant was not involved in any serious infringements or repeated infringements of customs legislation, taxation rules and market abuse rules during the five years preceding the year of the application, including that it has no record of criminal offences relating to **the declarant's** economic activity;

## Amendment 67

### Proposal for a regulation

#### Article 5 – paragraph 3 – point f

##### *Text proposed by the Commission*

(f) information necessary to demonstrate the declarant'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 three last financial years for which the accounts were closed;

##### *Amendment*

(f) information necessary to demonstrate the declarant's financial and operational capacity to fulfil its obligations under this Regulation and, if decided by the **CBAM** 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 three last financial years for which the accounts were closed;

## Amendment 68

### Proposal for a regulation

#### Article 5 – paragraph 4

*Text proposed by the Commission*

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

*Amendment*

4. The applicant may at any time **modify or** withdraw its application.

**Amendment 69**

**Proposal for a regulation**  
**Article 5 – paragraph 5**

*Text proposed by the Commission*

5. The authorised declarant shall inform the **competent** authority without delay of any changes of the information provided under paragraph 3, arising after the decision was taken, which may influence the decision taken pursuant to Article 17 or content of the authorisation in accordance with Article 17.

*Amendment*

5. The authorised declarant shall inform the **CBAM** authority without delay of any changes of the information provided under paragraph 3, arising after the decision was taken, which may influence the decision taken pursuant to Article 17 or content of the authorisation in accordance with Article 17.

**Amendment 70**

**Proposal for a regulation**  
**Article 5 – paragraph 6**

*Text proposed by the Commission*

6. The Commission is empowered to adopt implementing acts, concerning the standard format of the application and the delays and procedure to be followed by the **competent** authority when processing applications for authorisation in accordance with paragraph 1 and the rules for identification by the **competent** authority of the declarants for the importation of electricity. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

*Amendment*

6. The Commission is empowered to adopt implementing acts, concerning the standard format of the application and the delays and procedure to be followed by the **CBAM** authority when processing applications for authorisation in accordance with paragraph 1 and the rules for identification by the **CBAM** authority of the declarants for the importation of electricity. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

**Amendment 71**

**Proposal for a regulation**  
**Article 6 – paragraph 1**

*Text proposed by the Commission*

1. By 31 May of each year, each authorised declarant shall submit a declaration ('CBAM declaration'), for the calendar year preceding the declaration, to the *competent* authority.

*Amendment*

1. By 31 May of each year, each authorised declarant shall submit a declaration ('CBAM declaration'), for the calendar year preceding the declaration, to the **CBAM** authority.

**Amendment 72**

**Proposal for a regulation**  
**Article 6 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

**(ca) a copy of the verification report issued by the accredited verifier under Article 8 and Annex V.**

**Amendment 73**

**Proposal for a regulation**  
**Article 7 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

5. The authorised declarant shall keep those records of information referred to in paragraph 4, 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.

5. The authorised declarant shall keep those records of information referred to in paragraph 4, 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. ***Those records shall be sufficiently detailed to enable the accredited verifiers to verify the embedded emissions in accordance with Article 8 and to enable the CBAM authority to review the CBAM declaration in accordance with Article 19(1). The authorised declarant shall keep those records for the period referred to in Article 19(1) in which the CBAM authority may review the CBAM***



*declaration.*

## **Amendment 74**

### **Proposal for a regulation**

#### **Article 7 – paragraph 6**

*Text proposed by the Commission*

6. The Commission is empowered to adopt implementing acts concerning ***detailed rules regarding*** the elements of the calculation methods set out in Annex III, including determining system boundaries of production processes, 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. Where necessary, those acts shall provide that the default values can be adapted to particular areas, regions or countries to take into account specific objective factors such as geography, natural resources, market conditions, prevailing energy sources, or industrial processes. The implementing acts shall build upon existing legislation for the verification of emissions and activity data for installations covered by Directive 2003/87/EC, in particular Implementing Regulation (EU) No 2018/2067.

*Amendment*

6. The Commission is empowered to adopt implementing acts concerning the elements of the calculation methods set out in Annex III, including determining system boundaries of production processes, 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. Where necessary, those acts shall provide that the default values can be adapted to particular areas, regions or countries to take into account specific objective factors such as geography, natural resources, market conditions, prevailing energy sources, or industrial processes. The implementing acts shall build upon existing legislation for the verification of emissions and activity data for installations covered by Directive 2003/87/EC, in particular Implementing Regulation (EU) No 2018/2067.

## **Amendment 75**

### **Proposal for a regulation**

#### **Article 7 – paragraph 7 a (new)**

*Text proposed by the Commission*

*Amendment*

***7a. The Commission is empowered to adopt delegated acts in accordance with***

***Article 28 supplementing this Regulation regarding the definition of a method to calculate embedded indirect emissions for simple and complex products and relevant default values, as well as a method to determine the CBAM price of indirect embedded emissions.***

## **Amendment 76**

### **Proposal for a regulation Article 8 – paragraph 1**

*Text proposed by the Commission*

1. The authorised 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 V.

*Amendment*

1. The authorised **CBAM** declarant shall ensure that the total embedded emissions declared in the CBAM declaration submitted pursuant to **Articles 6 and 35, as well as the methodology and supporting data and documents**, are verified by a verifier accredited pursuant to Article 18, based on the verification principles set out in Annex V.

## **Amendment 77**

### **Proposal for a regulation Article 8 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The CBAM authority is authorised to verify the accuracy of the information provided in the CBAM declaration pursuant to this Article.***

## **Amendment 78**

### **Proposal for a regulation Article 8 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

The Commission is empowered to adopt

*Amendment*

The Commission is empowered to adopt

*implementing acts* concerning the principles of verification referred to in paragraph 1 as regards the possibility to waive the obligation for the verifier to visit the installation where relevant goods are produced and the obligation to set thresholds for deciding whether misstatements or non-conformities are material and concerning the supporting documentation needed for the verification report.

*delegated acts in accordance with Article 28 supplementing this Regulation* concerning the principles of verification referred to in paragraph 1 as regards the possibility to waive the obligation for the verifier to visit the installation where relevant goods are produced and the obligation to set thresholds for deciding whether misstatements or non-conformities are material and concerning the supporting documentation needed for the verification report. *The possibility to waive the obligation for the accredited verifier to visit the installation where relevant goods are produced may only be used in duly justified circumstances where the installation has a well-known standard profile regarding production and technology, allowing for a reliable estimation of embedded emissions. In any case, the CBAM authority shall remain authorised to verify the accuracy of the information provided in the CBAM declaration. The provisions laid down in such delegated acts shall be equivalent to those in Implementing Regulation (EU) 2018/2067.*

## Amendment 79

### Proposal for a regulation Article 8 – paragraph 3 – subparagraph 2

*Text proposed by the Commission*

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

*Amendment*

*deleted*

## Amendment 80

### Proposal for a regulation Article 9 – title

*Text proposed by the Commission*

Carbon price paid in a country of origin

*Amendment*

**Explicit** carbon price paid in a country of origin

## Amendment 81

### Proposal for a regulation Article 9 – paragraph 1

*Text proposed by the Commission*

1. An authorised declarant may claim in its CBAM declaration a reduction in the number of CBAM certificates to be surrendered in order for the carbon price paid in the country of origin for the declared embedded emissions to be taken into account.

*Amendment*

1. An authorised declarant may claim in its CBAM declaration a reduction in the number of CBAM certificates to be surrendered in order for the **explicit** carbon price paid in the country of origin for the declared embedded emissions to be taken into account. **That reduction may also be 100 % if the carbon price paid in the country of origin is equivalent to or higher than the Union carbon price.**

## Amendment 82

### Proposal for a regulation Article 9 – paragraph 2

*Text proposed by the Commission*

2. The authorised declarant shall keep records of the documentation, certified by an **independent person**, required to demonstrate that the declared embedded emissions were subject to a carbon price in the country of origin of the goods and keep evidence of the proof of the actual payment for that carbon price which should not have been subject to an export rebate or any other form of compensation on exportation.

*Amendment*

2. The authorised declarant shall keep records of the documentation, certified by an **accredited verifier**, required to demonstrate that the declared embedded emissions were subject to **an explicit** carbon price in the country of origin of the goods and keep evidence of the proof of the actual payment for that carbon price which should not have been subject to an export rebate or any other form of **direct or indirect** compensation on exportation. **The name and contact details of the accredited verifier shall appear on the documentation. The authorised declarant shall transmit such documentation to the**

## **Amendment 83**

### **Proposal for a regulation Article 9 – paragraph 4**

#### *Text proposed by the Commission*

4. The Commission is empowered to adopt implementing acts establishing the methodology for calculating the reduction in the number of CBAM certificates to be surrendered, regarding the conversion of the carbon price paid in foreign currency into euro at yearly average exchange rate in accordance with paragraph 1, and regarding the qualifications of the **independent person** certifying the information as well as elements of proof of the carbon price paid and the absence of export rebates or other forms of compensation on exportation being applied as referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

#### *Amendment*

4. The Commission is empowered to adopt implementing acts establishing the methodology for calculating the reduction in the number of CBAM certificates to be surrendered, regarding the conversion of the carbon price paid in foreign currency into euro at yearly average exchange rate in accordance with paragraph 1, and regarding the qualifications of the **accredited verifier** certifying the information as well as elements of proof of the carbon price paid and the absence of export rebates or other forms of **direct and indirect** compensation on exportation being applied as referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

## **Amendment 84**

### **Proposal for a regulation Article 10 – paragraph 1**

#### *Text proposed by the Commission*

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 a **central database** referred to in Article 14(4).

#### *Amendment*

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 a **CBAM registry** referred to in Article 14.

## **Amendment 85**

**Proposal for a regulation**  
**Article 10 – paragraph 6**

*Text proposed by the Commission*

6. The records referred to in paragraph 5, point (c), shall be sufficiently detailed to enable the verification in accordance with paragraph 5, point (b), and to enable **any competent** authority to review, in accordance with Article 19(1), the CBAM declaration made by an authorised declarant to whom the relevant information was disclosed in accordance with paragraph 8.

**Amendment 86**

**Proposal for a regulation**  
**Article 10 – paragraph 7**

*Text proposed by the Commission*

7. **An operator may disclose** the information on **the verification of** embedded emissions referred to in paragraph 5 **to an authorised declarant**. The authorised declarant shall be entitled to avail itself of that **disclosed** information to fulfil the obligation referred to in Article 8.

**Amendment 87**

**Proposal for a regulation**  
**Chapter III – title**

*Text proposed by the Commission*

**Competent authorities**

**Amendment 88**

**Proposal for a regulation**  
**Article 11 – title**

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*Amendment*

6. The records referred to in paragraph 5, point (c), shall be sufficiently detailed to enable the verification in accordance with paragraph 5, point (b), and to enable **the CBAM** authority to review **and verify**, in accordance with Article 19(1), the CBAM declaration made by an authorised declarant to whom the relevant information was disclosed in accordance with paragraph 8.

*Amendment*

7. The information on **verified** embedded emissions referred to in paragraph 5 **shall be publicly accessible via the CBAM registry**. The authorised declarant shall be entitled to avail itself of that information to fulfil the obligation referred to in Article 8.

*Amendment*

**The CBAM authority**

*Text proposed by the Commission*

*Amendment*

**Competent authorities**

**The CBAM authority**

## **Amendment 89**

**Proposal for a regulation**

**Article 11 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

***Each Member State shall designate the competent authority to carry out the obligations under this Regulation and inform the Commission thereof.***

***The Commission shall establish the CBAM authority to perform the obligations under this Regulation.***

## **Amendment 90**

**Proposal for a regulation**

**Article 11 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

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

***deleted***

## **Amendment 91**

**Proposal for a regulation**

**Article 11 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

***2. Member States shall require that competent authorities exchange any information that is essential or relevant to the exercise of their functions and duties.***

***deleted***

## **Amendment 92**

**Proposal for a regulation**  
**Article 12**

*Text proposed by the Commission*

*Amendment*

**Article 12**

**deleted**

**Commission**

*The Commission shall assist the competent authorities in carrying out their obligations under this Regulation and coordinate their activities.*

**Amendment 93**

**Proposal for a regulation**  
**Article 12 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 12a**

**Decisions of the CBAM authority**

- 1. The CBAM authority shall, without delay, take decisions in order to implement this Regulation.**
- 2. A decision of the CBAM authority shall take effect from the date of notification of that decision to the addressee.**
- 3. If the CBAM authority considers that it does not have all the necessary information to take a decision, it shall contact the addressee of the decision and specify what additional information is required. In such a case, the addressee of the decision shall, without delay, submit the required additional information to the CBAM authority.**
- 4. The addressee of the decision shall inform the CBAM authority without delay of any changes to the information provided that arise after the decision was taken. In such a case, the CBAM authority shall reassess its decision in light of that information and confirm or**



*modify that decision.*

*5. Where the CBAM authority proposes to take a decision which adversely affects the addressee of the decision, it shall set out the grounds on which the proposed decision is based and shall include in the decision a reference to the right of appeal provided for in Article 27a. Before such a decision is taken, the CBAM authority shall give the addressee of the proposed decision the opportunity to make its point of view known to the CBAM authority within a fixed period of time. Following the expiry of that period, the CBAM authority shall notify the addressee of the decision.*

*6. The CBAM authority may, at any time, annul, revoke or amend its decision following a reasoned request by the addressee of the decision or on its own initiative, if appropriate.*

*7. The Commission is empowered to adopt delegated acts to supplement this Regulation by specifying further detailed arrangements and procedural rules concerning this Article. Those delegated acts shall be adopted in accordance with Article 28.*

## Amendment 94

### Proposal for a regulation Article 13 – paragraph 1

#### *Text proposed by the Commission*

All information acquired by the **competent** authority in the course of performing its duty which is by its nature confidential or which is provided on a confidential basis shall be covered by an obligation of professional secrecy. Such information shall not be disclosed by the **competent** authority without the express permission of the person or authority that provided it. It may be shared with customs authorities,

#### *Amendment*

All information acquired by the **CBAM** authority in the course of performing its duty which is by its nature confidential or which is provided on a confidential basis shall be covered by an obligation of professional secrecy. Such information shall not be disclosed by the **CBAM** authority without the express permission of the person or authority that provided it. It may be shared with customs authorities,

the Commission and the European Public Prosecutors Office and shall be treated in accordance with Council Regulation (EC) No 515/97.

the Commission and the European Public Prosecutors Office and shall be treated in accordance with Council Regulation (EC) No 515/97.

## **Amendment 95**

### **Proposal for a regulation Article 14**

*Text proposed by the Commission*

*Amendment*

#### *Article 14*

*deleted*

#### *National registries and central database*

**1. The competent authority of each Member State shall establish a national registry of declarants authorised in that Member State in the form of a standardised electronic database containing the data regarding the CBAM certificates of those declarants, and to provide for confidentiality in accordance with the conditions set out in Article 13.**

**2. The database referred to in paragraph 1 shall contain accounts with information about each authorised declarant, in particular:**

**(a) the name and contact details of the authorised declarant;**

**(b) the EORI number of the authorised declarant;**

**(c) the CBAM account number;**

**(d) the number, the price of sale, the date of purchase, the date of surrender, or the date of re-purchase, or that of the cancellation by the competent authority, of CBAM certificates for each authorised declarant.**

**3. The information in the database referred to in paragraph 2 shall be confidential.**

**4. The Commission shall establish a central database accessible to the public containing the names, addresses and**

*contact details of the operators and the location of installations in third countries in accordance with Article 10(2). An operator may choose not to have its name, address and contact details accessible to the public.*

## **Amendment 96**

### **Proposal for a regulation Article 14 a (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 14a*

##### **CBAM registry**

- 1. The CBAM authority shall set up a CBAM registry to execute processes relating to CBAM certificates, in accordance with Articles 20, 21 and 22.**
- 2. The CBAM registry shall contain an electronic database with information about each authorised declarant, in particular:**
  - (a) name and contact details;**
  - (b) EORI number;**
  - (c) CBAM account number;**
  - (d) number, price and date of purchase of CBAM certificates held.**
- 3. The CBAM registry shall also contain, in a separate section of the database, the names and additional details of the operators and of the installations in third countries that are registered in accordance with Article 10. That section of the database shall in particular contain, where applicable, the verified emissions of the installations.**
- 4. The information on the database shall be confidential except for the names of the authorised declarants and operators, the location and, where appropriate, the name of the installations in third countries and their verified**

*emissions , which shall be accessible to the public in an interoperable format.*

*5. The Commission shall adopt implementing acts concerning the infrastructure and specific processes of the CBAM registry and the electronic databases containing the information referred to in paragraphs 2 and 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).*

## **Amendment 97**

### **Proposal for a regulation Article 15**

*Text proposed by the Commission*

*Amendment*

#### *Article 15*

*deleted*

#### *Central administrator*

*1. The Commission shall act as central administrator to maintain an independent transaction log recording the purchase of CBAM certificates, their holding, surrender, re-purchase and cancellation and ensure coordination of national registries.*

*2. The central administrator shall carry out risk-based controls on transactions recorded in national registries through an independent transaction log to ensure that there are no irregularities in the purchase, holding, surrender, re-purchase and cancellation of CBAM certificates.*

*3. If irregularities are identified as a result of the controls carried out under paragraph 2, the Commission shall inform the Member State or Member States concerned for further investigation in order to correct the identified irregularities.*

## Amendment 98

### Proposal for a regulation Article 16 – title

*Text proposed by the Commission*

Accounts in the *national registries*

*Amendment*

Accounts in the *CBAM registry*

## Amendment 99

### Proposal for a regulation Article 16 – paragraph 1

*Text proposed by the Commission*

1. The *competent* authority shall assign to each authorised declarant a unique CBAM account number.

*Amendment*

1. The *CBAM* authority shall assign to each authorised declarant a unique CBAM account number.

## Amendment 100

### Proposal for a regulation Article 16 – paragraph 2

*Text proposed by the Commission*

2. Each authorised declarant shall be granted access to its account in the registry.

*Amendment*

2. Each authorised declarant shall be granted access to its account in the *CBAM* registry.

## Amendment 101

### Proposal for a regulation Article 16 – paragraph 3

*Text proposed by the Commission*

3. The *competent* authority shall set up the account as soon as the authorisation referred to in Article 17(1) is granted and notify the authorised declarant thereof.

*Amendment*

3. The *CBAM* authority shall set up the account as soon as the authorisation referred to in Article 17(1) is granted and notify the authorised declarant thereof.

## Amendment 102

**Proposal for a regulation**  
**Article 16 – paragraph 4**

*Text proposed by the Commission*

4. If the authorised declarant has ceased its economic activity or its authorisation was revoked, the **competent** authority shall close the account of that declarant.

*Amendment*

4. If the authorised declarant has ceased its economic activity or its authorisation was revoked, the **CBAM** authority shall close the account of that declarant.

**Amendment 103**

**Proposal for a regulation**  
**Article 17 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. The **competent** authority shall authorise a declarant who submits an application for authorisation in accordance with Article 5(1), if the following conditions are fulfilled:

*Amendment*

1. The **CBAM** authority shall authorise a declarant who submits an application for authorisation in accordance with Article 5(1), if the following conditions are fulfilled:

**Amendment 104**

**Proposal for a regulation**  
**Article 17 – paragraph 2**

*Text proposed by the Commission*

2. Where the **competent** authority finds that the conditions listed in paragraph 1 are not fulfilled, or where the applicant has failed to provide the information listed in Article 5(3), the authorisation of the declarant shall be refused.

*Amendment*

2. Where the **CBAM** authority finds that the conditions listed in paragraph 1 are not fulfilled, or where the applicant has failed to provide the information listed in Article 5(3), the authorisation of the declarant shall be refused.

**Amendment 105**

**Proposal for a regulation**  
**Article 17 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. If the competent authority refuses to authorise a declarant, the declarant requesting the authorisation may, prior to an appeal, object to the relevant authority under national law, who shall either instruct the national administrator to open the account or uphold the refusal in a reasoned decision, subject to requirements of national law that pursue a legitimate objective compatible with this Regulation and are proportionate.**

*deleted*

### **Amendment 106**

#### **Proposal for a regulation**

#### **Article 17 – paragraph 4 – introductory part**

*Text proposed by the Commission*

*Amendment*

4. A decision of the **competent** authority authorising a declarant shall contain the following information

4. A decision of the **CBAM** authority authorising a declarant shall contain the following information

### **Amendment 107**

#### **Proposal for a regulation**

#### **Article 17 – paragraph 6 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

The **competent** authority shall require the provision of a guarantee in order to authorise a declarant in accordance with paragraph 1, if the declarant was not established throughout the two financial years that precede the year when the application in accordance with Article 5(1) was submitted.

The **CBAM** authority shall require the provision of a guarantee in order to authorise a declarant in accordance with paragraph 1, if the declarant was not established throughout the two financial years that precede the year when the application in accordance with Article 5(1) was submitted.

### **Amendment 108**

**Proposal for a regulation**  
**Article 17 – paragraph 6 – subparagraph 2**

*Text proposed by the Commission*

The **competent** authority shall fix the amount of such guarantee at the maximum amount, as estimated by the **competent** authority, of the value of the CBAM certificates that the authorised declarant have to surrender, in accordance with Article 22.

*Amendment*

The **CBAM** authority shall fix the amount of such guarantee at the maximum amount, as estimated by the **CBAM** authority, of the value of the CBAM certificates that the authorised declarant have to surrender, in accordance with Article 22.

**Amendment 109**

**Proposal for a regulation**  
**Article 17 – paragraph 7**

*Text proposed by the Commission*

7. The guarantee shall be provided as a bank guarantee, payable at first demand, by a financial institution operating in the Union or by another form of guarantee which provides equivalent assurance. Where the **competent** authority establishes that the guarantee provided does not ensure, or is no longer certain or sufficient to ensure the amount of CBAM obligations, it shall require the authorised declarant either to provide an additional guarantee or to replace the initial guarantee with a new guarantee, according to its choice.

*Amendment*

7. The guarantee shall be provided as a bank guarantee, payable at first demand, by a financial institution operating in the Union or by another form of guarantee which provides equivalent assurance. Where the **CBAM** authority establishes that the guarantee provided does not ensure, or is no longer certain or sufficient to ensure the amount of CBAM obligations, it shall require the authorised declarant either to provide an additional guarantee or to replace the initial guarantee with a new guarantee, according to its choice.

**Amendment 110**

**Proposal for a regulation**  
**Article 17 – paragraph 8**

*Text proposed by the Commission*

8. The **competent** authority shall release the guarantee immediately after 31 May of the second year in which the authorised declarant has surrendered

*Amendment*

8. The **CBAM** authority shall release the guarantee immediately after 31 May of the second year in which the authorised declarant has surrendered CBAM



CBAM certificates in accordance with Article 22.

certificates in accordance with Article 22.

## Amendment 111

### Proposal for a regulation Article 17 – paragraph 8 a (new)

*Text proposed by the Commission*

*Amendment*

**8a.** *The CBAM authority may verify the accuracy and completeness of the information given by the applicant in accordance with Article 5(3) and the existence, authenticity, accuracy and validity of any supporting document. The CBAM authority may carry out such controls at the premises of the applicant.*

## Amendment 112

### Proposal for a regulation Article 17 – paragraph 9

*Text proposed by the Commission*

*Amendment*

9. The **competent** authority shall revoke the authorisation for a declarant who no longer meets the conditions laid down in paragraph 1, or who fails to cooperate with that authority.

9. The **CBAM** authority shall revoke the authorisation for a declarant who no longer meets the conditions laid down in paragraph 1, or who fails to cooperate with that authority, **or who has been found to repeatedly or seriously infringe this Regulation.**

## Amendment 113

### Proposal for a regulation Article 17 – paragraph 9 a (new)

*Text proposed by the Commission*

*Amendment*

**9a.** *The Commission shall, by means of implementing acts, adopt the practical arrangements for the application of the criteria referred to in paragraph 1 and for*

***guarantees referred to in paragraph 6.  
Those implementing acts shall be adopted  
in accordance with the examination  
procedure referred to in Article 29(2).***

#### **Amendment 114**

##### **Proposal for a regulation Article 18 – paragraph 1**

*Text proposed by the Commission*

1. Any person accredited pursuant to Implementing Regulation (EU) No 2018/2067 shall be regarded as an accredited verifier under this Regulation.

*Amendment*

1. Any **legal** person accredited pursuant to Implementing Regulation (EU) No 2018/2067 shall be regarded as an accredited verifier under this Regulation.

#### **Amendment 115**

##### **Proposal for a regulation Article 18 – paragraph 2**

*Text proposed by the Commission*

***2. In addition to paragraph 1, a national accreditation body may on request accredit a person as a verifier under this Regulation after checking the documentation attesting its capacity to apply the verification principles referred to Annex V to perform the obligations of control of the embedded emissions established in Articles 8, 10 and 38.***

*Amendment*

***deleted***

#### **Amendment 116**

##### **Proposal for a regulation Article 18 – paragraph 3**

*Text proposed by the Commission*

3. The Commission is empowered to adopt delegated acts in accordance with Article 28 for the accreditation referred to in paragraph 2, specifying conditions for

*Amendment*

3. The Commission is empowered to adopt delegated acts in accordance with Article 28 for the accreditation referred to in paragraph **I**, specifying conditions for

the control and oversight of accredited verifiers, for the withdrawal of accreditation and for mutual recognition and peer evaluation of the accreditation bodies.

the control and oversight of accredited verifiers, for the withdrawal of accreditation and for mutual recognition and peer evaluation of the accreditation bodies.

## Amendment 117

### Proposal for a regulation Article 19 – paragraph 1

#### *Text proposed by the Commission*

1. The **competent** authority may review the CBAM declaration within the period ending with the fourth year after the year in which the declaration should have been submitted. The review may consist in verifying the information provided in the CBAM declaration on the basis of the information communicated by the customs authorities in accordance with Article 25(2) and any other relevant evidence, and on the basis of any audit deemed necessary, including at the premises of the authorised declarant.

#### *Amendment*

1. The **CBAM** authority may review the CBAM declaration within the period ending with the fourth year after the year in which the declaration should have been submitted. The review may consist in verifying the information provided in the CBAM declaration on the basis of the information communicated by the customs authorities in accordance with Article 25(2) and any other relevant evidence, and on the basis of any audit deemed necessary, including at the premises of the authorised declarant.

## Amendment 118

### Proposal for a regulation Article 19 – paragraph 3

#### *Text proposed by the Commission*

3. Where the **competent** authority has established that the declared number of CBAM certificates to be surrendered is incorrect, or that no CBAM declaration has been submitted pursuant to paragraph 2, it shall adjust the number of CBAM certificates due by the authorised declarant. The **competent** authority shall notify the authorised declarant of the adjustment and request that the authorised declarant shall surrender the additional CBAM certificates within one month.

#### *Amendment*

3. Where the **CBAM** authority has established that the declared number of CBAM certificates to be surrendered is incorrect, or that no CBAM declaration has been submitted pursuant to paragraph 2, it shall adjust the number of CBAM certificates due by the authorised declarant. The **CBAM** authority shall notify the authorised declarant of the adjustment and request that the authorised declarant shall surrender the additional CBAM certificates within one month.

## Amendment 119

### Proposal for a regulation Article 19 – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. *The recipient of the notification referred to in paragraph 3 may lodge an appeal of the notification. The recipient of the notification shall be provided with information regarding the procedure to be followed in the event of an appeal.*

*deleted*

## Amendment 120

### Proposal for a regulation Article 19 – paragraph 5

*Text proposed by the Commission*

*Amendment*

5. Where CBAM certificates have been surrendered in excess of the number due, the *competent* authority shall, without delay, reimburse the authorised declarant the value of CBAM certificates surrendered in excess, calculated at the average price paid for CBAM certificates by the authorised declarant *during the year of import*.

5. Where CBAM certificates have been surrendered in excess of the number due, the *CBAM* authority shall, without delay, reimburse the authorised declarant the value of CBAM certificates surrendered in excess, calculated at the average price paid for CBAM certificates by the authorised declarant *for those certificates at the time of purchase*.

## Amendment 121

### Proposal for a regulation Article 20 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. The *competent* authority *of each Member State* shall sell CBAM certificates to *declarants* authorised *in that Member State* at the price calculated in accordance with Article 21.

1. The *CBAM* authority shall sell CBAM certificates to authorised *declarants* at the price calculated in accordance with Article 21.

## Amendment 122

### Proposal for a regulation Article 20 – paragraph 2

*Text proposed by the Commission*

2. The **competent** authority shall ensure that each CBAM certificate is assigned a unique unit identification code upon its creation and shall register the unique unit identification number, the price and date of sale of the certificate in the **national** registry in the account of the authorised declarant purchasing it.

*Amendment*

2. The **CBAM** authority shall ensure that each CBAM certificate is assigned a unique unit identification code upon its creation and shall register the unique unit identification number, the price and date of sale of the certificate in the **CBAM** registry in the account of the authorised declarant purchasing it.

## Amendment 123

### Proposal for a regulation Article 21 – paragraph 3

*Text proposed by the Commission*

3. The Commission is empowered to adopt implementing acts to **further define** the methodology to calculate the average price of CBAM certificates and practical arrangements for the publication of the price. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

*Amendment*

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

## Amendment 124

### Proposal for a regulation Article 22 – paragraph 1

*Text proposed by the Commission*

1. By 31 May of each year, the authorised declarant shall surrender a number of CBAM certificates to the **competent** authority that corresponds to the embedded emissions declared in accordance with Article 6(2)(c) and

*Amendment*

1. By 31 May of each year, the authorised declarant shall surrender a number of CBAM certificates to the **CBAM** authority that corresponds to the embedded emissions **calculated in accordance with Annex IIIa and** declared

verified in accordance with Article 8 for the calendar year preceding the surrender

in accordance with Article 6(2)(c) and verified in accordance with Article 8 for the calendar year preceding the surrender.

## Amendment 125

### Proposal for a regulation Article 22 – paragraph 2

#### *Text proposed by the Commission*

2. For the purposes of paragraph 1, the authorised declarant shall ensure that the required number of CBAM certificates is available on its account in the ***national*** registry. In addition, the authorised declarant shall ensure that the number of CBAM certificates on its account in the ***national*** registry at the end of each quarter corresponds to at least 80 per cent of the embedded emissions, determined by reference to default values in accordance with the methods set out in Annex III, in all goods it has imported since the beginning of the calendar year.

#### *Amendment*

2. For the purposes of paragraph 1, the authorised declarant shall ensure that the required number of CBAM certificates is available on its account in the ***CBAM*** registry. In addition, the authorised 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 per cent of the embedded emissions, determined by reference to default values in accordance with the methods set out in Annex III, in all goods it has imported since the beginning of the calendar year.

## Amendment 126

### Proposal for a regulation Article 22 – paragraph 3

#### *Text proposed by the Commission*

3. Where the ***competent*** authority finds that the number of CBAM certificates in the account of an authorised declarant is not in compliance with the obligations pursuant to paragraph 2, second sentence, that authority shall notify the adjustment and request that the authorised declarant surrenders the additional CBAM certificates within one month.

#### *Amendment*

3. Where the ***CBAM*** competent authority finds that the number of CBAM certificates in the account of an authorised declarant is not in compliance with the obligations pursuant to paragraph 2, second sentence, that authority shall notify the adjustment and request that the authorised declarant surrenders the additional CBAM certificates within one month.

## Amendment 127

**Proposal for a regulation**  
**Article 22 – paragraph 4**

*Text proposed by the Commission*

4. *The recipient of the notification referred to in paragraph 3 may lodge an appeal of the notification. The recipient of the notification shall be provided with information regarding the procedure to be followed in the event of an appeal.*

*Amendment*

*deleted*

**Amendment 128**

**Proposal for a regulation**  
**Article 23 – paragraph 1**

*Text proposed by the Commission*

1. The **competent** authority **of each Member State** shall, on request by **a declarant** authorised **in that Member State**, re-purchase the excess of CBAM certificates remaining on the account of the declarant in the **national** registry after the certificates have been surrendered in accordance with Article 22. The request to re-purchase shall be submitted by 30 June of each year when CBAM certificates were surrendered.

*Amendment*

1. The **CBAM** authority shall, on request by **an** authorised **declarant**, re-purchase the excess of 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 request to re-purchase shall be submitted by 30 June of each year when CBAM certificates were surrendered.

**Amendment 129**

**Proposal for a regulation**  
**Article 24 – paragraph 1**

*Text proposed by the Commission*

By 30 June of each year, the **competent** authority **of each Member State** shall cancel any CBAM certificates that were purchased during the year before the previous calendar year and that remained in the accounts in the **national** registry of the declarants authorised **in that Member State**.

*Amendment*

By 30 June of each year, the **CBAM** authority shall cancel any CBAM certificates that were purchased during the year before the previous calendar year and that remained in the accounts in the **CBAM** registry of the **authorised** declarants **and shall inform the authorised declarants concerned of this without undue delay**.

## Amendment 130

### Proposal for a regulation Article 24 a (new)

*Text proposed by the Commission*

*Amendment*

#### *Article 24a*

#### ***Revenues generated by the sale of CBAM certificates***

***1. The revenues generated by the sale of CBAM certificates shall not constitute assigned revenue. This Regulation shall not prevent revenues generated by the sale of CBAM certificates from being defined as own resources in accordance with Article 311 TFEU and entered in the Union budget as general income.***

***2. To ensure that the CBAM fulfils its aim to reduce global carbon emissions and help meet the Union's climate objectives and international commitments, including the Paris Agreement, Union financial support is provided to support climate mitigation and adaptation in least developed countries' including their efforts towards the de-carbonisation and transformation of their manufacturing industries without prejudice to paragraph 1. Such funding is made available through the Union budget in order to contribute to international climate finance by facilitating the adaptation of the industries concerned to the new obligations established by this Regulation and complemented by technical assistance, subject to the full implementation and enforcement of internationally recognised labour and social rights such as the ILO core labour standards in the recipient country.***

***The new financial support from the Union budget should be provided under the relevant geographic and thematic programme of the Neighbourhood,***



*Development and International Cooperation Instrument established by Regulation (EU) 2021/947 and an amount determined on a yearly basis, which should correspond at least to the level of revenues generated by the sale of CBAM certificates.*

*3. To ensure transparency of the use of revenues generated by the sale of CBAM certificates the Commission shall, on a yearly basis, report to the European Parliament and to the Council on how the equivalent amount in financial value of those revenues from the previous year has been used and how this has contributed to the decarbonisation of the manufacturing industry in the least developed countries.*

## **Amendment 131**

### **Proposal for a regulation Article 25**

*Text proposed by the Commission*

*Amendment*

#### *Article 25*

*deleted*

#### *Procedures at the border when goods are imported*

- 1. The customs authorities shall not allow the importation of goods unless the declarant is authorised by a competent authority at the latest at the release for free circulation of the goods.*
- 2. The customs authorities shall periodically communicate information on the goods declared for importation, which shall include the EORI number and the CBAM account number of the declarant, the 8-digit CN code of the goods, the quantity, the country of origin, the date of declaration and the customs procedure, to the competent authority of the Member State where the declarant has been authorised.*
- 3. The custom authorities shall carry*

*out controls on the goods in accordance with Article 46 of Regulation (EU) No 952/2013, including the 8-digit CN code, the quantity and the country of origin of the imported goods. The Commission shall include the risks relating to CBAM in the design of the common risk criteria and standards pursuant to Article 50 of Regulation (EU) No 952/2013.*

*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 duty or provided on a confidential basis, to the competent authority of the Member State where the declarant has been authorised. The competent authorities of the Member States shall treat and exchange this information in accordance with Council Regulation (EC) No 515/97.*

*5. The Commission is empowered to adopt implementing acts defining the information, the timing and the means for communicating the information pursuant to paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).*

## **Amendment 132**

### **Proposal for a regulation Article 25 a (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 25a*

#### *Procedures at the border when goods are imported*

*1. The customs authorities shall ensure that the declarant of the goods is registered with the CBAM authority when the goods are declared for importation and at the latest when the goods are*

*released for free circulation.*

**2. The customs authorities shall periodically communicate to the CBAM authority specific information on the goods listed in Annex I that are declared for importation. That information shall include at least the quantity, country of origin and declarant of the goods. The customs authorities may communicate confidential information, as referred to in Article 12(1) of Regulation (EU) No 952/2013, to the CBAM authority for the purpose of this Regulation.**

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

**4. The Commission shall lay down, by means of implementing acts, the periodicity and the information referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).**

**5. From the date of initiation of an action under Article 26a or 27, and after having informed the Member States in due time, the Commission may direct the customs authorities to take the appropriate steps to register imports, so that measures may subsequently be applied against those imports from the date of such registration. The Commission may make imports subject to registration following a request from the Union industry which contains sufficient evidence to justify such action or at the Commission's own initiative. Registration shall be introduced by a Commission decision which shall specify the purpose of the action and, if appropriate, the estimated amount of possible future liability. Imports shall not be made subject to registration for a period longer than nine months.**

## Amendment 133

### Proposal for a regulation Article 26

*Text proposed by the Commission*

*Amendment*

#### *Article 26*

*deleted*

#### *Penalties*

**1. An authorised declarant who fails to surrender, by 31 May of each year, a number of CBAM certificates corresponding to the emissions embedded in goods imported during the previous year shall be liable to a penalty identical to the excess emissions penalty set out in Article 16(3) of Directive 2003/87/EC, increased pursuant to Article 16(4) of that Directive, in the year of importation of the goods, for each CBAM certificate that the authorised declarant should have surrendered.**

**2. Any person other than an authorised declarant, introducing goods into the customs territory of the Union without surrendering CBAM certificates according to this Regulation shall be liable to the penalty referred to in paragraph 1 in the year of introduction of the goods, for each CBAM certificate that the person should have surrendered.**

**3. Payment of the penalty shall in no case release the authorised declarant from the obligation to surrender the outstanding number of CBAM certificates in a given year to the competent authority of the Member State where the declarant has been authorised.**

**4. If the competent authority determines that an authorised declarant has failed to comply with the obligation to surrender CBAM certificates as specified in paragraph 1, or that a person has introduced goods into the customs territory of the Union as specified in**

*paragraph 2, the competent authority shall impose the penalty and notify the authorised declarant or, in the situation under paragraph 2, the person:*

- (a) that the competent authority has concluded that the authorised declarant or the person fails to comply with the obligation of surrendering CBAM certificates for a given year;*
- (b) of the reasons for its conclusion;*
- (c) of the amount of the penalty imposed on the authorised declarant or on the person;*
- (d) of the date from which the penalty is due;*
- (e) of the action the competent authority considers the authorised declarant or the person should take to comply with its obligation under point (a) depending on the facts and circumstances of the case; and*
- (f) of the right of the authorised declarant or of the person to appeal under national rules.*

*5. Member States may apply administrative or criminal sanctions for failure to comply with the CBAM legislation in accordance with their national rules in addition to penalties referred to in paragraph 2. Such sanctions shall be effective, proportionate and dissuasive.*

#### **Amendment 134**

#### **Proposal for a regulation Article 26 a (new)**

*Text proposed by the Commission*

*Amendment*

*Article 26a*

*Penalties*

- 1. An authorised declarant who fails to surrender, by 31 May of each year, the*

*number of CBAM certificates corresponding to the emissions embedded in goods imported during the previous year or who submits to the authority false information related to actual emissions with a view to obtaining a favourable individual treatment, shall be liable for the payment of a penalty.*

*2. The amount of the penalty shall be equivalent to three times the average price of CBAM certificates in the previous year for each CBAM certificate that the authorised declarant did not surrender in accordance with Article 22. The payment of the penalty shall not release the authorised declarant from the obligation of surrendering the outstanding number of CBAM certificates to the CBAM authority.*

*3. In the case of repeated offences, the CBAM authority may decide to suspend the CBAM account of the authorised declarant.*

*4. In addition to the penalty referred to in paragraph 2, Member States shall apply administrative or criminal penalties for failure to comply with the CBAM in accordance with their national law. Such penalties shall be effective, proportionate and dissuasive.*

*5. If the CBAM authority determines that an authorised declarant has failed to comply with the obligation to surrender CBAM certificates or has submitted false information to the authority, the CBAM authority shall impose the penalty referred to in paragraph 2 and notify the authorised declarant:*

*(a) that the CBAM authority has concluded that the authorised declarant fails to comply with the obligation of surrendering CBAM certificates for a given year in accordance with Article 22 or has submitted false information to the authority;*

*(b) of the reasons for its conclusion;*

- (c) *of the amount of the penalty imposed on the authorised declarant;*
- (d) *of the date from which the penalty is due;*
- (e) *of the action the competent authority considers the authorised declarant should take to comply with its obligations under point (a) depending on the facts and circumstances of the case; and*
- (f) *of the right of the authorised declarant to appeal under national law.*

## Amendment 135

### Proposal for a regulation Article 27 – paragraph 2

*Text proposed by the Commission*

2. Practices of circumvention ***include situations where a change in the pattern of trade in relation to goods included in the scope of*** this Regulation has insufficient due cause or economic justification other than avoiding obligations as laid down in this Regulation and consist ***in replacing those goods with slightly modified products, which*** are not ***included in the list of goods in Annex I but belong to a sector included in the scope of this Regulation.***

*Amendment*

2. Practices of circumvention ***shall be any measures that have the objective of avoiding any of the obligations laid down in*** this Regulation. ***Those shall be situations which stem from a practice, process or work which*** has insufficient due cause or economic justification other than avoiding ***or mitigating*** obligations as laid down in this Regulation and ***may*** consist of, ***but*** are not ***limited to:***

## Amendment 136

### Proposal for a regulation Article 27 – paragraph 2 – point a (new)

*Text proposed by the Commission*

*Amendment*

(a) ***direct and indirect subsidies, such as favourable tax arrangements, energy pricing, export rebates or other forms of compensation on exportation, for goods covered by this Regulation in order to***

*absorb parts or the entirety of the costs linked to a CO2 price paid in the third country;*

#### **Amendment 137**

**Proposal for a regulation**  
**Article 27 – paragraph 2 – point b (new)**

*Text proposed by the Commission*

*Amendment*

*(b) a CO2 price paid in a third country placed only on goods to be exported to the Union;*

#### **Amendment 138**

**Proposal for a regulation**  
**Article 27 – paragraph 2 – point c (new)**

*Text proposed by the Commission*

*Amendment*

*(c) replacing those goods with slightly modified products, which are not included in the list of goods in Annex I but belong to a sector included in the scope of this Regulation;*

#### **Amendment 139**

**Proposal for a regulation**  
**Article 27 – paragraph 2 – point d (new)**

*Text proposed by the Commission*

*Amendment*

*(d) the outsourcing of production of downstream products that contain one or more of the goods listed in Annex I with the objective of avoiding the payment of the CO2 price in the Union;*

#### **Amendment 140**



**Proposal for a regulation**  
**Article 27 – paragraph 2 – point e (new)**

*Text proposed by the Commission*

*Amendment*

**(e) the shipment of the product concerned via third countries where no or more favourable obligations apply; or**

**Amendment 141**

**Proposal for a regulation**  
**Article 27 – paragraph 2 – point f (new)**

*Text proposed by the Commission*

*Amendment*

**(f) the 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.**

**Amendment 142**

**Proposal for a regulation**  
**Article 27 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. A Member State or any party affected or benefitted by the situations described in paragraph 2 may notify the Commission if it is confronted, ***over a two-month period compared with the same period in the preceding year with a significant decrease in the volume of imported goods included in the scope of this Regulation and an increase of volume of imports of slightly modified products, which are not included in the list of goods in Annex I.*** The Commission shall continually monitor ***any significant change of pattern of trade of goods and slightly modified products at Union level.***

3. A Member State or any party affected or benefitted by ***any of*** the situations described in paragraph 2 may notify the Commission if it is confronted ***with practices of circumvention. Interested parties other than directly affected parties, such as environmental organisations and non-governmental organisations, which find concrete evidence of the circumvention*** of this Regulation, ***may also notify the Commission.*** The Commission shall continually monitor ***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***

## **Amendment 143**

### **Proposal for a regulation Article 27 – paragraph 4**

*Text proposed by the Commission*

4. The notification referred to in paragraph 3 shall state the reasons on which it is based and shall include relevant data and statistics *regarding the goods and products* referred to in paragraph 2.

*Amendment*

4. The notification referred to in paragraph 3 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 such a claim set out in a notification by a Member State, an affected party or an 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.*

## **Amendment 144**

### **Proposal for a regulation Article 27 – paragraph 5**

*Text proposed by the Commission*

5. Where the Commission, taking into account the relevant data, reports and statistics, including when provided by the customs authorities of Member States, has sufficient reasons to believe that the circumstances referred to in paragraph 3 are occurring in one or more Member States, it is empowered to adopt delegated

*Amendment*

5. Where the Commission, taking into account the relevant data, reports and statistics, including when provided by the customs authorities of Member States, has sufficient reasons to believe that the circumstances referred to in paragraph 2 are occurring in one or more Member States, it is empowered to adopt delegated

acts in accordance with Article 28 to supplement the scope of this Regulation in order to include slightly modified products for anti-circumvention purposes.

acts in accordance with Article 28, to supplement the scope of this Regulation in order to include slightly modified products ***or downstream products that contain one or more of the goods as listed in Annex I in excess of a minimum threshold*** for anti-circumvention purposes.

## **Amendment 145**

### **Proposal for a regulation Article 27 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***5a. The Commission shall publish all cases of investigations of circumvention and the results thereof in an annual report. The report shall also include information on the status of ongoing appeal procedures against penalties and aggregated information on the emission intensity per country of origin for the different goods listed in Annex I.***

## **Amendment 146**

### **Proposal for a regulation Chapter VI a (new)**

*Text proposed by the Commission*

*Amendment*

***Chapter VIa  
Appeals***

## **Amendment 147**

### **Proposal for a regulation Article 27 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 27a  
Appeals against decisions taken by the  
CBAM authority***

- 1. An appeal may be brought against decisions taken by the CBAM authority. An appeal shall lie from decisions of the CBAM authority that adversely affect any interested person, including decisions on penalties, circumvention and actual emission values. Those decisions shall take effect only from the date of expiration of the appeal period of two months.*
- 2. An appeal lodged pursuant to paragraph 1 shall have suspensive effect.*
- 3. The products concerned by an appeal shall be subject to registration in accordance with Article 25a(5).*
- 4. Any party to proceedings adversely affected by a decision may appeal. Any other parties to the proceedings shall be parties to the appeal proceedings as of right.*
- 5. The Board of Appeal shall be set up and consist of three full members, a chair and two alternate members. The European Parliament, the Council and the Commission shall each appoint a member. The Council shall appoint the chair. The European Parliament and the Council shall each appoint an additional alternate member.*
- 6. The Commission shall adopt delegated acts in accordance to Article 28 supplementing this Regulation in order to establish the composition, the appointment and the rules of procedure of the Board of Appeal, with a view to assure the independence of its members, including during the transitional period. During the transitional period the Commission holds the functions of the Board of Appeal.*

**Amendment 148**

**Proposal for a regulation  
Article 27 b (new)**

***Article 27b***

***Examination of appeals***

- 1. The Board of Appeal shall examine whether an appeal is admissible.***
- 2. In the examination of an appeal, the Board of Appeal shall invite the parties referred to in Article 27a(4), as often as necessary, to file observations, within a period to be fixed by the Board of Appeal, in relation to submissions made by the other parties to the appeal or to communications issued by the Board of Appeal.***
- 3. Following the examination of the admissibility of an appeal, the Board of Appeal shall decide on the appeal. The Board of Appeal may either exercise any power within the competence of the CBAM authority or remit the case to the latter for further action.***
- 4. If the Board of Appeal remits the case to the CBAM authority for further action, the latter shall be bound by the conclusions of the Board of Appeal, in so far as the facts are the same.***
- 5. A decision of the Board of Appeal shall take effect only from the date of expiry of a period of two months after the communication of the decision or, if an action has been brought before the General Court within that period, from the date of dismissal of such action or of any appeal filed with the Court of Justice against the decision of the General Court.***

**Amendment 149**

**Proposal for a regulation  
Article 27 c (new)**

*Text proposed by the Commission*

*Amendment*

**Article 27c**

***Actions before the Court of Justice***

- 1. An action may be brought before the General Court or the Court of Justice, in accordance with Article 263 TFEU, contesting a decision taken by the Board of Appeal.***
- 2. Should the Board of Appeal fail to take a decision, proceedings for failure to act may be brought before the General Court or the Court of Justice in accordance with Article 265 TFEU.***
- 3. The CBAM authority shall be required to take the necessary measures to comply with the judgment of the General Court or, in the event of an appeal against that judgment, the Court of Justice.***

**Amendment 150**

**Proposal for a regulation  
Article 28 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. The power to adopt delegated acts referred to in Articles 2(10), 2(11), 18(3) **and** 27(5) shall be conferred on the Commission for an indeterminate period of time.

2. The power to adopt delegated acts referred to in Articles **2(1a), 2(6)**, 2(10), 2(11), **7(7a), 8(3), 12a(7)**, 18(3), 27(5), **27a(6), 31(2) and 35(6)** shall be conferred on the Commission for an indeterminate period of time.

**Amendment 151**

**Proposal for a regulation  
Article 28 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. The delegation of power referred to in Articles 2(10), 2(11), 18(3) **and** 27(5) may be revoked at any time by the

3. The delegation of power referred to in Articles **2(1a), 2(6)**, 2(10), 2(11), **7(7a), 8(3), 12a(7)**, 18(3), 27(5), **27a(6), 31(2)**

European Parliament or by the Council.

**and 35(6)** may be revoked at any time by the European Parliament or by the Council.

## Amendment 152

### Proposal for a regulation Article 28 – paragraph 7

*Text proposed by the Commission*

7. A delegated act adopted pursuant to Articles 2(10), 2(11), 18(3) **and** 27(5) 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.

*Amendment*

7. A delegated act adopted pursuant to Articles **2(1a), 2(6),** 2(10), 2(11), **7(7a), 8(3), 12 a(7)** 18(3), 27(5), **27a(6), 31(2) and 35(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.

## Amendment 153

### Proposal for a regulation Article 30 – paragraph 1

*Text proposed by the Commission*

1. The Commission shall collect the information necessary **with a view to extending** the scope of this Regulation **to indirect emissions and goods other than those listed in Annex I, and develop** methods of calculating embedded emissions based on environmental footprint methods.

*Amendment*

1. The Commission shall collect, **in consultation with relevant stakeholders,** the information necessary **for the extension of** the scope **to other sectors and to downstream products laid down in Article 2(1a)** of this Regulation,, **and for the development of** methods of calculating embedded emissions based on environmental footprint methods.

## Amendment 154

**Proposal for a regulation**  
**Article 30 – paragraph 2**

*Text proposed by the Commission*

2. Before the end of the transitional period, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation. The report shall ***contain***, in particular, ***the assessment of the possibilities to further extend the scope of embedded emissions to indirect emissions and to other goods at risk of carbon leakage than those already covered by this Regulation, as well as an assessment of the governance system. It shall also contain the assessment of the possibility to further extend the scope to embedded emissions of transportation services as well as to goods further down the value chain and services that may be subject to the risk of carbon leakage in the future.***

**Amendment 155**

**Proposal for a regulation**  
**Article 30 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

2. Before the end of the transitional period, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation. The ***first*** report shall in particular ***focus on*** possibilities to ***enhance*** this Regulation ***towards the objective of a climate neutral Union by 2050 at the latest, and*** shall ***assess*** the possibility to further extend the scope to embedded emissions of transportation services.

*Amendment*

***2a. By 1 January 2028, the Commission shall present a second report to the European Parliament and to the Council on the application of this Regulation, based on the first years of effective application of the Regulation. That second report shall assess:***

***(a) the ability of CBAM to reduce global carbon emissions and its contribution to global efforts towards climate adaptation;***

***(b) the functioning of CBAM governance;***

***(c) the practices of circumventions identified;***



*(d) the impact of the CBAM on competitiveness of the Union industry including the downstream industry and on SMEs, the level of the administrative burden;*

*(e) possibilities to enhance climate actions towards the achievement of a climate neutral Union by 2050; and*

*(f) the impact of CBAM on exports of the sectors covered by this Regulation.*

## **Amendment 156**

### **Proposal for a regulation Article 30 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

*2b. The reports by the Commission shall, if appropriate, be accompanied by a legislative proposal to adjust the CBAM factor referred to in Article 31 of this Regulation, if deemed necessary for the proper attainment of the objectives of CBAM.*

## **Amendment 157**

### **Proposal for a regulation Article 30 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

*3. The report by the Commission shall, if appropriate, be accompanied by a legislative proposal.*

*3. After 2028, the Commission shall monitor the functioning of CBAM and submit a report every two years to the European Parliament and to the Council on the functioning of CBAM based on the elements laid down in paragraph 2a.*

## **Amendment 158**

### **Proposal for a regulation Article 30 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a.** *Where an unforeseeable, exceptional and unprovoked event outside the control of one or more third countries subject to CBAM has occurred, and that event has destructive consequences on the economic and industrial infrastructure of the countries concerned, the Commission shall assess the situation and submit to the European Parliament and to the Council a legislative proposal, as appropriate, amending this Regulation, to set out the necessary provisional measures to address those exceptional circumstances.*

## **Amendment 159**

### **Proposal for a regulation Article 31 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

**1a.** *No free allocation shall be given in relation to the production in the Union of goods listed in Annex I as from the date of application of the CBAM, as referred to in Article 36(3).*

*By way of derogation from the first subparagraph of this paragraph, until 31 December 2030, the production of those goods shall benefit from free allocation in reduced amounts. A CBAM factor reducing the allocation for the production of those goods shall be applied. The CBAM factor shall be equal to 100 % for the period from 1 January 2023 until 31 December 2024, 90 % in 2025, 80 % in 2026, 70 % in 2027, 50% in 2028, 25% in 2029 and reach 0 % in 2030.*

*The CBAM factor for goods included in this Regulation after...[ the date of entry into force of this Regulation], in accordance with the timeline set out under Article 2(1a) shall be equal to 100%*

*the first year, 70% the second year, 40% the third year, and reach 0% after 4 years.*

*The reduction of free allocation shall be calculated annually as the average share of the demand for free allocation for the production of goods listed in Annex I compared to the calculated total free allocation demand for all installations, for the relevant period referred to in Article 11(1) of Directive 2003/87/EC. The CBAM factor shall be applied.*

## Amendment 160

### Proposal for a regulation Article 31 – paragraph 2

*Text proposed by the Commission*

2. The Commission is empowered to adopt **implementing acts** laying down a calculation methodology for the reduction referred to in paragraph 1. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).**

*Amendment*

2. The Commission is empowered to adopt **delegated acts in accordance with Article 28 supplementing this Regulation** by laying down a calculation methodology for the reduction referred to in paragraph 1.

## Amendment 161

### Proposal for a regulation Article 31 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a. Each year from 2025, 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 for 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 carbon leakage risk for 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 carbon leakage risk in a manner that is compliant with WTO rules and takes into account the decarbonisation of installations in the Union.*

## Amendment 162

### Proposal for a regulation Article 33 – paragraph 3

*Text proposed by the Commission*

3. The customs authorities shall, by means of the surveillance mechanism established pursuant to Article 56(5) of Regulation (EU) No 952/2013, communicate to the **competent authority of the Member State of importation** information on imported goods, including processed products resulting from the outward processing procedure. Such information shall include the EORI number of the declarant, the 8-digit CN code, the quantity, the country of origin and the declarant of the goods, the date of declaration and the customs procedure.

*Amendment*

3. The customs authorities shall, by means of the surveillance mechanism established pursuant to Article 56(5) of Regulation (EU) No 952/2013, communicate to the **CBAM** authority information on imported goods, including processed products resulting from the outward processing procedure. Such information shall include the EORI number of the declarant, the 8-digit CN code, the quantity, the country of origin and the declarant of the goods, the date of declaration and the customs procedure.

## Amendment 163

### Proposal for a regulation Article 35 – paragraph 1

*Text proposed by the Commission*

1. Each declarant shall, for each quarter of a calendar year, submit a report

*Amendment*

1. Each declarant shall, for each quarter of a calendar year, submit a report

(‘CBAM report’) containing information on the goods imported during that quarter, to the *competent authority of the Member State of importation or, if goods have been imported to more than one Member State, to the competent authority of the Member State at the declarant’s choice*, no later than one month after the end of each quarter.

(‘CBAM report’) containing information on the goods imported during that quarter, to the *CBAM* authority, no later than one month after the end of each quarter.

#### **Amendment 164**

##### **Proposal for a regulation Article 35 – paragraph 2 – point c**

*Text proposed by the Commission*

(c) the actual total embedded indirect emissions, expressed in tonnes of CO<sub>2</sub>e emissions per tonne of each type of other goods than electricity, calculated in accordance with a method set out in *an implementing* act referred to in paragraph 6;

*Amendment*

(c) the actual total embedded indirect emissions, expressed in tonnes of CO<sub>2</sub>e emissions per tonne of each type of other goods than electricity, calculated in accordance with a method set out in *a delegated* act referred to in paragraph 6;

#### **Amendment 165**

##### **Proposal for a regulation Article 35 – paragraph 3**

*Text proposed by the Commission*

3. The *competent* authority shall communicate the information referred to in paragraph 2 to the Commission at the latest two months after the end of the quarter covered by a report.

*Amendment*

3. The *CBAM* authority shall communicate the information referred to in paragraph 2 to the Commission at the latest two months after the end of the quarter covered by a report.

#### **Amendment 166**

##### **Proposal for a regulation Article 35 – paragraph 4**

*Text proposed by the Commission*

4. The **competent** authority shall impose a proportionate and dissuasive penalty on declarants who fail to submit a CBAM report.

*Amendment*

4. The **CBAM** authority shall impose a proportionate and dissuasive penalty on declarants who fail to submit a CBAM report.

**Amendment 167**

**Proposal for a regulation**

**Article 35 – paragraph 5 – introductory part**

*Text proposed by the Commission*

5. If the **competent** authority determines that a declarant has failed to comply with the obligation to submit a CBAM report as specified in paragraph 1, the **competent** authority shall impose the penalty and notify the declarant:

*Amendment*

5. If the **CBAM** authority determines that a declarant has failed to comply with the obligation to submit a CBAM report as specified in paragraph 1, the **CBAM** authority shall impose the penalty and notify the declarant:

**Amendment 168**

**Proposal for a regulation**

**Article 35 – paragraph 5 – point a**

*Text proposed by the Commission*

(a) that the **competent** authority has concluded that the declarant fails to comply with the obligation of submitting a report for a given quarter;

*Amendment*

(a) that the **CBAM** authority has concluded that the declarant fails to comply with the obligation of submitting a report for a given quarter;

**Amendment 169**

**Proposal for a regulation**

**Article 35 – paragraph 5 – point e**

*Text proposed by the Commission*

(e) of the action the **competent** authority considers the declarant should take to comply with its obligation under point (a) depending on the facts and

*Amendment*

(e) of the action the **CBAM** authority considers the declarant should take to comply with its obligation under point (a) depending on the facts and circumstances

circumstances of the case; and

of the case; and

## Amendment 170

### Proposal for a regulation Article 35 – paragraph 6

#### *Text proposed by the Commission*

6. The Commission is empowered to adopt implementing acts concerning the information to be reported, the procedures for communicating the information referred to in paragraph 3 and the conversion of the carbon price paid in foreign currency into euro at yearly average exchange rate. The Commission is also empowered to adopt implementing acts to further define the necessary elements of the calculation method set out in Annex III, 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 the verification of this data. The Commission is further empowered to adopt **implementing acts** to develop a calculation method for indirect emissions embedded in imported goods.

#### *Amendment*

6. The Commission is empowered to adopt implementing acts concerning the information to be reported, the procedures for communicating the information referred to in paragraph 3 and the conversion of the carbon price paid in foreign currency into euro at yearly average exchange rate. The Commission is also empowered to adopt implementing acts to further define the necessary elements of the calculation method set out in Annex III, 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 the verification of this data. The Commission is further empowered to adopt **delegated acts in accordance with Article 28 supplementing this Regulation** to develop a calculation method for indirect emissions embedded in imported goods.

## Amendment 171

### Proposal for a regulation Article 36 – paragraph 3 – point a

#### *Text proposed by the Commission*

(a) Articles 32 to 34 shall apply until 31 December **2025**.

#### *Amendment*

(a) Articles 32 to 34 shall apply until 31 December **2024**.

## Amendment 172

**Proposal for a regulation**  
**Article 36 – paragraph 3 – point b**

*Text proposed by the Commission*

(b) Article 35 shall apply until 28 February **2026**.

*Amendment*

(b) Article 35 shall apply until 28 February **2025**.

**Amendment 173**

**Proposal for a regulation**  
**Article 36 – paragraph 3 – point c**

*Text proposed by the Commission*

(c) Articles 5 and 17 shall apply from 1 September **2025**.

*Amendment*

(c) Articles 5 and 17 shall apply from 1 September **2024**.

**Amendment 174**

**Proposal for a regulation**  
**Article 36 – paragraph 3 – point d**

*Text proposed by the Commission*

(d) Articles 4, 6, 7, 8, 9, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 31 shall apply from 1 January **2026**.

*Amendment*

(d) Articles 4, 6, 7, 8, 9, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 31 shall apply from 1 January **2025**.

**Amendment 175**

**Proposal for a regulation**  
**Annex I**

*Text proposed by the Commission*

List of goods and greenhouse gases

1. For the purpose of the identification of goods, this Regulation shall apply to goods listed in the following sectors currently falling under the combined nomenclature ('CN') codes listed below, and shall be those of Council Regulation (EEC) No 2658/87 <sup>(1)</sup>.

2. For the purposes of this Regulation, the greenhouse gases relating to goods falling in the sectors listed below, shall be those listed below for each type of goods.

**Cement**



<b>CN code</b>	<b>Greenhouse gas</b>
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 90 00 – Other hydraulic cements	Carbon dioxide

### Electricity

<b>CN code</b>	<b>Greenhouse gas</b>
2716 00 00 – Electrical energy	Carbon dioxide

### Fertilisers

<b>CN code</b>	<b>Greenhouse gas</b>
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

<b>CN code</b>	<b>Greenhouse gas</b>
72 – Iron and steel Except: 7202 – Ferro-alloys 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,	Carbon dioxide

bedplates, ties and other material specialised for jointing or fixing rails	
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
7309 – 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 – Containers for compressed or liquefied gas, of iron or steel	Carbon dioxide

### Aluminium

<b>CN code</b>	<b>Greenhouse gas</b>
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

<sup>1</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).

#### *Amendment*

#### List of goods and greenhouse gases

- For the purpose of the identification of goods, this Regulation shall apply to goods listed in the following sectors currently falling under the combined nomenclature ('CN') codes listed below, and shall be those of Council Regulation (EEC) No 2658/87 (<sup>1</sup>).
- For the purposes of this Regulation, the greenhouse gases relating to goods falling in the sectors listed below, shall be those listed below for each type of goods.

#### **Cement**

<b>CN code</b>	<b>Greenhouse gas</b>
<b>2523 30 00 – Aluminous cement</b>	<b>Carbon dioxide</b>
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 90 00 – Other hydraulic cements	Carbon dioxide

#### **Electricity**

<b>CN code</b>	<b>Greenhouse gas</b>
2716 00 00 – Electrical energy	Carbon dioxide

#### **Fertilisers**

<b>CN code</b>	<b>Greenhouse gas</b>
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
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### Iron and Steel

<b>CN code</b>	<b>Greenhouse gas</b>
72 – Iron and steel Except: 7202 – Ferro-alloys 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,	Carbon dioxide

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	
7309 – 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 – Containers for compressed or liquefied gas, of iron or steel	Carbon dioxide

### **Aluminium**

<b>CN code</b>	<b>Greenhouse gas</b>
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

### **Chemicals**

<b>CN code</b>	<b>Greenhouse gas</b>
<b>29 - Organic Chemicals</b>	<b>Carbon dioxide</b>
<b>2804 10 000 - Hydrogen</b>	<b>Carbon dioxide</b>
<b>2814 10 000 - Anhydrous ammonia</b>	<b>Carbon dioxide</b>
<b>2814 20 00 - Ammonia in aqueous solution</b>	<b>Carbon dioxide</b>

### **Polymers**

<b>CN code</b>	<b>Greenhouse gas</b>
<b>39 - Plastics and articles thereof</b>	<b>carbon dioxide and nitrous oxide</b>

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<sup>1</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).

## Amendment 176

### Proposal for a regulation Annex III – point 2 – title

*Text proposed by the Commission*

2. Determination of actual **direct** embedded emissions for simple goods

*Amendment*

2. Determination of actual embedded emissions for simple goods

## Amendment 177

### Proposal for a regulation Annex III – point 2 – paragraph 1

*Text proposed by the Commission*

For determining the specific actual embedded emissions of simple goods produced in a given installation, **only** direct emissions shall be accounted for. For this purpose, the following equation is to be applied:

$$AttrEm_g = DirEm$$

*Amendment*

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

$$Attr_g = DirEm + Em_{el} - Em_{el,exp}$$

## Amendment 178

### Proposal for a regulation Annex III – point 2 – paragraph 3

*Text proposed by the Commission*

‘Attributed emissions’ mean the part of the installation’s **direct** emissions during the reporting period that are caused by the production process resulting in goods g when applying the system boundaries of the process defined by the implementing acts adopted pursuant to Article 7(6). The attributed emissions shall be calculated using the following equation:  $AttrEm_g = DirEm$

*Amendment*

‘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 process defined by the implementing acts adopted pursuant to Article 7(6). The attributed emissions shall be calculated using the following equation:  $AttrEm_g = DirEm$

## Amendment 179

### Proposal for a regulation Annex III – point 3 – title

*Text proposed by the Commission*

3. Determination of actual **direct** embedded emissions for complex goods

*Amendment*

3. Determination of actual embedded emissions for complex goods

## Amendment 180

### Proposal for a regulation Annex III – point 4 – paragraph 2

*Text proposed by the Commission*

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. **They** shall be revised periodically through implementing acts 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.

*Amendment*

For the purpose of determining default values, only actual values **from the country where actual emissions took place**, shall be used for the determination of embedded emissions. In the absence of actual data **or when the use of actual data would lead to low default values favouring free-riding behaviour**, 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, to the extent possible, on reliable and publicly available information on the type of technology and processes used, plant design, origin of input materials and simple goods used in the production process, energy source and other data.** Default values shall be revised periodically through implementing acts **referred to in Article 7(6)** 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.

## Amendment 181

### Proposal for a regulation

#### Annex III – point 4 – point 4.1 – paragraph 1

##### *Text proposed by the Commission*

When actual emissions cannot be adequately determined by the authorised declarant, default values shall be used. These 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 mark-up, the latter to be determined in the implementing acts of this Regulation. 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 **10** per cent worst performing EU installations for that type of goods.

##### *Amendment*

When actual emissions cannot be adequately determined by the authorised declarant, default values shall be used. These values shall be set at the average emission intensity of ***the 10% worst performing installations in*** each exporting country and for each of the goods listed in Annex I other than electricity, increased by a mark-up, the latter to be determined in the implementing acts of this Regulation. 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 **5** per cent worst performing EU installations for that type of goods. ***Under no circumstances shall default values be lower than the likely embedded emissions and the exporter shall not benefit from the failure to provide reliable data on actual emissions so that default values are used.***

## Amendment 182

### Proposal for a regulation

#### Annex III – point 4 – point 4.2 – point 4.2.1 – paragraph 1

##### *Text proposed by the Commission*

Specific default values shall be based on the ***best data available to the Commission determining the average CO<sub>2</sub> emission factor in tonnes of CO<sub>2</sub> per megawatt-hour of price-setting sources*** in the third country, group of third countries or region within a third country.

##### *Amendment*

Specific default values shall be based on the ***10% worst performing installations producing electricity*** in the third country, group of third countries or region within a third country.



**Amendment 183**

**Proposal for a regulation**  
**Annex III a (new)**

*Text proposed by the Commission*

*Amendment*

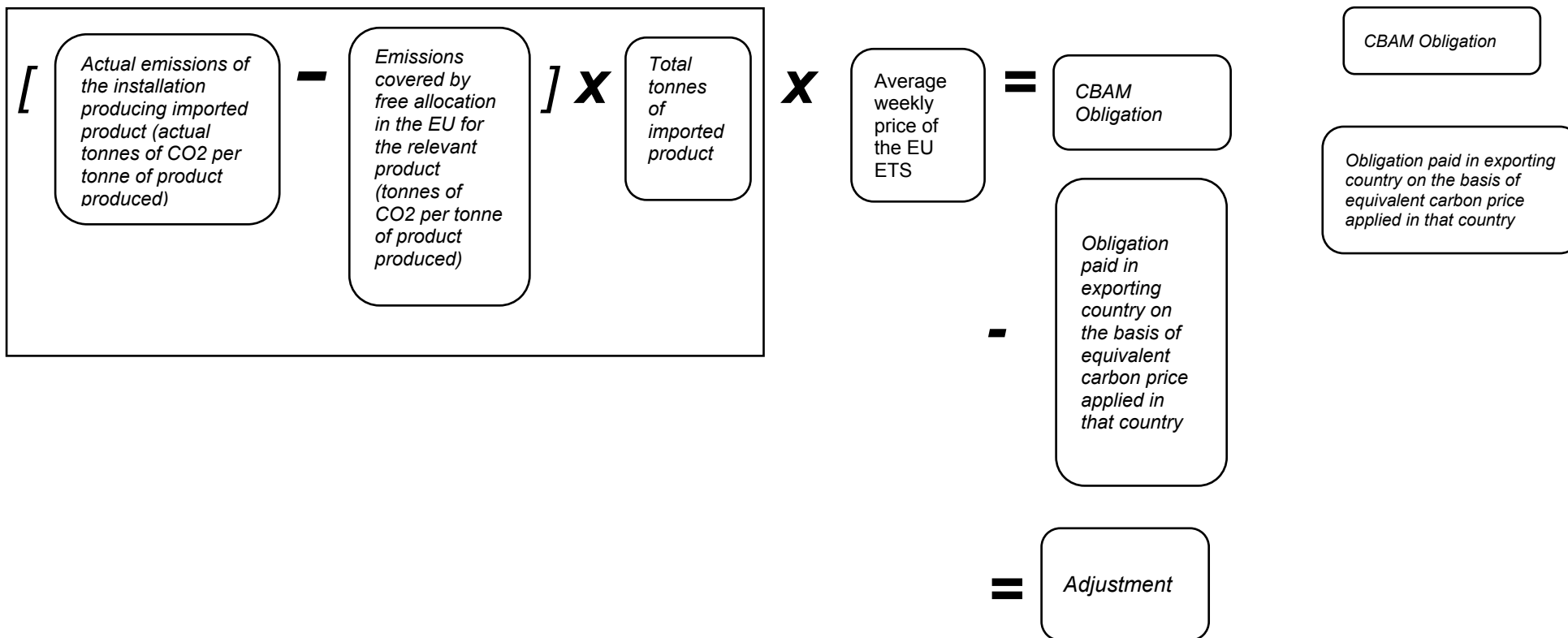
***Annex IIIa***

*Methodology for calculating the reduction of CBAM certificates due to free allocation under EU ETS*

Number of certificates

Price of certificates

Obligation and adjustment



## Amendment 184

### Proposal for a regulation

#### Annex V – Part 1 – paragraph 1 – point c

##### *Text proposed by the Commission*

(c) installation visits by the verifier shall be mandatory except where specific criteria for waiving the installation visit are met;

##### *Amendment*

(c) installation visits by the verifier shall be mandatory except where the specific criteria for waiving the installation visit ***under Article 8(3)*** are met;

## EXPLANATORY STATEMENT

Successful carbon pricing policies are essential for the Union to achieve its 2030 climate objectives and become climate neutral by 2050. The correct pricing of greenhouse gases means that the negative externalities produced by carbon intensive industries are paid for by the polluter rather than by nature and society as a whole (the polluter pays principle). Correct carbon pricing also guarantees that there are sufficient incentives for industry to innovate and invest in sustainable solutions. Ensuring that companies, in the Union and in third countries, pay the correct carbon price to access the single market is first and foremost an environmental and climate objective, but one that will also produce social and economic benefits in the Union and globally.

The COP 26 Climate Conference in Glasgow recognised the centrality of carbon pricing in climate mitigation policies and advanced on the rules to establish a global carbon market and how to govern bilateral carbon trading. Yet progress on global measures remains slow. The novel proposal on a Carbon Border Adjustment Mechanism (CBAM) can play a pivotal role in nudging third countries in applying an explicit carbon price. CBAM, well before its entry into force, has already shifted the attitude of a number of Union's partners. We must use the momentum to morph carbon pricing into a global trend.

An ambitious and efficient CBAM would produce a fourfold benefit with respect to climate mitigation policies: (1) it would strengthen the price signal of the EU Emission Trading System, (2) it would replace free allowances for the sectors at risk of carbon leakage thus enlarging the number of installations genuinely covered by the system, (3) it would effectively ensure carbon pricing for the concerned products imported in the Union and, finally, (4) it would continue to prevent carbon leakage.

A CBAM designed as a purely climate and environmental measure is compatible with the principles of the World Trade Organization (WTO). The rapporteur is of the opinion that free allocations and CBAM cannot exist in parallel once CBAM becomes fully operational. Free allocations for the CBAM sectors will need to progressively yet rapidly decline as the mechanism is being phased-in.

The rapporteur welcomes the overall design of the mechanism by the Commission and considers it a solid starting point for the legislative process. The rapporteur nevertheless aims to further strengthen its climate ambition, its long-term effectiveness and its governance through a number of targeted amendments.

Firstly, the rapporteur intends to broaden the scope of the proposal to cover organic chemicals, hydrogen and polymers, as well as indirect emissions in all sectors covered by CBAM.

Secondly, the rapporteur proposes an incremental and speedier phase-in of CBAM so that the system becomes an alternative to free allowances and fully operational as of 1 January 2029, bringing it in sync with the Union's 2030 climate objective.

Thirdly, the rapporteur considers that a central CBAM authority would be the most efficient,

transparent and cost-effective instrument to ensure the proper implementation of the regulation as opposed to a decentralised system with 27 competent authorities. Fourthly, the rapporteur wants CBAM to be an instrument that incentivises cooperation rather than confrontation with the Union's partners, notably with least developed countries (LDCs) and proposes that the system contributes to their decarbonisation efforts.

Fifthly, the rapporteur considers that the empowerments sought by the Commission are too broad and not sufficiently well framed and proposes changes in that regard.

### **An ambitious and fit-for-purpose CBAM**

Considering the current climate emergency, the rapporteur considers that CBAM should be endowed with the highest possible ambition from the beginning to ensure that the free allowances are phased-out as speedily as possible. Several basic products have the right characteristics to be covered by CBAM according to the criteria of carbon intensity and exposure to risk of carbon leakage. Carbon intensive products that are heavily traded belong in CBAM. Whilst the rapporteur understands that further technical work is necessary to ensure that the correct value of embedded emissions is defined for specific sectors, this should not in itself warrant their exclusion from the mechanism. In particular the rapporteur considers that organic chemicals, hydrogen and polymers should be included given their carbon and trade intensity.

Furthermore the Commission's proposal would at this stage only apply to direct emissions released during the production process of the covered goods. Indirect emissions, such as emissions generated from electricity used for manufacturing, heating or cooling would not form part of CBAM. The rapporteur considers it necessary to extend CBAM to indirect emissions already at this stage to heighten the climate ambition of the proposal.

### **Phase-in of CBAM and the end of free allowances**

Together with an enlarged scope, a speedier implementation of CBAM would also contribute to the climate objective of the proposal. According to the Commission planned phase-in, CBAM would become fully operational only at the beginning of 2036, some 15 years after the initial proposal. Given the climate emergency and the Union's own 2030 objective, the rapporteur considers this pace of implementation too slow.

The rapporteur suggests to shorten the transitional period by one year and bring it to an end on 31 December 2024. Furthermore he suggests an incremental pace for the phasing-in of the system for all sectors with the exception of cement. A 'CBAM factor' reducing the free allocation for the production of these products will be applied. The CBAM factor shall be equal to 90 % in 2025, 70 % in 2026, 40% in 2027, and will reach 0% by the end of 2028.

The rapporteur considers that cement represents a specific case that should be treated differently. Cement is the sector with the lowest trade intensity (10,1%) among the goods covered by CBAM. The risk of carbon leakage is thus low and a speedier implementation is warranted. A 0% CBAM factor would thus apply for cement as early as 1 January 2025.

### **One central CBAM authority for a swift, coherent and cost-effective implementation**

The Commission proposal foresees a decentralised hybrid system with 27 CBAM authorities in charge of managing the system. These competent authorities would be charged with a number of new tasks ranging from setting-up national registries for authorised declarants to selling CBAM certificates.

The rapporteur is of the opinion that such a decentralised system would lead to an uneven implementation of the regulation by the 27 competent authorities, a difference in the pace of the implementation and ultimately a high risk of ‘forum shopping’ which would be detrimental to the integrity of the single market. For example when different competent authorities are speedier in their review of the CBAM declarations and their repurchasing of the surplus CBAM certificates, this could lead to importers choosing to import through one competent authority rather than another. These discrepancies could ultimately lead to trade distortions.

Moreover, CBAM will rely on a number of complex non-legislative measures, implementing and delegated acts which would need to be thoroughly communicated and explained to the 27 national authorities. The risk of an uneven implementation and diverging communication to stakeholders is higher in a decentralised system and this would only add to the complexity of the mechanism.

The rapporteur believes that setting up one centralised CBAM authority would offer economies of scale and would represent a lower cost for EU taxpayers.

### **A mechanism that promotes cooperation**

CBAM should be a system that fosters cooperation rather than confrontation with respect to climate policies and trade. The mechanism offers a clear path for the avoidance of the CBAM charge when the importer can show that an explicit carbon price equivalent to the one that applies in the EU has been paid.

The rapporteur considers that explicit export rebates are not in line with the principles of the WTO. To ensure however that there is no extra carbon leakage on exports of European sectors covered in CBAM, the rapporteur adds this to the review clause. The Commission should assess during the first two years if a legislative proposal - to deal with the negative impact of CBAM on European exports - is appropriate.

The rapporteur is of the opinion that LDC’s should be better supported by the system both because historically these countries are least responsible for the climate emergency and because of the need to leapfrog to the forefront of sustainable innovation. The rapporteur suggests the Union provides financial support to LDC’s to stimulate decarbonisation of their industry. This financial support should at least be the equivalent of yearly revenues generated to the sale of CBAM certificates. This would be compatible and without prejudice to the own resource proposal for the financing of the NextGenerationEU.

### **Ensuring the right level of empowerment**

The text proposed by the Commission leaves a number of elements to be defined through

implementing acts. The rapporteur believes that whilst some of these empowerments are warranted some others are not sufficiently well-framed, are too vague and far-reaching, for example with respect to the detailed rules regarding the elements of the calculation methods set out in Annex III. With his proposed amendments, the rapporteur aims to ensure a greater balance between delegated and implementing acts based on a legal and factual assessment. He also further wishes to better define the scope of the empowerments granted to the Commission to ensure that the co-legislators remain responsible for the essential elements of the regulation.

**ANNEX: LIST OF ENTITIES OR PERSONS  
FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT**

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities or persons in the preparation of the report, until the adoption thereof in committee:

<b>Entity and/or person</b>
AEGIS Europe
AFEP - French Association of Large Companies
Agora Energiewende
AGPB/FNSEA
APPLiA Europe
ArcelorMittal
CAN Europe
Carbon Market Watch
Cem'in'EU
Cembureau
Confederation of Finnish Industries - EK
Copa-Cogeca
CPME
Denso
DOW
E3G
Ecocem
EEB
ERCST
Eurelectric
Eurofer
Eurometax
Euromines
Europe Jacques Delors
European Automobile Manufacturers' Association
European Chemical Industry Council
European Express Association
european-aluminium.eu
ExxonMobil Petroleum & Chemical BVBA
Fertilizers Europe
France Industrie
Fuels Europe
German Watch
Heidelberg cement
Honda Motor Europe
Hydrogen Europe
IEEP



IG Metall
Industriall
IOGP - International Association of Oil & Gas Producers
LKAB
Meststoffen Nederland
Mission of Ukraine to the European Union
National Grid Ventures
NLMK International
Norsk Hydro
OCI
Oxfam
TIC Council
Ukrainian Business and Trade Association
University of Cambridge Institute for Sustainability Leadership (CISL)
WindEurope
WWF EPO
YARA

20.4.2022

## **OPINION OF THE COMMITTEE ON BUDGETS**

for the Committee on the Environment, Public Health and Food Safety

on the proposal for a regulation of the European Parliament and of the Council Establishing a carbon border adjustment mechanism

(COM(2021)0564 – C9-0328/2021 – 2021/0214(COD))

Co-Rapporteurs for opinion (\*): José Manuel Fernandes, Valérie Hayer

(\*) Associated committee – Rule 57 of the Rules of Procedure

### **SHORT JUSTIFICATION**

The co-rapporteurs insist on four main messages. First, they endorse the Commission's approach of not defining the use of CBAM revenues in the CBAM regulation, in order to allow the Own Resources Decision to attribute the revenues to the EU budget as general income. Therefore, they would like to prevent any inconsistent approach which would earmark the CBAM revenues for particular purposes, and thus prevent their definition as own resources. The proposed amendments in this opinion are first and foremost meant to pass on this message and avoid political ambiguity on their position. Second, the Union should respect its commitment to repay the Next Generation EU's debt through new own resources, including the CBAM, in order to avoid dramatic cuts in EU programmes in future financial frameworks. Third, the co-rapporteurs recall that any decision for helping third countries' decarbonization process should be made through the expenditure side of the EU budget only. Fourth, no new Fund should be created outside of the EU budget and financed by assigned revenue coming from the sale of CBAM certificates. Legislators should avoid proliferation of intergovernmental funds at the expense of budgetary unity.

#### **CBAM as a long-standing own resources candidate**

The co-rapporteurs for the BUDG committee wish to see the CBAM initiative come to live, both as an important building block of the Fit for 55 climate initiatives, and as a basis for an own resource. The Carbon Border Adjustment Mechanism (formerly: "a carbon border tax") has for a long time been a well-established option for the basket of new own resources. Its link to the EU climate policies as well as the EU competences for commerce and international trade, external borders and customs control make it a genuine candidate.

In 2021, the BUDG committee also managed to insert a comprehensive chapter on the own resources dimension in the EP's own initiative report on a WTO-compatible EU CBAM<sup>1</sup> which was adopted by a broad majority in plenary.

It is therefore consequential that the CBAM became integral part of the roadmap towards the introduction of own resources, a milestone in the EP's efforts to incite the EU institutions to follow up on its ambitions for a more robust, resilient and independent budget revenue system. In the meantime, the main intention is to generate sufficient additional general budget income to cover the medium to long-term repayment costs of the NGEU borrowing, without risking commensurate reductions in traditional expenditure programmes under future MFFs.

The explanatory memorandum of the Commission proposal for a CBAM regulation, and also the accompanying Legislative Financial Statement explicate and justify how and why the revenues of the CBAM are to become an own resource. In the meantime, the Commission has submitted legislative initiatives to amend the own resources decision and to introduce a "New Generation of EU own resources" including one based on the new CBAM, once in place.

### **The Amendments proposed: concentrated on budgetary aspects**

The CBAM regulation itself is not the basic act of the own resources; the relevant provisions defining the EU budget revenue side are included in the own resources decision and the pertinent implementing legislation.

The Commission proposal for the CBAM regulation is perfectly compatible with the own resources initiatives. Therefore, the BUDG opinion proposes mainly amendments in the recitals part in order to confirm and highlight the following:

- 1) Legal nature and ultimate objective of the CBAM:** the BUDG committee concurs that the CBAM as such is a climate policy instrument and not a fiscal instrument; it is nevertheless a very well suited basis for an own resource for the EU budget. It is not necessary, and would even be problematic from a viewpoint of WTO-compatibility, to insert amendments that would have as an objective to increase the level of revenue yielded by the CBAM.
- 2) The revenues should therefore be used as own resources to finance the EU budget as general, universal revenue.** Additional fresh revenue will eventually facilitate the repayment of the NGEU costs. However, there will be no technical earmarking. A reminder of the IIA roadmap is appropriate.
- 3) In the course of the further decision-making, there might be a strong demand to use the CBAM revenues in order to support third countries, in particular LDCs, with the decarbonisation of their affected industrial sectors. However, financial means for such aid**

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<sup>1</sup> P9\_TA(2021)0071: A WTO-compatible EU carbon border adjustment mechanism. European Parliament resolution of 10 March 2021 towards a WTO-compatible EU carbon border adjustment mechanism (2020/2043(INI))

can be mustered by making use of existing or reinforced EU budget programmes in the external expenditure heading, without making recourse to assigned revenue (a practice that should be avoided in order not to undermine the competences of the Budgetary Authority).

The BUDG rapporteurs do not wish to intervene in questions of policy design. They will nevertheless strive to be helpful and constructive when it comes to making legislative changes at the later stages, for example concerning the scope of the CBAM and the structure of the CBAM authority so that the provisions in the regulation are compatible with the practicalities of the governance of the EU budget revenue side and when it comes to defending the role of the EP in the decision-making.

## AMENDMENTS

The Committee on Budgets calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a regulation

##### Recital 13

*Text proposed by the Commission*

(13) As an instrument to prevent carbon leakage and reduce GHG emissions the CBAM should ensure that imported products are subject to a regulatory system that applies carbon costs equivalent to the ones that otherwise would have been borne under the EU ETS. The CBAM is a climate measure which should prevent the risk of carbon leakage and support the Union's increased ambition on climate mitigation, while ensuring WTO compatibility.

*Amendment*

(13) As an instrument to prevent carbon leakage and reduce GHG emissions the CBAM should ensure that imported products are subject to a regulatory system that applies carbon costs equivalent to the ones that otherwise would have been borne under the EU ETS. The CBAM is a climate measure which should prevent the risk of carbon leakage and support the Union's increased ambition on climate mitigation ***and preventing further environmental harm***, while ensuring WTO compatibility. ***The CBAM is therefore decidedly not a fiscal instrument motivated by the opportunity to generate public income and thus is compatible with WTO rules.***

### Amendment 2

#### Proposal for a regulation

##### Recital 13 a (new)

*Text proposed by the Commission*

*Amendment*

***(13a) The revenues generated should be attributed to the Union budget as an own resource in accordance with the procedures set out in Article 311 TFEU, pursuant to Annex 2 of the Interinstitutional Agreement of 16 December 2020<sup>1a</sup> and as proposed by the Commission on 22 December 2021 in its legislative proposal to amend the Own Resources Decision<sup>1b</sup>. The CBAM-based own resource would thus be part of a***

*basket of own resources whose total proceeds should be sufficient to cover the level of overall expected expenditure for the repayment costs of the principal and interests of the borrowing incurred under the Next Generation EU instrument, while respecting the principle of universality. Together with the ETS-based own resource, these two green own resources should also link the Union budget with the Union's policy priorities, and thus add value. They should contribute to the climate mainstreaming objectives and the resilience of the Union budget as a tool for investments and guarantees.*

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*<sup>1a</sup> Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap for the introduction of new own resources (OJ L 433I, 22.12.2020, p. 28.).*

*<sup>1b</sup> COM(2021)0570.*

### **Amendment 3**

#### **Proposal for a regulation Recital 13 b (new)**

*Text proposed by the Commission*

*Amendment*

*(13b) The principle of universality implies that there can be no earmarking or assignment of any particular own resource to cover a specific type of expenditure. The CBAM, together with the ETS-based own resource and the own resource based on Pillar One of the OECD/G20 agreement<sup>1a</sup>, further embed the Union's policy priorities, such as the European Green Deal and the Union's*

*contribution to fair taxation in the revenue side of the Union budget to provide EU added value. New own resources should contribute to climate mainstreaming, improve the resilience of the Union budget as a tool for investments and guarantees and, by diversifying the number of revenue sources, mitigate the risks to the Union budget on the revenue side and alleviate the burden of debt repayment on national budgets.*

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*<sup>1a</sup> Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy, OECD/G20 Base Erosion and Profit Shifting Project, 8 October 2021.*

#### **Amendment 4**

##### **Proposal for a regulation Recital 13 c (new)**

*Text proposed by the Commission*

*Amendment*

*(13c) The Commission should analyse the administrative costs incurred by the CBAM, while ensuring that staff receive adequate training to perform their duties.*

#### **Amendment 5**

##### **Proposal for a regulation Recital 55**

*Text proposed by the Commission*

*Amendment*

(55) As the CBAM aims to encourage cleaner production processes, the EU stands ready to work with low and middle-income countries towards the decarbonisation of their manufacturing industries. Moreover, the Union should support less developed countries with the necessary technical assistance in order to

(55) As the CBAM aims to encourage cleaner production processes, the EU stands ready to work with low and middle-income countries towards the decarbonisation of their manufacturing industries. Moreover, the Union should support less developed countries with the necessary technical assistance in order to

facilitate their adaptation to the new obligations established by this regulation.

facilitate their adaptation to the new obligations established by this regulation.  
***In so far as such support is applicable and eligible, support for the efforts of least developed countries to decarbonise their manufacturing industries should be financed under the relevant expenditure programmes of the Union budget, including through reinforcing climate spending within the relevant geographic and thematic programmes of the Neighbourhood, Development and International Cooperation Instrument established by Regulation (EU) 2021/947 of the European Parliament and of the Council<sup>1a</sup>.***

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***<sup>1a</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).***

## **Amendment 6**

### **Proposal for a regulation Recital 60 a (new)**

*Text proposed by the Commission*

*Amendment*

***(60a) Once the revenues generated by CBAM are attributed to the Union budget as own resources, the Member States authorities involved in the implementation of the CBAM and the Union institutions involved in managing the Union budget should respect the principle of mutual sincere cooperation in the levying, collecting and making available of the***



*revenues. The Commission should assist Member States, economic operators and citizens with relevant information, technical and administrative support and advice about CBAM requirements.*

## **Amendment 7**

### **Proposal for a regulation Recital 61 a (new)**

*Text proposed by the Commission*

*Amendment*

*(61a) It is important to avoid excessive administrative burden and costs for the implementation of the CBAM on both the Commission and the Member States, and to simplify the system as much possible while ensuring its proper functioning and transparency. The CBAM Authority should be funded in a way that guarantees its viable functioning and enables sound financial management. The costs relating to the creation and operation of the authority should be covered by the general income of the Union budget.*

## **Amendment 8**

### **Proposal for a regulation Chapter III – title**

*Text proposed by the Commission*

*Amendment*

*Competent authorities*

*CBAM Authority*

*(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)*

## **Amendment 9**

### **Proposal for a regulation Article 11 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

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

1. *The Commission shall establish the CBAM authority to perform the obligations under this Regulation.*

## **Amendment 10**

### **Proposal for a regulation**

#### **Article 11 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

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

*deleted*

## **Amendment 11**

### **Proposal for a regulation**

#### **Article 11 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. *Member States shall require that competent authorities exchange any information that is essential or relevant to the exercise of their functions and duties.*

*deleted*

## **Amendment 12**

### **Proposal for a regulation**

#### **Article 24 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 24a**

*Revenues generated by the sale of CBAM certificates*

*The revenues generated by the sale of CBAM certificates shall not constitute*

*assigned revenue. This Regulation shall not prevent revenues generated by the sale of CBAM certificates from being defined as own resources in accordance with Article 311 TFEU and entered in the Union budget as general income.*

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Establishing a carbon border adjustment mechanism
<b>References</b>	COM(2021)0564 – C9-0328/2021 – 2021/0214(COD)
<b>Committee responsible</b> Date announced in plenary	ENVI 13.9.2021
<b>Opinion by</b> Date announced in plenary	BUDG 13.9.2021
<b>Associated committees - date announced in plenary</b>	11.11.2021
<b>Discussed in committee</b>	1.2.2022
<b>Date adopted</b>	20.4.2022
<b>Result of final vote</b>	+: 31 –: 5 0: 4
<b>Members present for the final vote</b>	Rasmus Andresen, Pietro Bartolo, Robert Biedroń, Anna Bonfrisco, Olivier Chastel, Lefteris Christoforou, David Cormand, Andor Deli, José Manuel Fernandes, Eider Gardiazabal Rubial, Alexandra Geese, Vlad Gheorghe, Valentino Grant, Francisco Guerreiro, Valérie Hayer, Eero Heinäluoma, Niclas Herbst, Monika Hohlmeier, Moritz Körner, Joachim Kuhs, Zbigniew Kuźmiuk, Hélène Laporte, Pierre Larrouturou, Camilla Laureti, Janusz Lewandowski, Margarida Marques, Siegfried Mureşan, Victor Negrescu, Lefteris Nikolaou-Alavanos, Dimitrios Papadimoulis, Karlo Ressler, Bogdan Rzońca, Nicolae Ştefănuţă, Nils Torvalds, Nils Ušakovs, Rainer Wieland, Angelika Winzig
<b>Substitutes present for the final vote</b>	Petros Kokkalis, Jan Olbrycht, Petri Sarvamaa

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

31	+
PPE	Lefteris Christoforou, José Manuel Fernandes, Niclas Herbst, Monika Hohlmeier, Janusz Lewandowski, Siegfried Mureşan, Jan Olbrycht, Karlo Ressler, Petri Sarvamaa, Rainer Wieland, Angelika Winzig
Renew	Olivier Chastel, Vlad Gheorghe, Valérie Hayer, Nicolae Ştefănuţă, Nils Torvalds
S&D	Pietro Bartolo, Robert Biedroń, Eider Gardiazabal Rubial, Eero Heinäluoma, Pierre Larroustourou, Camilla Laureti, Margarida Marques, Victor Negrescu, Nils Ušakovs
The Left	Petros Kokkalis, Dimitrios Papadimoulis
Verts/ALE	Rasmus Andresen, David Cormand, Alexandra Geese, Francisco Guerreiro

5	-
ECR	Zbigniew Kuźmiuk, Bogdan Rzońca
ID	Joachim Kuhs
NI	Andor Deli, Lefteris Nikolaou-Alavanos

4	0
ID	Anna Bonfrisco, Valentino Grant, Héléne Laporte
Renew	Moritz Körner

**Key to symbols:**

+ : in favour

- : against

0 : abstention

21.4.2022

## **OPINION OF THE COMMITTEE ON INDUSTRY, RESEARCH AND ENERGY**

for the Committee on the Environment, Public Health and Food Safety

on the proposal for a regulation of the European Parliament and of the Council establishing a carbon border adjustment mechanism

(COM(2021)0564 – C9-0328/2021 – 2021/0214(COD))

Rapporteur for opinion: Izabela-Helena Kloc

(\*) Associated committee – Rule 57 of the Rules of Procedure

### **SHORT JUSTIFICATION**

The draft of the legislative proposal on the Carbon Border Adjustment Mechanism (CBAM) published by the Commission in July 2020 is an important answer to many questions raised by the “Fit for 55” package. The preliminary idea of CBAM has been resonating during discussions and introduced in a several non-legislative reports by the European Parliament in the past years, and thus, at the occasion of the legislative proposal by the Commission, it is an opportunity to make an important step forward by achieving an effective, transparent and at the same time a robust mechanism that will prevent the risk of carbon leakage and contribute to supporting the competitiveness of the European industry towards third countries, also encouraging emission reductions in third countries which are important to lower EU import emissions, while ensuring the WTO compatibility.

In parallel, the rapporteur is of the opinion that the proposed text by the Commission still brings an incomplete solution, believes at the same time that a number of points of the legislative proposal should be addressed in order to make CBAM fit to its purpose and to respond to existing challenges linked with achieving the ambitious climate and energy objectives.

Firstly, the rapporteur highlights in her draft opinion the interlinkage between the EU Emission Trading System with CBAM and thus underlines that the newly established mechanism can complement the existing carbon leakage prevention mechanisms under ETS. This is particularly important given the rapidly increasing price of EU ETS, which has already surpassed simulations in the Impact Assessment, which risks underestimating the negative impact that withdrawal of free allowances can have on survival of EU energy-intensive industries.

As the Impact Assessment confirms that withdrawal of free allowance will reduce EU export competitiveness, resulting in a drop of EU exports for CBAM sectors, the rapporteur believes

that the phase out of free allowances under ETS should start only once the Commission establishes a mechanism to prevent such carbon leakage on export markets. Until there is a solution for exports, existing carbon leakage measures are the only tool ensuring prevention of carbon leakage from a drop in EU exports in both CBAM and downstream sectors.

Secondly, the rapporteur leaves the timeframe of the transitional period as originally proposed thus 2023-2025, but emphasizes the importance of the report by the Commission which should properly analyse the acquired data during the transitional period in order to assess the possible impact of CBAM on the downstream sector and also to extend the scope of embedded emissions to indirect emissions with a particular focus on energy-intensive sectors.

Thirdly, it is of the utmost importance that CBAM should not be circumvented and any forms of circumvention must be duly addressed to ensure the compactness of CBAM, and compliance with CBAM obligations, as well as application of default values needs to be strengthened.

Finally, the rapporteur proposes to strengthen the system for registration of third country installations, as well as increasing the system's transparency.

## AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a regulation Recital 8

*Text proposed by the Commission*

(8) As long as a significant number of the Union's international partners have policy approaches that do not **result in** 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 were to transfer production to other countries or imports from those countries would replace equivalent but less GHG emissions intensive products. That **could** lead to an increase in their total emissions globally, thus jeopardising the reduction of GHG emissions that is urgently needed if the world is to keep the global average temperature to well below 2 °C above pre-

*Amendment*

(8) 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, **which would undermine the Union's competitiveness. Effective carbon border adjustment mechanism ('CBAM') implementation should ensure the creation of a level playing field while encouraging trade partners to decarbonise.** Carbon leakage occurs if, for reasons of costs related to climate policies, businesses in certain industry sectors or subsectors were to transfer production to other countries or imports from those countries would replace equivalent but less GHG emissions

industrial levels.

intensive products *on the internal market, as well as export markets, or investment in such sectors and subsectors would predominantly flow to countries outside the Union*. That *would* lead to an increase in their total emissions globally, thus jeopardising the reduction of GHG emissions that is urgently needed if the world is to keep the global average temperature to well below 2°C above pre-industrial levels.

## Amendment 2

### Proposal for a regulation Recital 8 a (new)

*Text proposed by the Commission*

*Amendment*

***(8a) Tackling climate change and carbon leakage requires global action. The Union should not only lead by example by eliminating its own emissions, including those embedded in the products it imports, but it should also reinforce its climate diplomacy and open discussions with third countries which are interested in adopting measures similar to CBAM, in order to harmonise their instruments, in accordance with WTO rules, and to create an open, multilateral and cooperative global system.***

## Amendment 3

### Proposal for a regulation Recital 9

*Text proposed by the Commission*

*Amendment*

(9) The initiative for ***a carbon border adjustment mechanism ('CBAM')*** is a part of the 'Fit for 55 Package'. That mechanism is to serve as an essential element of the EU toolbox to meet the objective of a climate-neutral Union by

(9) The CBAM) is a part of the 'Fit for 55 Package'. That mechanism is to serve as an essential element of the EU toolbox to meet the objective of a climate-neutral Union by 2050 in line with the Paris Agreement by ***preventing*** carbon leakage



2050 in line with the Paris Agreement by **addressing risks of** carbon leakage resulting from the increased Union climate ambition.

resulting from the increased Union climate ambition, **whilst preserving and promoting the development of European industries and ensuring an equal, level playing field with regard to their competitiveness on Union and global markets.**

#### Amendment 4

##### Proposal for a regulation Recital 9 a (new)

*Text proposed by the Commission*

*Amendment*

**(9a) Innovation will be crucial for boosting growth and competitiveness by empowering Union undertakings, in particular SMEs to become global leaders in developing new and clean technologies. The Commission and the Member States should promote incentives and policies for innovation.**

#### Amendment 5

##### Proposal for a regulation Recital 10

*Text proposed by the Commission*

*Amendment*

(10) Existing mechanisms to address the risk of carbon leakage in sectors or sub-sectors at risk of carbon leakage are the transitional free allocation of EU ETS allowances and financial measures to compensate for indirect emission costs incurred from GHG emission costs passed on in electricity prices respectively laid down in Articles 10a(6) and 10b of Directive 2003/87/EC. **However, free allocation under the EU ETS weakens the price signal that the system provides for the installations receiving it compared to full auctioning and thus affects the incentives for investment into further abatement of emissions.**

(10) Existing mechanisms to address the risk of carbon leakage in sectors or sub-sectors at risk of carbon leakage are the transitional free allocation of EU ETS allowances and financial measures to compensate for indirect emission costs incurred from GHG emission costs passed on in electricity prices respectively laid down in Articles 10a(6) and 10b of Directive 2003/87/EC. **Free allocation of allowances at the level of best performers has been an adequate policy instrument for certain industrial sectors to address the risk of carbon leakage in the absence of a fair level playing field and it remains necessary for the economic balance and**

*competitiveness of the sectors concerned.*

## Amendment 6

### Proposal for a regulation

#### Recital 11

*Text proposed by the Commission*

(11) The CBAM *seeks* to replace these 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.

*Amendment*

(11) The ***underlying intention of the introduction of CBAM is to complement and progressively*** replace these existing mechanisms by addressing ***certain aspects*** 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 ***gradually*** phased out. ***The gradual phase-out of the current system of free allowances is essential to ensure a just transition for energy-intensive sectors.*** The combined and transitional application of EU ETS allowances allocated free of charge and of the CBAM ***is needed to allow producers, importers and traders to adjust to the CBAM and to assess the effective implementation of the CBAM, and*** should in no case result in more favourable treatment for Union goods compared to goods imported into the customs territory of the Union, ***because continuous trade with third countries is essential for the Union and its diversified supply chains. Similarly, the application of these provisions should not negatively impact the competitiveness of Union goods, in particular the export of those goods.***

## Amendment 7

### Proposal for a regulation Recital 12

*Text proposed by the Commission*

(12) While the objective of the CBAM is to prevent the risk of carbon leakage, this Regulation would *also* encourage the use of more GHG emissions-efficient technologies by producers from third countries, so that less emissions per unit of output are generated.

*Amendment*

(12) While the objective of the CBAM is to prevent the risk of carbon leakage ***from the internal market, export markets, and investment leakage***, this Regulation would ***at the same time*** encourage the use of more GHG emissions-efficient technologies by producers from third countries, so that less emissions per unit of output are generated. ***Therefore, CBAM could be an effective measure to lower emissions in third countries while ensuring European industry competitiveness. Reducing emissions in the Union as well as in third countries is an effective way to reduce the risk of carbon leakage. The CBAM should be seen as a step towards global pricing of carbon emissions, which would further reduce the risk of carbon leakage globally.***

## Amendment 8

### Proposal for a regulation Recital 13

*Text proposed by the Commission*

(13) As an instrument to prevent carbon leakage and reduce GHG emissions the CBAM should ensure that imported products are subject to a regulatory system that applies carbon costs equivalent to the ones that otherwise would have been borne under the EU ETS. The CBAM is a climate measure which should prevent the risk of carbon leakage and support the Union's increased ambition on climate mitigation, while ensuring WTO compatibility.

*Amendment*

(13) As an instrument to prevent carbon leakage and reduce GHG emissions the CBAM should ensure that imported products are subject to a regulatory system that applies carbon costs equivalent to the ones that otherwise would have been borne under the EU ETS, ***resulting in a carbon cost equalisation between national products and imported products***. The CBAM is a climate measure which should prevent the risk of carbon leakage and support the Union's increased ambition on climate mitigation, while ensuring WTO

compatibility *and industrial competitiveness*.

## Amendment 9

### Proposal for a regulation

#### Recital 19

*Text proposed by the Commission*

(19) However, while the EU ETS sets an absolute cap on the GHG emissions from the activities under its scope and allows tradability of allowances (so called ‘cap and trade system’), the CBAM should not establish quantitative limits to import, so as to ensure that trade flows are not restricted. Moreover, while the EU ETS applies to installations based in the Union, the CBAM should be applied to certain goods imported into the customs territory of the Union.

*Amendment*

(19) However, while the EU ETS sets an absolute cap on the GHG emissions from the activities under its scope and allows tradability of allowances (so called ‘cap and trade system’), the CBAM should not establish quantitative limits to import, so as to ensure that trade flows are not restricted *or disrupted*. Moreover, while the EU ETS applies to installations based in the Union, the CBAM should be applied to certain goods imported into the customs territory of the Union *to ensure a level playing field for those imported goods as compared to Union goods and prevent the risk of carbon leakage while ensuring compatibility with WTO rules*.

## Amendment 10

### Proposal for a regulation

#### Recital 23 b (new)

*Text proposed by the Commission*

*Amendment*

*(23b) To reduce the risk of carbon leakage as well as to ensure a level playing field for European industry, all practices of circumvention should be prohibited. The Commission should evaluate the risk of circumvention practices, in particular the likelihood of modified trade patterns towards downstream products, as well as resource shuffling, cost absorption, manipulation of emissions data, wrongful labelling of goods and slight modifications of a*

*product so as to import that product falling under the sectors listed in Annex I under a different customs code. The Commission should also evaluate whether countries of origin introduce a carbon price, and in that context also provide for reimbursement or compensation via indirect or direct measures such as the reduction of other taxes. The Commission should be empowered to adopt delegated acts to strengthen anti-circumvention measures when appropriate.*

## Amendment 11

### Proposal for a regulation Recital 24

*Text proposed by the Commission*

(24) In terms of sanctions, Member States should apply penalties to infringements of this Regulation and ensure that they are implemented. The amount of those penalties should be identical to penalties currently applied within the Union in case of infringement of EU ETS according to Article 16(3) and (4) of Directive 2003/87/EC.

*Amendment*

(24) In terms of sanctions, Member States should apply penalties to infringements *or circumvention practices* of this Regulation and ensure that they are implemented. The amount of those penalties should be identical to penalties currently applied within the Union in case of infringement of EU ETS according to Article 16(3) and (4) of Directive 2003/87/EC. *However, in the event of circumvention practices or of repeated infringements of this Regulation, stronger penalties should apply to avoid undermining the effectiveness of the CBAM.*

## Amendment 12

### Proposal for a regulation Recital 40

*Text proposed by the Commission*

(40) An authorised declarant should be allowed to claim a reduction in the number of CBAM certificates to be surrendered

*Amendment*

(40) An authorised declarant should be allowed to claim a reduction in the number of CBAM certificates to be surrendered

corresponding to the carbon price already paid for those emissions in other jurisdictions.

corresponding to the carbon price already paid for those emissions in other jurisdictions, ***upon providing proof that no circumvention methods were used in the production of the declared goods or where the declarant can show that the production has caused no emissions.***

## Amendment 13

### Proposal for a regulation

#### Recital 42

*Text proposed by the Commission*

(42) The system should allow operators of production installations in third countries to register in a central database and to make their verified embedded GHG emissions from production of goods available to authorised declarants. An operator should ***be able to choose not to have*** its name, address and contact details in the central database made accessible to the public.

*Amendment*

(42) The system should allow operators of production installations in third countries to register in a central database and to make their verified embedded GHG emissions from production of goods available to authorised declarants. An operator should ***ensure transparency in the access to information, in particular indicating*** its name, address and contact details in the central database made accessible to the public.

## Amendment 14

### Proposal for a regulation

#### Recital 42 a (new)

*Text proposed by the Commission*

*Amendment*

***(42a) If a registered producer declares false figures for GHG emissions or is involved in any practice of circumvention of CBAM rules, it should be deleted from the central database of authorised declarants and be subject to penalties. Where deemed appropriate, the penalty should also entail the withdrawal of import authorisation in the Union market until true and verifiable emission figures are declared.***

## Amendment 15

### Proposal for a regulation Recital 50

*Text proposed by the Commission*

(50) A transitional period should apply during the period 2023 until **2025**. A CBAM without financial adjustment should apply, with the objective to facilitate a smooth roll out of the mechanism hence reducing the risk of disruptive impacts on trade. Declarants should have to report on a quarterly basis the actual embedded emissions in goods imported during the transitional period, detailing direct and indirect emissions as well as any carbon price paid abroad.

*Amendment*

(50) ***An administrative*** transitional period should apply during the period ***1 January 2023 until 31 December 2026 and should be used for data collection and analysis of the impact of CBAM on the industries concerned and to prevent the carbon leakage, with a particular focus on the potential impact of the phase-out of free allocations.*** A CBAM without financial adjustment should apply, with the objective to facilitate a smooth roll out of the mechanism hence reducing the risk of disruptive impacts on trade ***and European industry.*** Declarants should have to report on a quarterly basis the actual embedded emissions in goods imported during the ***administrative*** transitional period, detailing direct and indirect emissions as well as any carbon price paid abroad.

## Amendment 16

### Proposal for a regulation Recital 50 a (new)

*Text proposed by the Commission*

*Amendment*

***(50a) A comprehensive transitional period should apply during the period 1 January 2027 to 31 December 2027, with the objective of facilitating a smooth roll out of the CBAM thereby reducing the risk of disproportionate impact on European industry. Should the comprehensive transitional period be proven to be incompatible with WTO rules, the administrative transitional period should be extended until 31 December 2027.***

## Amendment 17

### Proposal for a regulation Recital 50 b (new)

*Text proposed by the Commission*

*Amendment*

***(50b) The full effectiveness of the CBAM in tackling the carbon leakage risk both on the Union market and on export markets should be assessed and positively verified by the Commission through a strong monitoring of the impacts on Union businesses, with a view to amending this Regulation, if necessary.***

## Amendment 18

### Proposal for a regulation Recital 50 c (new)

*Text proposed by the Commission*

*Amendment*

***(50c) The Commission should consider establishing a safety mechanism to avoid double protection while enabling quick reactions in the event of any unforeseen gaps in carbon leakage protection arising, linked to a rolling review mechanism.***

## Amendment 19

### Proposal for a regulation Recital 51

*Text proposed by the Commission*

*Amendment*

(51) To facilitate and ensure a proper functioning of the CBAM, the Commission should provide support to the competent authorities responsible for the application of this Regulation in carrying out their obligations.

(51) To facilitate and ensure a proper functioning of the CBAM, the Commission should provide support to the competent authorities responsible for the application of this Regulation in carrying out their obligations. ***The Commission should assist undertakings, in particular SMEs, in adapting to the requirements of this Regulation and establish an expert group***



*to share information and best practices with the competent national authorities.*

## Amendment 20

### Proposal for a regulation

#### Recital 52

##### *Text proposed by the Commission*

(52) The Commission should evaluate the application of this Regulation before the end of the transitional period and report to the European Parliament and the Council. The report of the Commission should in particular focus on possibilities to enhance climate actions towards the objective of a climate neutral Union by 2050. The Commission should, as part of that evaluation, initiate collection of information necessary to possibly extend the scope to indirect emissions, as well as to other goods and services at risk of carbon leakage, and to develop methods of calculating embedded emissions based on the environmental footprint methods<sup>19</sup>.

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<sup>19</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).

##### *Amendment*

(52) The Commission should evaluate the application of this Regulation before the end of the **administrative** transitional period and report to the European Parliament and **to** the Council. **The Commission should, as part of that evaluation, assess the impact on sectors listed in Annex I to ensure that the complex production processes and deeply integrated value chains of specific sectors listed in that Annex have been appropriately taken into account.** The report of the Commission should in particular focus on possibilities to enhance climate actions towards the objective of a climate neutral Union by 2050 **and possibilities to improve carbon leakage measures to ensure a level playing field between the Union and third countries.** The Commission should, as part of that evaluation, initiate collection of information necessary to possibly extend the scope to indirect emissions, **sectors and goods other than those listed in Annex I,** as well as to other goods and services at risk of carbon leakage, and to develop methods of calculating embedded emissions based on the environmental footprint methods<sup>19</sup>.

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<sup>19</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).

## Amendment 21

### Proposal for a regulation Recital 52 a (new)

*Text proposed by the Commission*

*Amendment*

***(52a) At the end of the first year after the comprehensive transitional period, the Commission should submit to the European Parliament and to the Council a report with a particular focus on the competitiveness of the products that are exported outside the Union. That Commission report should assess the risk of Union exports on global markets being replaced by more carbon intensive goods or by goods that are not subject to equivalent carbon costs. The Commission report should be accompanied by a legislative proposal to develop WTO-compatible solutions such as export adjustment mechanisms to be implemented to avoid the effects of carbon leakage on Union exports, while preserving emission reduction targets.***

## Amendment 22

### Proposal for a regulation Recital 52 b (new)

*Text proposed by the Commission*

*Amendment*

***(52b) If after the comprehensive transitional period, the evidence collected by the Commission indicates that the potential costs of the CBAM outweigh its benefits and the CBAM cannot effectively protect European industries falling within its scope against carbon leakage, a further phase-in of the CBAM should be delayed until an effective solution is found.***

## Amendment 23

### Proposal for a regulation Recital 52 c (new)

*Text proposed by the Commission*

*Amendment*

***(52c) If the CBAM is challenged by the WTO and as a consequence not implemented, the Commission should submit a revised legislative proposal aiming at lowering carbon leakage.***

## Amendment 24

### Proposal for a regulation Recital 52 d (new)

*Text proposed by the Commission*

*Amendment*

***(52d) The start of phasing-out of free allowances, in accordance with Article 10a of Directive 2003/87/EC is set to begin 1 January 2028.***

## Amendment 25

### Proposal for a regulation Recital 54

*Text proposed by the Commission*

*Amendment*

(54) The Commission should strive to engage in an even handed manner and in line with the international obligations of the EU, with the third countries whose trade to the EU is affected by this Regulation, to explore possibilities for dialogue and cooperation with regard to the implementation of specific elements of the Mechanism set out this Regulation and related implementing acts. It should also explore possibilities for concluding agreements to take into account their carbon pricing mechanism.

(54) The Commission should strive to engage in an even handed manner and in line with the international obligations of the EU, with the third countries whose trade to the EU is affected by this Regulation, to explore possibilities for dialogue and cooperation with regard to the implementation of specific elements of the Mechanism set out this Regulation and related implementing acts. It should also explore possibilities for concluding agreements to take into account their carbon pricing mechanism, ***provided that they deliver equivalent GHG emission***

*reductions and carbon cost constraints.*

## Amendment 26

### Proposal for a regulation Recital 55 a (new)

*Text proposed by the Commission*

*Amendment*

***(55a) The Commission should regularly inform the European Parliament of its progress as regards dialogues with third countries and of any possible negative impacts of the CBAM on the European industries affected by this Regulation.***

## Amendment 27

### Proposal for a regulation Recital 58

*Text proposed by the Commission*

*Amendment*

(58) In order to remedy circumvention of the provisions of this Regulation, the power to adopt acts in accordance with Article 290 of TFEU should be delegated to the Commission in respect of supplementing the list of goods in Annex I.

***(58) In order for CBAM to be efficient in lowering carbon leakage, all possible circumvention practices should be addressed by this Regulation.*** In order to remedy circumvention of the provisions of this Regulation, the power to adopt acts in accordance with Article 290 of TFEU should be delegated to the Commission in respect of supplementing the list of goods in Annex I.

## Amendment 28

### Proposal for a regulation Recital 59

*Text proposed by the Commission*

*Amendment*

(59) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those

(59) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert ***and industry*** level, and

consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016<sup>23</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.

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<sup>23</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016<sup>23</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.

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<sup>23</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

## Amendment 29

### Proposal for a regulation Article 1 – paragraph 1

#### *Text proposed by the Commission*

1. This Regulation establishes a carbon border adjustment mechanism (the 'CBAM') for addressing greenhouse gas emissions embedded in the goods referred to in Annex I, upon their importation into the customs territory of the Union, in order to prevent the risk of carbon leakage.

#### *Amendment*

1. This Regulation establishes a carbon border adjustment mechanism (the 'CBAM') for addressing greenhouse gas emissions embedded in the goods referred to in Annex I, upon their importation into ***or exportation from*** the customs territory of the Union, in order to ***progressively reduce the Union's imported emissions, preserve the competitiveness of Union industries,*** prevent the risk of carbon leakage ***and contribute to the reduction of global carbon emissions in sectors covered by this Regulation within the Union and in third countries, including external trade partners.***

## Amendment 30

**Proposal for a regulation**  
**Article 1 – paragraph 2**

*Text proposed by the Commission*

2. The CBAM complements the system established for greenhouse gas emission allowance trading within the Union by Directive 2003/87/EC by applying an equivalent set of rules to imports into the customs territory of the Union of goods referred to in Article 2.

*Amendment*

2. The CBAM complements the system established for greenhouse gas emission allowance trading within the Union by Directive 2003/87/EC by applying an equivalent set of rules to imports into ***or export from*** the customs territory of the Union of goods referred to in Article 2.

**Amendment 31**

**Proposal for a regulation**  
**Article 1 – paragraph 3**

*Text proposed by the Commission*

3. The mechanism will progressively become an alternative to the mechanisms established under Directive 2003/87/EC to prevent the risk of carbon leakage, notably the allocation of allowances free of charge in accordance with Article 10a of that Directive.

*Amendment*

3. The mechanism will progressively become an alternative to the mechanisms established under Directive 2003/87/EC to prevent the risk of carbon leakage, notably the allocation of allowances free of charge in accordance with Article 10a of that Directive, ***if it has proven, after a thorough analysis and simulation, to be effective as regards preventing the risk of carbon leakage both for imports into, or exports from, the customs territory of the Union, maintaining EU ETS free allowances until it has proven such effectiveness.***

**Amendment 32**

**Proposal for a regulation**  
**Article 1 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. The CBAM shall be compatible with WTO rules.***

## Amendment 33

### Proposal for a regulation Article 2 – paragraph 3

*Text proposed by the Commission*

3. By way of derogation from paragraphs 1 and 2, this Regulation does not apply to goods originating in countries and territories listed in Annex II, Section A.

*Amendment*

3. By way of derogation from paragraphs 1 and 2, this Regulation does not apply to goods originating in ***or exported to*** countries and territories listed in Annex II, Section A.

## Amendment 34

### Proposal for a regulation Article 2 – paragraph 4

*Text proposed by the Commission*

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

*Amendment*

4. Imported goods shall be considered as originating in third countries in accordance with non-preferential rules of origin as defined in Article 59 of Regulation (EU) No 952/2013. ***Default values applicable under Article 7(2) and Annex III of this Regulation shall be applied based on the country where emissions took place, regardless of the origin of the imported goods.***

## Amendment 35

### Proposal for a regulation Article 2 – paragraph 5 – point b a (new)

*Text proposed by the Commission*

*Amendment*

***(ba) the regulatory obligation and the net regulatory burden imposed in the country from where the goods originate are similar or equivalent to those imposed under the EU ETS.***

## Amendment 36

### Proposal for a regulation

#### Article 2 – paragraph 7 – point a

*Text proposed by the Commission*

(a) the third country or territory has concluded an agreement with the Union, setting out an obligation to apply the 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;

*Amendment*

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

## Amendment 37

### Proposal for a regulation

#### Article 2 – paragraph 7 – point b

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 38

### Proposal for a regulation

#### Article 2 – paragraph 7 – point c

*Text proposed by the Commission*

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

*Amendment*

(c) the third country or territory has submitted a **publicly available and verifiable** roadmap to the Commission, containing a timetable for the adoption of measures to implement the conditions set out in points (d) and (e);



## Amendment 39

### Proposal for a regulation

#### Article 2 – paragraph 7 – point d

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 40

### Proposal for a regulation

#### Article 2 – paragraph 7 – point f

*Text proposed by the Commission*

(f) the third country or territory has put in place ***an*** effective systems to prevent indirect import of electricity in the Union from other third countries not meeting the requirements set out in points (a) to (e).

*Amendment*

(f) the third country or territory has put in place ***and applies robust and*** effective systems to prevent indirect import of electricity in the Union from other third countries not meeting the requirements set out in points (a) to (e).

## Amendment 41

### Proposal for a regulation

#### Article 2 – paragraph 9 – point a

*Text proposed by the Commission*

(a) if the Commission has reasons to consider that the country or territory has not ***shown*** sufficient progress to comply with one of the requirements listed in paragraph 7, points (a) to (f), or if the country or territory has taken action

*Amendment*

(a) if the Commission has reasons to consider that the country or territory has not ***proven*** sufficient progress to comply with one of the requirements listed in paragraph 7, points (a) to (f), or if the country or territory has taken ***any kind of***

incompatible with the objectives set out in the Union climate and environmental legislation;

action incompatible with the objectives set out in the Union climate and environmental legislation;

#### **Amendment 42**

##### **Proposal for a regulation Article 2 – paragraph 12**

*Text proposed by the Commission*

12. The Union, *may* conclude agreements with third countries with a view to take account of carbon pricing mechanisms in these countries in the application of Article 9.

*Amendment*

12. The Union, ***shall make it a priority to*** conclude agreements with third countries with a view to take account of carbon pricing mechanisms in these countries in the application of Article 9. ***Those agreements shall not lead to undue preferential treatment of imports from third countries as regards the CBAM certificates to be surrendered and they shall not take into account any carbon pricing mechanisms that are considered to be practices of circumvention under Article 27.***

#### **Amendment 43**

##### **Proposal for a regulation Article 2 – paragraph 12 a (new)**

*Text proposed by the Commission*

*Amendment*

***12a. The Union may pursue complementary approaches to CBAM through cooperation and dialogue with third countries, with a view to concluding agreements on open, multilateral and cooperative approaches to tackling carbon leakage and achieving the deep decarbonisation of energy intensive industries, including through non-pricing policies.***

#### **Amendment 44**

**Proposal for a regulation**  
**Article 3 – paragraph 1 – point 11**

*Text proposed by the Commission*

(11) ‘competent authority’ means the authority, designated by each Member State in accordance with Article 11 *of this Regulation*;

*Amendment*

(11) ‘competent authority’ means the **CBAM** authority *established at Union level and the national authority* designated by each Member State in accordance with Article 11;

**Amendment 45**

**Proposal for a regulation**  
**Article 3 – paragraph 1 – point 28**

*Text proposed by the Commission*

(28) ‘indirect emissions’ mean emissions from the production of electricity, heating and cooling, which is consumed during the production processes of goods.

*Amendment*

(28) ‘indirect emissions’ mean **greenhouse gas** emissions from the production *processes* of electricity, heating and cooling, which is consumed during the production processes of goods.

**Amendment 46**

**Proposal for a regulation**  
**Article 6 – paragraph 2 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

**(aa) the total quantity of each type of goods or the share of those goods in products processed from those goods, as referred to in point (a) of this paragraph, exported during the calendar year preceding the declaration, expressed in megawatt hours for electricity and in tonnes for other goods;**

**Amendment 47**

**Proposal for a regulation**  
**Article 6 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

**(ca) copy of the verification report issued by the verifier under Article 8 and Annex V.**

#### **Amendment 48**

##### **Proposal for a regulation Article 7 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. Embedded emissions in imported electricity shall be determined by reference to default values in accordance with the method set out in Annex III, point 4.2, ***unless the authorised declarant chooses to determine*** the embedded emissions based on the actual emissions in accordance with that annex, point 5.

3. Embedded emissions in imported electricity shall be determined by reference to default values in accordance with the method set out in Annex III, point 4.2 ***or by*** the embedded emissions based on the actual emissions in accordance with that Annex, point 5.

#### **Amendment 49**

##### **Proposal for a regulation Article 7 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Embedded emissions shall be established for goods exported to the Union, unless Article 27(5), point (c) applies.***

#### **Amendment 50**

##### **Proposal for a regulation Article 7 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

4. The authorised declarant shall keep records of the information required to calculate the embedded emissions in

4. The authorised declarant shall keep records of the information required to calculate the embedded emissions in

accordance with the requirements laid down in Annex IV. 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 V and to enable the competent authority to review the CBAM declaration in accordance with Article 19(1).

accordance with the requirements laid down in Annex IV. 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 V and to enable the **CBAM authority and the competent national authority** to review the CBAM declaration in accordance with Article 19(1).

## Amendment 51

### Proposal for a regulation Article 7 – paragraph 5

#### *Text proposed by the Commission*

5. The authorised declarant shall keep those records of information referred to in paragraph 4, 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.

#### *Amendment*

5. The authorised declarant shall keep those records of information referred to in paragraph 4, 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. ***Those records shall be sufficiently detailed to enable the accredited verifiers to verify the embedded emissions in accordance with Article 8 and to enable the CBAM authority and the competent national authority to review the CBAM declaration in accordance with Article 19(1). Those records shall be kept for the period during which the CBAM authority and the competent national authority may review the CBAM declaration as referred to in Article 19(1).***

## Amendment 52

### Proposal for a regulation Article 7 – paragraph 6

#### *Text proposed by the Commission*

6. The Commission ***is empowered to adopt*** implementing acts concerning

#### *Amendment*

6. The Commission ***shall, by means of*** implementing acts, ***adopt*** detailed rules

detailed rules regarding the elements of the calculation methods set out in Annex III, including determining system boundaries of production processes, 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. Where necessary, those acts shall provide that the default values can be adapted to particular areas, regions or countries to take into account specific objective factors such as geography, natural resources, market conditions, prevailing energy sources, or industrial processes. The implementing acts shall build upon existing legislation for the verification of emissions and activity data for installations covered by Directive 2003/87/EC, in particular Implementing Regulation (EU) No 2018/2067.

regarding the elements of the calculation methods set out in Annex III, including determining system boundaries of production processes, emission factors, installation-specific values of actual emissions and **country-specific** default values **for** individual goods **in Annex I** as well as laying down methods to ensure the reliability of data on the basis of which the **actual emissions and** default values shall be determined, including the level of detail and the verification of the data. **Prior to adopting those implementing acts the Commission shall carry out public consultations with exporters, importers, third country governments and other stakeholders.** Where necessary, those acts shall provide that the default values can be adapted to particular areas, regions or countries to take into account specific objective factors such as geography, natural resources, market conditions, prevailing energy sources, or industrial processes. The implementing acts shall build upon existing legislation for the verification of emissions and activity data for installations covered by Directive 2003/87/EC, in particular Implementing Regulation (EU) No 2018/2067.

## Amendment 53

### Proposal for a regulation Article 8 – paragraph 1

*Text proposed by the Commission*

1. The authorised 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 V.

*Amendment*

1. The authorised declarant shall ensure that the total embedded emissions declared in the CBAM declaration submitted pursuant to Article 6, **as well as the methodology, and supporting data and documents** are verified by a verifier accredited pursuant to Article 18, based on the verification principles set out in Annex V. **The CBAM authority and the competent national authority shall be authorised to verify the accuracy of the**

*information in the CBAM declaration.*

## Amendment 54

### Proposal for a regulation

#### Article 8 – paragraph 2

*Text proposed by the Commission*

2. For embedded emissions in goods produced in registered installations in a third country in accordance with Article 10, the authorised 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.

*Amendment*

2. For embedded emissions in goods produced in registered installations in a third country in accordance with Article 10, the authorised declarant **shall** use verified information **publicly** disclosed in accordance with Article **10** to fulfil the obligation referred to in paragraph 1 **of this Article**.

## Amendment 55

### Proposal for a regulation

#### Article 8 – paragraph 3 – subparagraph 1

*Text proposed by the Commission*

The Commission is empowered to adopt implementing acts concerning the principles of verification referred to in paragraph 1 as regards **the possibility to waive the obligation for the verifier to visit the installation where relevant goods are produced and the obligation to set thresholds for deciding whether misstatements or non-conformities are material and concerning the supporting documentation needed for the verification report.**

*Amendment*

The Commission is empowered to adopt implementing acts concerning the principles of verification referred to in paragraph 1 as regards **setting** thresholds for deciding whether non-conformities are material and concerning the supporting documentation needed for the verification report. **Provisions laid down in such implementing acts shall be equivalent to the provisions set out in Commission Implementing Regulation 2018/2067<sup>1a</sup>.**

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<sup>1a</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).**

## Amendment 56

### Proposal for a regulation Article 9 – paragraph 2

*Text proposed by the Commission*

2. The authorised declarant shall keep records of the documentation, certified by ***an independent person***, required to demonstrate that the declared embedded emissions were subject to a carbon price in the country of origin of the goods ***and keep evidence of the proof of*** the actual payment for that carbon price ***which should not have*** been subject to an export rebate or any other form of compensation on exportation.

*Amendment*

2. The authorised declarant shall keep records of the documentation, certified ***in accordance with Article 8(1) concerning the verification of embedded emissions by a verifier accredited pursuant to Article 18. The accredited verifier shall be*** required to demonstrate that the declared embedded emissions were subject to a carbon price in the country of origin of the goods ***under the laws applicable in the third country, the carbon price has actually been paid and*** the actual payment for that carbon price ***has not*** been subject to an export rebate or any other form of compensation on exportation.

## Amendment 57

### Proposal for a regulation Article 9 – paragraph 3

*Text proposed by the Commission*

3. The authorised declarant shall keep those 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.

*Amendment*

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

## Amendment 58

### Proposal for a regulation Article 9 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***4a. Where there is a reasonable doubt as to the carbon price paid in the country***



*of origin, the Commission may decide to reject the request to reduce the number of CBAM certificates to be surrendered.*

## **Amendment 59**

### **Proposal for a regulation Article 10 – paragraph 1**

*Text proposed by the Commission*

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 a central database referred to in Article 14(4).

*Amendment*

1. The Commission shall register the information on ***operators of installations located in third countries*** and on ***their installations*** in a central ***public*** database referred to in Article 14(4).

## **Amendment 60**

### **Proposal for a regulation Article 10 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. The request for registration referred to in paragraph 1 shall include the following information to be included in the database upon registration:

*Amendment*

2. The request for registration referred to in paragraph 1 shall include the following information to be included in the ***public*** database upon registration:

## **Amendment 61**

### **Proposal for a regulation Article 10 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) embedded emissions of the operator.***

## **Amendment 62**

### **Proposal for a regulation Article 10 – paragraph 5 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

**(ba) provide a copy of the verification report issued by the verifier under Article 8 and Annex V;**

### **Amendment 63**

#### **Proposal for a regulation Article 10 – paragraph 5 – point c**

*Text proposed by the Commission*

*Amendment*

(c) keep a copy of the verifier’s report as well as records of the information required to calculate the embedded emissions in goods as laid down in Annex IV for a period of **four** years after the verification has been performed.

(c) keep a copy of the verifier’s report as well as records of the information required to calculate the embedded emissions in goods as laid down in Annex IV for a period of **five** years after the verification has been performed.

### **Amendment 64**

#### **Proposal for a regulation Article 10 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

**5a. The operator shall fulfil the requirement laid down in paragraph 5 by 31 January of the following year.**

### **Amendment 65**

#### **Proposal for a regulation Article 10 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

6. The records referred to in paragraph 5, point (c), shall be sufficiently detailed to enable the verification in accordance with paragraph 5, point (b), and to enable **any** competent authority to review, in accordance with Article 19(1), the CBAM declaration made by an authorised

6. The records referred to in paragraph 5, point (c), shall be sufficiently detailed to enable the verification in accordance with paragraph 5, point (b), and to enable **the CBAM authority or any** competent **national authority to verify and** to review, in accordance with Article 19(1), the

declarant to whom the relevant information was disclosed in accordance with paragraph 8.

CBAM declaration made by an authorised declarant to whom the relevant information was disclosed in accordance with paragraph 8.

## Amendment 66

### Proposal for a regulation Article 10 – paragraph 7

*Text proposed by the Commission*

7. An **operator may disclose the information on the verification of embedded emissions referred to in paragraph 5 to an authorised declarant.** The authorised declarant shall be entitled to avail itself of **that disclosed** information to fulfil the obligation referred to in Article 8.

*Amendment*

7. An authorised declarant shall be entitled to avail itself of information **on embedded emissions of an operator registered in the central public database referred to in paragraph 1 of this Article** to fulfil the obligation referred to in Article 8.

## Amendment 67

### Proposal for a regulation Article 10 – paragraph 8

*Text proposed by the Commission*

8. The operator may, **at any time**, ask to be deregistered from the database.

*Amendment*

8. The operator may, **after 10 years from the date of registration in the database**, ask to be deregistered from the database.

## Amendment 68

### Proposal for a regulation Chapter III – title

*Text proposed by the Commission*

**Competent authorities**

*Amendment*

**CBAM authority**

## Amendment 69

**Proposal for a regulation**  
**Article 11 – title**

*Text proposed by the Commission*

*Amendment*

**Competent authorities**

**Appointment of the CBAM authority**

**Amendment 70**

**Proposal for a regulation**  
**Article 11 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

***Each Member State shall designate the competent authority to carry out the obligations under this Regulation and inform the Commission thereof.***

***A central CBAM authority at Union level is established for the purpose of implementing and managing this Regulation.***

**Amendment 71**

**Proposal for a regulation**  
**Article 11 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

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

***Each Member State shall designate the competent national authority to carry out the obligations and cooperate with the CBAM authority under this Regulation and inform the CBAM authority thereof.***

**Amendment 72**

**Proposal for a regulation**  
**Article 11 – paragraph 1 – subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

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

## Amendment 73

### Proposal for a regulation Article 11 – paragraph 2

*Text proposed by the Commission*

2. Member States shall require that competent authorities exchange any information that is essential or relevant to the exercise of their functions and duties.

*Amendment*

2. Member States shall require that competent ***national*** authorities exchange any information that is essential or relevant to the exercise of their functions and duties ***through a network established under the responsibility of the CBAM authority.***

## Amendment 74

### Proposal for a regulation Article 12 – title

*Text proposed by the Commission*

***Commission***

*Amendment*

***Competent national authorities***

## Amendment 75

### Proposal for a regulation Article 12 – paragraph 1

*Text proposed by the Commission*

The ***Commission*** shall ***assist the*** competent authorities in carrying out their obligations under this Regulation and coordinate their activities.

*Amendment*

The ***CBAM authority*** shall ***be assisted by the*** competent ***national*** authorities, in carrying out their obligations under this Regulation and coordinate their activities. ***The CBAM authority shall establish clear and simplified rules and procedures.***

## Amendment 76

### Proposal for a regulation Article 12 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***The competent national authorities shall***

*provide undertakings, in particular SMEs, with technical advice and assistance in order to facilitate their adaptation to the obligations laid down in this Regulation.*

#### Amendment 77

##### Proposal for a regulation Article 13 – paragraph 1

*Text proposed by the Commission*

All information acquired by the **competent** authority in the course of performing **its duty** which is by its nature confidential or which is provided on a confidential basis shall be covered by an obligation of professional secrecy. Such information shall not be disclosed by the competent authority without the express permission of the person or authority that provided it. It may be shared with customs authorities, the Commission and the European Public Prosecutors Office and shall be treated in accordance with Council Regulation (EC) No 515/97.

*Amendment*

All information acquired by the **CBAM** authority **and competent national authorities** 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 an obligation of professional secrecy. Such information shall not be disclosed by **the CBAM authority or** the competent **national** authority without the express permission of the person or authority that provided it. It may be shared with customs authorities, the Commission and the European Public Prosecutors Office and shall be treated in accordance with Council Regulation (EC) No 515/97.

#### Amendment 78

##### Proposal for a regulation Article 14 – title

*Text proposed by the Commission*

**National registries and central database**

*Amendment*

**CBAM Registry**

#### Amendment 79

##### Proposal for a regulation Article 14 – paragraph 1

*Text proposed by the Commission*

1. The **competent authority of each Member State** shall **establish a national registry of declarants authorised in that Member State in the form of a standardised electronic database containing the data regarding the CBAM certificates of those declarants, and to provide for confidentiality** in accordance with the conditions set out in **Article 13**.

*Amendment*

1. The **CBAM Authority** shall **set up a CBAM Registry for the execution of processes relating to** CBAM certificates, in accordance with the conditions set out in **Articles 22 to 24**.

## **Amendment 80**

### **Proposal for a regulation**

#### **Article 14 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. The **database referred to in paragraph 1** shall contain **accounts** with information about each authorised declarant, in particular:

*Amendment*

2. The **CBAM Registry** shall contain **a database** with information about each authorised declarant, in particular:

## **Amendment 81**

### **Proposal for a regulation**

#### **Article 14 – paragraph 2 – point d**

*Text proposed by the Commission*

(d) the number, the price of sale, the date of purchase, the date **of surrender, or the date of re-purchase, or that of the cancellation by the competent authority, of CBAM certificates for** each authorised declarant.

*Amendment*

(d) the number, the price of sale, the date of purchase, the date certificates **held by** each authorised declarant.

## **Amendment 82**

### **Proposal for a regulation**

#### **Article 14 – paragraph 3**

*Text proposed by the Commission*

3. The information in the database referred to in paragraph 2 shall be confidential.

*Amendment*

3. The information in the database referred to in paragraph 2 shall be ***available to the public, unless it is proven that it is business confidential in accordance with applicable Union law. Confidential information shall include meaningful non-confidential summaries. Information equivalent to that made publicly available regarding Union procedures under the EU ETS central database shall be made public.***

**Amendment 83**

**Proposal for a regulation  
Article 14 – paragraph 4**

*Text proposed by the Commission*

4. The ***Commission*** shall establish a central database accessible to the public containing the names, addresses ***and*** contact details of the operators ***and*** the location of installations in third countries in accordance with Article 10(2). ***An operator may choose not to have its name, address and contact details accessible to the public.***

*Amendment*

4. The ***CBAM authority*** shall establish a central database accessible to the public containing the names, addresses, contact details of the operators, the location of installations in third countries, ***and their embedded emissions***, in accordance with Article 10(2).

**Amendment 84**

**Proposal for a regulation  
Article 15 – paragraph 1**

*Text proposed by the Commission*

1. The ***Commission*** shall act as central administrator to maintain an independent transaction log recording the purchase of CBAM certificates, their holding, surrender, re-purchase and cancellation and ensure coordination of national registries.

*Amendment*

1. The ***CBAM authority*** shall act as central administrator to maintain an independent transaction log recording the purchase of CBAM certificates, their holding, surrender, re-purchase and cancellation and ensure coordination of national registries.



## Amendment 85

### Proposal for a regulation Article 15 – paragraph 3

*Text proposed by the Commission*

3. If irregularities are identified as a result of the controls carried out under paragraph 2, the Commission shall inform the Member State or Member States concerned for further investigation in order to correct the identified irregularities.

*Amendment*

3. If irregularities are identified as a result of the controls carried out under paragraph 2, the Commission shall inform the Member State or Member States concerned for further investigation in order to correct the identified irregularities.  
***Identified irregularities shall be corrected at the latest within one month of the day on which they were identified, and, where appropriate, penalties pursuant to Article 26 shall apply.***

## Amendment 86

### Proposal for a regulation Article 16 – title

*Text proposed by the Commission*

Accounts in *the national registries*

*Amendment*

Accounts in ***CBAM registry***

## Amendment 87

### Proposal for a regulation Article 16 – paragraph 1

*Text proposed by the Commission*

1. The ***competent*** authority shall assign to each authorised declarant a unique CBAM account number.

*Amendment*

1. The ***CBAM*** authority shall assign to each authorised declarant a unique CBAM account number.

## Amendment 88

### Proposal for a regulation Article 16 – paragraph 2

*Text proposed by the Commission*

2. Each authorised declarant shall be granted access to its account in the registry.

*Amendment*

2. Each authorised declarant shall be granted access to its account in the **CBAM** registry **to fulfil its obligations pursuant to Article 10**.

## **Amendment 89**

### **Proposal for a regulation**

#### **Article 16 – paragraph 3**

*Text proposed by the Commission*

3. The **competent** authority shall set up the account **as soon as the** authorisation **referred to in Article 17(1) is granted** and notify the authorised declarant thereof.

*Amendment*

3. The **CBAM** authority shall set up the account **at the time of** authorisation and notify the authorised declarant thereof.

## **Amendment 90**

### **Proposal for a regulation**

#### **Article 16 – paragraph 4**

*Text proposed by the Commission*

4. If the authorised declarant has ceased its economic activity or **its** authorisation **was revoked, the competent** authority shall close the account of that declarant.

*Amendment*

4. If the authorised declarant has ceased its economic activity or **the CBAM** authorisation **is withdrawn, the CBAM** authority shall close the account of that declarant.

## **Amendment 91**

### **Proposal for a regulation**

#### **Article 16 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4a. The Commission shall, by means of implementing acts, lay down procedures concerning management of the accounts of the CBAM Registry. Those implementing acts shall be adopted**

*in accordance with the advisory procedure referred to in Article 29(2).*

## Amendment 92

### Proposal for a regulation

#### Article 17 – paragraph 1 – introductory part

*Text proposed by the Commission*

1. The competent authority shall authorise a declarant who submits an application for authorisation in accordance with Article 5(1), if the following conditions are fulfilled:

*Amendment*

1. The competent ***national*** authority shall authorise a declarant who submits an application for authorisation in accordance with Article 5(1), if the following conditions are fulfilled:

## Amendment 93

### Proposal for a regulation

#### Article 17 – paragraph 1 – point a

*Text proposed by the Commission*

(a) the declarant ***has*** not been involved in a serious infringement or repeated infringements of customs legislation, taxation rules and market abuse rules and has no record of serious criminal offences relating to its economic activity during the five years preceding the application;

*Amendment*

(a) the declarant ***and the operators of installations located in third countries from which the declarants source goods have*** not been involved in a serious infringement or repeated infringements of customs legislation, ***circumvention of antidumping or antisubsidy duties,*** taxation rules and market abuse rules and has no record of serious criminal offences relating to its economic activity during the five years preceding the application;

## Amendment 94

### Proposal for a regulation

#### Article 17 – paragraph 1 – point b a (new)

*Text proposed by the Commission*

*Amendment*

***(ba) the declarant has not repeatedly failed to comply with CBAM obligations in accordance with Article 26 and has not***

*been involved in practices of circumvention in accordance with Article 27.*

## **Amendment 95**

### **Proposal for a regulation Article 17 – paragraph 2**

*Text proposed by the Commission*

2. Where the competent authority finds that the conditions listed in paragraph 1 are not fulfilled, or where the applicant has failed to provide the information listed in Article 5(3), the authorisation of the declarant shall be refused.

*Amendment*

2. Where the competent ***national*** authority finds that the conditions listed in paragraph 1 are not fulfilled, or where the applicant has failed to provide the information listed in Article 5(3), the authorisation of the declarant shall be refused.

## **Amendment 96**

### **Proposal for a regulation Article 17 – paragraph 3**

*Text proposed by the Commission*

3. If the competent authority refuses to authorise a declarant, the declarant requesting the authorisation may, prior to an appeal, object to the relevant authority under national law, who shall either instruct the national administrator to open the account or uphold the refusal in a reasoned decision, subject to requirements of national law that pursue a legitimate objective compatible with this Regulation and are proportionate.

*Amendment*

3. If the competent ***national*** authority refuses to authorise a declarant, the declarant requesting the authorisation may, prior to an appeal, object to the relevant authority under national law, who shall either instruct the national administrator to open the account or uphold the refusal in a reasoned decision, subject to requirements of national law that pursue a legitimate objective compatible with this Regulation and are proportionate.

## **Amendment 97**

### **Proposal for a regulation Article 17 – paragraph 4 – introductory part**

*Text proposed by the Commission*

4. A decision of the competent authority authorising a declarant shall contain the following information

*Amendment*

4. A decision of the competent ***national*** authority authorising a declarant shall contain the following information

**Amendment 98**

**Proposal for a regulation**

**Article 17 – paragraph 4 – point c**

*Text proposed by the Commission*

(c) the ***CBAM*** account number.

*Amendment*

(c) the account number ***in the CBAM register***.

**Amendment 99**

**Proposal for a regulation**

**Article 17 – paragraph 6 – introductory part**

*Text proposed by the Commission*

6. The competent authority shall require the provision of a guarantee in order to authorise a declarant in accordance with paragraph 1, if the declarant was not established throughout the two financial years that precede the year when the application in accordance with Article 5(1) was submitted.

*Amendment*

6. The competent ***national*** authority shall require the provision of a guarantee in order to authorise a declarant in accordance with paragraph 1, if the declarant was not established throughout the two financial years that precede the year when the application in accordance with Article 5(1) was submitted.

**Amendment 100**

**Proposal for a regulation**

**Article 17 – paragraph 6 – subparagraph 1**

*Text proposed by the Commission*

The competent authority shall fix the amount of such guarantee at the maximum amount, as estimated by the competent authority, of the value of the CBAM certificates that the authorised declarant

*Amendment*

The competent ***national*** authority shall fix the amount of such guarantee at the maximum amount, as estimated by the competent authority, of the value of the CBAM certificates that the authorised

have to surrender, in accordance with Article 22.

declarant have to surrender, in accordance with Article 22.

## **Amendment 101**

### **Proposal for a regulation Article 17 – paragraph 7**

#### *Text proposed by the Commission*

7. The guarantee shall be provided as a bank guarantee, payable at first demand, by a financial institution operating in the Union or by another form of guarantee which provides equivalent assurance. Where the competent authority establishes that the guarantee provided does not ensure, or is no longer certain or sufficient to ensure the amount of CBAM obligations, it shall require the authorised declarant either to provide an additional guarantee or to replace the initial guarantee with a new guarantee, according to its choice.

#### *Amendment*

7. The guarantee shall be provided as a bank guarantee, payable at first demand, by a financial institution operating in the Union or by another form of guarantee which provides equivalent assurance. Where the competent ***national*** authority establishes that the guarantee provided does not ensure, or is no longer certain or sufficient to ensure the amount of CBAM obligations, it shall require the authorised declarant either to provide an additional guarantee or to replace the initial guarantee with a new guarantee, according to its choice.

## **Amendment 102**

### **Proposal for a regulation Article 17 – paragraph 8**

#### *Text proposed by the Commission*

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

#### *Amendment*

8. The competent ***national*** authority shall release the guarantee after the authorised declarant has surrendered CBAM certificates in accordance with Article 22 ***and the CBAM declaration submitted pursuant to Article 6 has been verified pursuant to Article 8.***

## **Amendment 103**

### **Proposal for a regulation Article 17 – paragraph 8 a (new)**

*Text proposed by the Commission*

*Amendment*

**8a.** *The CBAM authority may verify the accuracy and completeness of the information provided by the applicant in accordance with Article 5(3) and the existence, authenticity, accuracy and validity of any supporting document. Such controls may be carried out at the premises of the applicant.*

#### **Amendment 104**

##### **Proposal for a regulation Article 17 – paragraph 9**

*Text proposed by the Commission*

*Amendment*

9. The competent authority shall revoke the authorisation for a declarant who no longer meets the conditions laid down in paragraph 1, or who fails to cooperate with that authority.

9. The competent **national** authority shall revoke the authorisation for a declarant who no longer meets the conditions laid down in paragraph 1, or who fails to cooperate with that authority.

#### **Amendment 105**

##### **Proposal for a regulation Article 17 – paragraph 9 a (new)**

*Text proposed by the Commission*

*Amendment*

**9a.** *The Commission shall, by means of implementing acts, adopt the detailed arrangements for the application of the criteria referred to in paragraph 1 and for guarantees referred to in paragraph 6. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 29(2).*

#### **Amendment 106**

##### **Proposal for a regulation Article 18 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. The Commission is empowered to adopt delegated acts in accordance with Article 28 for the accreditation referred to in paragraph 2, specifying conditions for the control and oversight of accredited verifiers, for the withdrawal of accreditation and for mutual recognition and peer evaluation of the accreditation bodies.**

*deleted*

## **Amendment 107**

### **Proposal for a regulation Article 19 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The competent authority may review the CBAM declaration within the period ending with the **fourth** year after the year in which the declaration should have been submitted. The review may consist in verifying the information provided in the CBAM declaration on the basis of the information communicated by the customs authorities in accordance with Article 25(2) and any other relevant evidence, and on the basis of any audit deemed necessary, including at the premises of the authorised declarant.

1. The **CBAM authority and** competent **national** authority may review the CBAM declaration within the period ending with the **fifth** year after the year in which the declaration should have been submitted. The review may consist in verifying the information provided in the CBAM declaration on the basis of the information communicated by the customs authorities in accordance with Article 25(2) and any other relevant evidence, and on the basis of any audit deemed necessary, including at the premises of the authorised declarant.

## **Amendment 108**

### **Proposal for a regulation Article 19 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. Where a CBAM declaration in accordance with Article 6 has not been submitted, the competent authority of the Member State of establishment of the authorised declarant shall assess the

2. Where a CBAM declaration in accordance with Article 6 has not been submitted, the competent authority of the Member State of establishment of the authorised declarant shall assess the



CBAM obligations of that declarant on the basis of the information at its disposal and calculate the total number of CBAM certificates due at the latest by the 31 December of the *fourth year following that* when the CBAM declaration should have been submitted.

CBAM obligations of that declarant on the basis of the information at its disposal and calculate the total number of CBAM certificates due at the latest by the 31 December of the *fifth year* when the CBAM declaration should have been submitted.

## Amendment 109

### Proposal for a regulation Article 20 – paragraph 2

#### *Text proposed by the Commission*

2. The competent authority shall ensure that each CBAM certificate is assigned a unique unit identification code upon its creation and shall register the unique unit identification number, the price and date of sale of the certificate in the *national* registry in the account of the authorised declarant purchasing it.

#### *Amendment*

2. The competent authority shall ensure that each CBAM certificate is assigned a unique unit identification code upon its creation and shall register the unique unit identification number, the price and date of sale of the certificate in the *CBAM* registry in the account of the authorised declarant purchasing it.

## Amendment 110

### Proposal for a regulation Article 22 – paragraph 1

#### *Text proposed by the Commission*

1. By 31 May of each year, the authorised declarant shall surrender a number of CBAM certificates to the competent authority that corresponds to the embedded emissions declared in accordance with Article 6(2)(c) and verified in accordance with Article 8 for the calendar year preceding the surrender

#### *Amendment*

1. By 31 May of each year, the authorised declarant shall surrender a number of CBAM certificates to the competent authority that corresponds to the embedded emissions declared in accordance with Article 6(2)(c) and verified in accordance with Article 8 for the calendar year preceding the surrender. *The authorised declarant shall identify the specific CBAM certificates to be surrendered, using their unique unit identification codes.*

## Amendment 111

### Proposal for a regulation Article 22 – paragraph 2

*Text proposed by the Commission*

2. For the purposes of paragraph 1, the authorised declarant shall ensure that the required number of CBAM certificates is available on its account in the ***national*** registry. In addition, the authorised declarant shall ensure that the number of CBAM certificates on its account in the national registry at the end of each quarter corresponds to at least 80 per cent of the embedded emissions, determined by reference to default values in accordance with the methods set out in Annex III, in all goods it has imported since the beginning of the calendar year.

*Amendment*

2. For the purposes of paragraph 1, the authorised declarant shall ensure that the required number of CBAM certificates is available on its account in the ***CBAM*** registry. In addition, the authorised declarant shall ensure that the number of CBAM certificates on its account in the national registry at the end of each quarter corresponds to at least 80 per cent of the embedded emissions, determined by reference to default values in accordance with the methods set out in Annex III, in all goods it has imported since the beginning of the calendar year.

## Amendment 112

### Proposal for a regulation Article 22 – paragraph 4

*Text proposed by the Commission*

4. ***The recipient of the notification referred to in paragraph 3 may lodge an appeal of the notification. The recipient of the notification shall be provided with information regarding the procedure to be followed in the event of an appeal.***

*Amendment*

***deleted***

## Amendment 113

### Proposal for a regulation Article 23 – paragraph 1

*Text proposed by the Commission*

1. The competent authority of each Member State shall, on request by a declarant authorised in that Member State,

*Amendment*

1. The competent authority of each Member State shall, on request by a declarant authorised in that Member State,

re-purchase the excess of CBAM certificates remaining on the account of the declarant in the *national* registry after the certificates have been surrendered in accordance with Article 22. The request to re-purchase shall be submitted by 30 June of each year when CBAM certificates were surrendered.

re-purchase the excess of 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 request to re-purchase shall be submitted by 30 June of each year when CBAM certificates were surrendered.

## Amendment 114

### Proposal for a regulation Article 23 – paragraph 2

*Text proposed by the Commission*

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

*Amendment*

2. The number of certificates subject to re-purchase as referred to in paragraph 1 shall be limited to one third of the total CBAM certificates purchased by the authorised declarant during the previous calendar year. ***The authorised declarant shall identify the unique unit identification codes of the CBAM certificates to be re-purchased.***

## Amendment 115

### Proposal for a regulation Article 23 – paragraph 3

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 116

### Proposal for a regulation Article 24 – paragraph 1

*Text proposed by the Commission*

By 30 June of each year, the competent authority of each Member State shall cancel any CBAM certificates that were purchased during the year before the previous calendar year and that remained in the accounts in the ***national*** registry of the declarants ***authorised in that Member State***.

*Amendment*

By 30 June of each year, the competent authority of each Member State shall cancel any CBAM certificates that were purchased during the year before the previous calendar year and that remained in the accounts in the ***CBAM*** registry of the declarants.

**Amendment 117**

**Proposal for a regulation**  
**Article 25 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***5a. Once the investigations under Article 27 have been initiated and having informed the Member States in due time, the Commission may direct the customs authorities to take the appropriate steps to register imports, so that measures may subsequently be applied against those imports from the date of such registration. Imports shall be made subject to registration following a request from the Union industry, which contains sufficient evidence to justify such action. Imports may also be made subject introduced by Commission regulation. Such regulation shall specify the purpose of the action and, if appropriate, the estimated amount of possible future liability. Imports shall not be made subject to registration for a period longer than nine months. The investigation shall be concluded within four months.***

**Amendment 118**

**Proposal for a regulation**  
**Article 26 – title**

*Text proposed by the Commission*

*Amendment*

Penalties

Penalties *in relation to imports of goods*

### **Amendment 119**

#### **Proposal for a regulation**

#### **Article 26 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

**1a.** *The penalty referred to in paragraph 1 shall apply mutatis mutandis to any authorised declarant who, within the time limit specified in Article 19(3), fails to surrender CBAM certificates corresponding to the number indicated by the Commission on the basis of that provision.*

### **Amendment 120**

#### **Proposal for a regulation**

#### **Article 26 – paragraph 4 – point f**

*Text proposed by the Commission*

*Amendment*

(f) of the right of the authorised declarant or of the person to appeal ***under national rules***.

(f) of the right of the authorised declarant or of the person to appeal.

### **Amendment 121**

#### **Proposal for a regulation**

#### **Article 26 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4a.** *In the event of a repeated failure to surrender a number of CBAM certificates corresponding to the emissions embedded in goods imported during the previous year, or in the event of submission of false information in the*

***CBAM declaration, an authorised declarant, and any of its related parties, may be automatically excluded from the register for a period of three years from the date of exclusion. The respective verifier – and any of its related parties - who has certified the accuracy of the information in the CBAM declaration shall have its certification withdrawn by the competent authority.***

## **Amendment 122**

### **Proposal for a regulation Article 26 – paragraph 5**

*Text proposed by the Commission*

5. ***Member States*** may apply administrative or criminal sanctions for failure to comply with the CBAM legislation in ***accordance with their national rules in*** addition to penalties referred to in ***paragraph 2***. Such sanctions shall be effective, proportionate and dissuasive.

*Amendment*

5. ***The CBAM authority*** may apply administrative or criminal sanctions for failure to comply with the CBAM legislation in addition to penalties referred to in ***paragraphs 2 and 4a***. Such sanctions shall be effective, proportionate and dissuasive.

## **Amendment 123**

### **Proposal for a regulation Article 27 – paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

1. The Commission shall take action, ***on its own initiative or at the request of a Member State***, based on relevant and objective data, in accordance with this Article, to address practices of circumvention of this Regulation.

## **Amendment 124**

### **Proposal for a regulation Article 27 – paragraph 2**

*Text proposed by the Commission*

2. Practices of circumvention include situations where a change in the pattern of trade in relation to goods included in the scope of this Regulation has insufficient due cause or economic justification other than avoiding obligations as laid down in this Regulation and consist in replacing those goods with slightly modified products, which are not included in the list of goods in Annex I but belong to a sector included in the scope of this Regulation.

*Amendment*

2. Practices of circumvention include ***in particular*** situations where a change in the pattern of trade in relation to goods included in the scope of this Regulation has insufficient due cause or economic justification other than avoiding obligations as laid down in this Regulation and consist in:

***(a)*** replacing those goods with slightly modified products, which are not included in the list of goods in Annex I but belong to a sector included in the scope of this Regulation;

***(b)*** *transhipment of those goods through third countries with the result of excluding such goods from CBAM under Article 2(3) or securing lower embedded emissions due to the application of Article 7 with respect to default values (transhipment);*

***(c)*** *redirecting to the Union the sales of goods covered by CBAM with lower embedded emissions that were sold to other markets during a reference period, while redirecting to other markets the sales of goods covered by CBAM with higher embedded emissions that were exported to the Union during the same reference period, without a corresponding decrease in total embedded emissions for goods covered by CBAM for the producer in question (resource shuffling);*

***(d)*** *the slight modification of a product to make it fall under another customs code which is not subject to the obligations of this Regulation;*

***(e)*** *false declarations regarding the identity of the producer, the product concerned, the nature of the product concerned or the production process;*

*(f) replacing those goods by goods with a lower carbon content than those normally produced in the exporting country, exclusively for the purpose of exporting to the customs territory of the Union, for instance via practices of resource shuffling.*

## Amendment 125

### Proposal for a regulation

#### Article 27 – paragraph 3

*Text proposed by the Commission*

3. A Member State or any party affected or benefitted by the situations described in paragraph 2 may notify the Commission if it is confronted, ***over a two-month period*** compared ***with the same period in the preceding year*** with a significant decrease in the volume of imported goods included in the scope of this Regulation and an increase of volume of imports of slightly modified products, which are not included in the list of goods in Annex I. The Commission shall ***continually*** monitor any significant change of pattern of trade of goods ***and slightly modified products*** at Union level.

*Amendment*

3. A Member State or any party affected or benefitted by the situations described in paragraph 2 may notify the Commission if it is confronted, ***when*** compared ***to a reference*** period with a significant decrease in the volume of:

***(a)*** imported goods included in the scope of this Regulation and an increase of volume of imports of slightly modified products, which are not included in the list of goods in Annex I;

***(b)*** ***imported goods included in the scope of this Regulation exported from one or more exporting countries and an increase of volume of imported goods exported from different exporting countries, as set out in paragraph 2, point (b);***

***(c)*** ***imported goods with high embedded emissions included in the scope of this Regulation, produced by a third-country producer and a corresponding***



*increase of volume of imported goods with low imbedded emissions produced by the same foreign producer, as set out in paragraph 2, point (c).*

The Commission shall *continuously* monitor any significant change of pattern of trade of goods at Union level.

## Amendment 126

### Proposal for a regulation Article 27 – paragraph 5

#### *Text proposed by the Commission*

5. Where the Commission, taking into account the relevant data, reports and statistics, including when provided by the customs authorities of Member States, has sufficient reasons to believe that the circumstances referred to in paragraph 3 are occurring *in one or more Member States, it is empowered to adopt delegated acts in accordance with Article 28 to supplement* the scope of this Regulation in order to include slightly modified products for anti-circumvention purposes.

#### *Amendment*

5. Where the Commission, taking into account the relevant data, reports and statistics, including when provided by the customs authorities of Member States, has sufficient reasons to believe that the circumstances referred to in:

(a) paragraph 2, point (a) are occurring, *it shall propose to amend* the scope of this Regulation in order to include slightly modified products for anti-circumvention purposes;

(b) paragraph 2, point (b) are occurring, *it shall immediately order a registration of imports and shall initiate the verification of CBAM declarations for goods imported from the relevant countries, with a particular focus on confirming the country of origin and the proper application of actual and default values under Article 7 and Annex V;*

(c) paragraph 2, point (c) are occurring, *it shall establish embedded emissions for the purposes of Article 7 at the level of the third-country producer regardless of where goods are sold,*

*instead of establishing embedded emissions only for the goods exported to the Union.*

#### **Amendment 127**

##### **Proposal for a regulation Article 27 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

**5a. Investigations shall be initiated by the Commission or at the request of a Member State or of any interested party on the basis of sufficient evidence regarding the factors set out in paragraph 2. The Commission shall carry out investigations and impose a penalty on an authorised declarant involved in circumvention practices. Where deemed appropriate, the penalty shall also entail the withdrawal of import authorisation.**

#### **Amendment 128**

##### **Proposal for a regulation Article 27 – paragraph 5 b (new)**

*Text proposed by the Commission*

*Amendment*

**5b. Commission decisions regarding penalties as referred to in paragraph 5a shall be subject to an appeal procedure.**

#### **Amendment 129**

##### **Proposal for a regulation Article 27 – paragraph 5 c (new)**

*Text proposed by the Commission*

*Amendment*

**5c. The Commission shall be empowered to adopt delegated acts in accordance with Article 28 to address practices of circumvention that are not**

*based on the modification of products included in the list of goods in Annex I.*

## Amendment 130

### Proposal for a regulation Article 30 – paragraph 1

*Text proposed by the Commission*

1. The Commission shall collect the information necessary with a view to extending the scope of this Regulation to indirect emissions **and goods other than those listed in Annex I, and** develop methods of calculating embedded emissions based on environmental footprint methods.

*Amendment*

1. The Commission shall, **after consulting the relevant stakeholders,** collect the information necessary with a view to extending the scope of this Regulation to indirect emissions **as well as to other goods at risk of carbon leakage, such as plastics, hydrogen, finished goods and downstream products, and to** develop methods of calculating embedded emissions based on **the** environmental footprint methods. **The Commission shall submit a report to the European Parliament and to the Council by 31 December 2025.**

## Amendment 131

### Proposal for a regulation Article 30 – paragraph 2

*Text proposed by the Commission*

2. Before the end of the transitional period, the Commission shall **present** a report to the European Parliament and the Council on the application of this Regulation. The report shall contain, in particular, the assessment of the possibilities to further extend the scope of embedded emissions to indirect emissions **and** to other goods at risk of carbon leakage **than those already covered by this Regulation, as well as an** assessment of the governance system. It shall also contain the assessment of the possibility to further extend the scope to embedded emissions of

*Amendment*

2. Before the end of the **administrative** transitional period **1 January 2023 - 31 December 2026**, the Commission shall **submit** a report to the European Parliament and the Council on the **transitional** application of this Regulation. The report shall contain, in particular:

transportation services as well as to goods further down the value chain and services that may be subject to the risk of carbon leakage in the future.

**(a)** the assessment of the possibilities to further extend the scope of embedded emissions, *with a particular focus on energy-intensive sectors and any potential loss of indirect ETS cost compensation under Article 10a(6) of Directive 2003/87/EC;*

**(b)** *evaluation of the impact on sectors listed in Annex I to ensure that the complex production process and deeply integrated value chains of specific sectors have been appropriately taken into account;*

**(c)** *an in-depth assessment, developed in close cooperation with the stakeholders concerned, of the possibilities to further extend the scope of Annex I to indirect emissions, as well as to other goods at risk of carbon leakage, such as plastics, hydrogen, finished goods and downstream products, and to develop methods of calculating embedded emissions based on the environmental footprint methods;*

**(d)** *the assessment of the impact on competitiveness of European industry and the maturity of new technologies, as well the downstream industry, in particular the impact on SMEs, with a proposal to remedy any negative impact on the competitiveness of such users, and any possible disproportionate administrative burden;*

**(e)** *an identification of possible circumvention and fraud practices and distortion in trade patterns;*

**(f)** an assessment of the governance system.

It shall also contain the assessment of the possibility to further extend the scope to embedded emissions of transportation services as well as to goods further down the value chain and services that may be

subject to the risk of carbon leakage in the future.

#### **Amendment 132**

##### **Proposal for a regulation Article 30 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. The Commission report referred to in paragraph 2 shall, where appropriate, be accompanied by a legislative proposal to extend the scope of this Regulation to other sectors listed in Annex I and to indirect emissions provided for in paragraph 2, point (c).**

#### **Amendment 133**

##### **Proposal for a regulation Article 30 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

**2b. A comprehensive transitional period shall be established from 1 January 2027 to 31 December 2027. The Commission shall establish a framework for the purpose of ensuring that the measures applied during that period comply with WTO rules.**

#### **Amendment 134**

##### **Proposal for a regulation Article 30 – paragraph 2 c (new)**

*Text proposed by the Commission*

*Amendment*

**2c. By the end of the comprehensive transitional period referred to in paragraph 2b, the Commission shall submit a report to the European Parliament and to the Council containing**

*its assessment of the full application of this Regulation. The report shall, in particular, focus on:*

- (a) the impact on European industry and downstream industry of sectors listed in Annex I, as well as on SMEs, and any possible additional administrative burden for SMEs;*
- (b) the impact of CBAM on Union trade of goods listed in Annex I and possible circumvention practices;*
- (c) assessing whether a change in pattern in trade in goods listed in Annex I occurred in countries exporting those goods to the Union and whether resource-shuffling takes places;*
- (d) assessing the impact of CBAM on emissions from sectors producing goods listed in Annex I, as relating to both emissions in the Union and emissions embedded in Union imports of those goods, as well as exports of those goods to third countries from third country installations exporting to the Union;*
- (e) assessing the efficacy of emission reporting in CBAM declarations, verifications of CBAM declarations by verifiers, third country inspections, actual and default emissions data collection and use, as well as the consistency of reporting data from the same imports among different importers and Member States;*
- (f) the risk of carbon leakage on export markets and WTO-compatible solutions such as export adjustment mechanisms that would equalise carbon costs;*
- (g) assessing per sector whether a CBAM is still effective and practicable for the sector concerned, specifically for manufacturing industries facing serious difficulties.*

## Amendment 135

### Proposal for a regulation Article 30 – paragraph 2 d (new)

*Text proposed by the Commission*

*Amendment*

**2d. The effective implementation of CBAM and the contingent phase out of free allocations shall be continuously monitored. The Commission may consider review mechanisms to appropriately address the results of the monitoring procedure in this Article.**

## Amendment 136

### Proposal for a regulation Article 30 – paragraph 3

*Text proposed by the Commission*

*Amendment*

**3. The report by the Commission shall, if appropriate, be accompanied by a legislative proposal.**

*deleted*

## Amendment 137

### Proposal for a regulation Article 31 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. The CBAM certificates *to* be surrendered in accordance with Article 22 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.*

1. **By 31 December 2026**, the CBAM certificates *shall* be surrendered in accordance with Article 22. **The Commission shall implement those measures** in accordance with **WTO rules**.

## **Amendment 138**

### **Proposal for a regulation**

#### **Article 31 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. By 31 December 2027, the CBAM certificates shall also be adjusted to reflect the start of the phasing-out of free EU ETS allowances 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.***

## **Amendment 139**

### **Proposal for a regulation**

#### **Article 31 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***1b. In order ensure a level playing field for Union products destined for export, in the sectors covered by the scope of Annex I to this Regulation, the Commission shall, by 31 December 2027, submit to the European Parliament and to the Council a report, if necessary accompanied by legislative measures, on the impact of Union exports of those sectors in the global markets, assessing a possible export adjustment mechanism that balances/compensates for the costs of CO<sub>2</sub> with the different pricing schemes of third countries, subject to WTO rules.***

## **Amendment 140**

### **Proposal for a regulation**

#### **Article 36 – paragraph 3 – point -a (new)**

*Text proposed by the Commission*

*Amendment*

***(-a) Article 30(2a) shall apply from 1***



*January 2027 until 31 December 2027.*

#### **Amendment 141**

##### **Proposal for a regulation**

##### **Article 36 – paragraph 3 – point a**

*Text proposed by the Commission*

(a) Articles 32 to 34 shall apply until 31 December **2025**.

*Amendment*

(a) Articles 32 to 34 shall apply until 31 December **2026**.

#### **Amendment 142**

##### **Proposal for a regulation**

##### **Article 36 – paragraph 3 – point b**

*Text proposed by the Commission*

(b) Article 35 shall apply until 28 February **2026**.

*Amendment*

(b) Article 35 shall apply until 28 February **2027**.

#### **Amendment 143**

##### **Proposal for a regulation**

##### **Article 36 – paragraph 3 – point d**

*Text proposed by the Commission*

(d) Articles 4, 6, 7, 8, 9, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 31 shall apply from 1 January **2026**.

*Amendment*

(d) Articles 4, 6, 7, 8, 9, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 31 shall apply from 1 January **2027**.

#### **Amendment 144**

##### **Proposal for a regulation**

##### **Article 36 – paragraph 3 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

**(da) Article 31(1a) shall apply from 31 December 2027.**

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Establishing a carbon border adjustment mechanism
<b>References</b>	COM(2021)0564 – C9-0328/2021 – 2021/0214(COD)
<b>Committee responsible</b> Date announced in plenary	ENVI 13.9.2021
<b>Opinion by</b> Date announced in plenary	ITRE 13.9.2021
<b>Associated committees - date announced in plenary</b>	11.11.2021
<b>Rapporteur for the opinion</b> Date appointed	Izabela-Helena Kloc 1.10.2021
<b>Discussed in committee</b>	2.2.2022
<b>Date adopted</b>	20.4.2022
<b>Result of final vote</b>	+ : 57 - : 16 0 : 3
<b>Members present for the final vote</b>	Matteo Adinolfi, Nicola Beer, François-Xavier Bellamy, Hildegard Bentele, Vasile Blaga, Michael Bloss, Manuel Bompard, Paolo Borchia, Marc Botenga, Markus Buchheit, Cristian-Silviu Buşoi, Jerzy Buzek, Maria da Graça Carvalho, Ignazio Corrao, Ciarán Cuffe, Josianne Cutajar, Nicola Danti, Pilar del Castillo Vera, Christian Ehler, Niels Fuglsang, Lina Gálvez Muñoz, Claudia Gamon, Jens Geier, Bart Groothuis, Christophe Grudler, András Gyürk, Henrike Hahn, Robert Hajšel, Ivo Hristov, Ivars Ijabs, Eva Kaili, Seán Kelly, Izabela-Helena Kloc, Łukasz Kohut, Zdzisław Krasnodębski, Andrius Kubilius, Miapetra Kumpula-Natri, Thierry Mariani, Marisa Matias, Eva Maydell, Georg Mayer, Joëlle Mélin, Iskra Mihaylova, Dan Nica, Angelika Niebler, Niklas Nienä, Ville Niinistö, Aldo Patriciello, Mauri Pekkarinen, Mikuláš Peksa, Tsvetelina Penkova, Morten Petersen, Pina Picierno, Markus Pieper, Clara Ponsatí Obiols, Manuela Ripa, Robert Roos, Sara Skytvedal, Maria Spyrali, Jessica Stegrud, Beata Szydło, Riho Terras, Grzegorz Tobiszowski, Patrizia Toia, Isabella Tovaglieri, Henna Virkkunen, Pernille Weiss, Carlos Zorrinho
<b>Substitutes present for the final vote</b>	Pascal Arimont, Cornelia Ernst, Klemen Grošelj, Alicia Homs Ginell, Nora Mebarek, Jutta Paulus, Ernő Schaller-Baross, Susana Solís Pérez

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

57	+
ECR	Izabela-Helena Kloc, Zdzisław Krasnodębski, Beata Szydło, Grzegorz Tobiszowski
ID	Matteo Adinolfi, Paolo Borchia, Thierry Mariani, Joëlle Mélin, Isabella Tovaglieri
NI	András Gyürk, Ernő Schaller-Baross
PPE	Pascal Arimont, François-Xavier Bellamy, Hildegard Bentele, Vasile Blaga, Cristian-Silviu Buşoi, Jerzy Buzek, Maria da Graça Carvalho, Pilar del Castillo Vera, Christian Ehler, Seán Kelly, Andrius Kubilius, Eva Maydell, Angelika Niebler, Aldo Patriciello, Markus Pieper, Sara Skytvedal, Maria Spyrali, Riho Terras, Henna Virkkunen, Pernille Weiss
Renew	Nicola Beer, Nicola Danti, Claudia Gamon, Bart Groothuis, Klemen Grošelj, Christophe Grudler, Ivars Ijabs, Iskra Mihaylova, Mauri Pekkarinen, Morten Petersen, Susana Solís Pérez
S&D	Josianne Cutajar, Niels Fuglsang, Lina Gálvez Muñoz, Jens Geier, Robert Hajšel, Alicia Homs Ginel, Eva Kaili, Lukasz Kohut, Miapetra Kumpula-Natri, Nora Mebarek, Dan Nica, Tsvetelina Penkova, Pina Picierno, Patrizia Toia, Carlos Zorrinho

16	-
ID	Markus Buchheit, Georg Mayer
NI	Clara Ponsatí Obiols
The Left	Manuel Bompard, Marc Botenga, Cornelia Ernst, Marisa Matias
Verts/ALE	Michael Bloss, Ignazio Corrao, Ciarán Cuffe, Henrike Hahn, Niklas Nienaß, Ville Niinistö, Jutta Paulus, Mikuláš Peksa, Manuela Ripa

3	0
ECR	Robert Roos, Jessica Stegrud
S&D	Ivo Hristov

Key to symbols:

+ : in favour

- : against

0 : abstention

28.3.2022

## **OPINION OF THE COMMITTEE ON DEVELOPMENT**

for the Committee on the Environment, Public Health and Food Safety

on the proposal for a regulation of the European Parliament and of the Council establishing a carbon border adjustment mechanism  
(COM(2021)0564 – C9-0328/2021 – 2021/0214(COD))

Rapporteur for opinion: Evin Incir

### **SHORT JUSTIFICATION**

While designed and presented by the Commission as an arrangement to avoid ‘carbon leakage’, CBAM’s potential to help reduce greenhouse gas emissions in non-EU countries, regardless of possible ‘carbon leakage’, is important and should also be focused on.

The foreseen use of CBAM revenue to cover a share of the payments on the € 450 million Next Generation EU loans from private creditors does not help to protect the climate, and thus makes the character of CBAM ambiguous. Using the CBAM revenue for new climate protection measures in developing countries with particular needs improves its legitimacy as a permissible arrangement under article XX of the General Agreement on Tariffs and Trade.

The reinvestments of revenue in climate resilience would set a precedent for future CBAM systems. It is in the interest of our planet, vulnerable communities and the EU that revenues from such systems are used for climate action rather than for allowing public expenditure reductions. Channelling CBAM revenue for support to developing countries is necessary also because the system imposes several kinds of costs on third countries, such as; the price that should be paid for greenhouse gas emissions, the costs of the considerable administrative work required for compliance (calculation of emissions, reporting, verification), losses of export revenue when goods is rendered uncompetitive, costs of necessary investments to regain competitiveness.

Countries and producers with the ability to shoulder costs for reducing their emissions should do so and can rightly be penalised if they fail to meet requirements. The same does not apply for countries with small resources and urgent needs to focus on adaptation to climate change, so as to limit human and material losses caused e.g. by hurricanes, floods, draughts, desertification, plagues propagating as a result of destabilisations or breakdowns of ecosystems, sea level rise, coastal erosion and salinisation. Such countries should not only be protected from having to carry additional burdens because of CBAM. They should also be supported to handle the impacts of climate change, for which they carry little or almost no responsibility.

Eligible countries for the support generated by CBAM revenue should be the 46 Least

Developed Countries. However, the administrative and financial burdens caused by CBAM will also affect countries such as Cameroon, Ghana and Zimbabwe, all of which are developing, but not LDCs. Adding Lower-Middle Income Countries particularly affected by CBAM is thus important.

Parliament recognised in its 10 March 2021 resolution on CBAM the need to increase the EU's contribution to climate finance for developing countries. Encouragingly, calls for the direction of the CBAM revenue to such countries are raised in several committees, by rapporteurs and other Members belonging to several groups. The question of how to do this has, however, so far not been addressed.

Compensation for CBAM costs should not crowd out assistance for basic health care services, food security, education etc or for other expenditure in the MFF's category 6: 'Neighbourhood and the World'.

## AMENDMENTS

The Committee on Development calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a regulation

#### Recital 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(3a) The Union remains committed to the UN Climate Summit (COP15) pledge in Copenhagen 2009, that 100 billion USD annually is to be raised for climate action in developing countries.***

### Amendment 2

#### Proposal for a regulation

#### Recital 3 b (new)

*Text proposed by the Commission*

*Amendment*

***(3b) The Union recalls the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts.***

### Amendment 3

#### Proposal for a regulation Recital 9

*Text proposed by the Commission*

(9) The initiative for a carbon border adjustment mechanism ('CBAM') is a part of the 'Fit for 55 Package'. **That mechanism** is to serve as an essential element of the EU toolbox to meet the objective of a climate-neutral Union by 2050 in line with the Paris Agreement by addressing risks of carbon leakage resulting from the increased Union climate ambition.

*Amendment*

(9) The initiative for a carbon border adjustment mechanism ('CBAM') is a part of the 'Fit for 55 Package' **and of the Union's overall response to the global climate emergency. The CBAM** is to serve as an essential element of the EU toolbox to meet the objective of a climate-neutral Union by 2050 in line with the Paris Agreement by addressing risks of carbon leakage resulting from the increased Union climate ambition.

### Amendment 4

#### Proposal for a regulation Recital 12

*Text proposed by the Commission*

(12) **While the** objective of the CBAM is to **prevent** the risk of carbon leakage, **this Regulation would also encourage** the use of more GHG emissions-efficient technologies by producers **from** third countries, so that less emissions per unit of output are generated.

*Amendment*

(12) **The** objective of the CBAM is to **support the implementation of the Paris Agreement and contribute to the Union's climate action by preventing** the risk of carbon leakage, **including by** the use of more GHG emissions-efficient technologies by producers **in** third countries **and the adoption of GHG emission-pricing and other arrangements in that respect in such countries**, so that less emissions per unit of output are generated.

### Amendment 5

#### Proposal for a regulation Recital 12 a (new)

*Text proposed by the Commission*

*Amendment*

**(12a) The Commission and the Member**

*States should seek to prevent negative net socioeconomic impacts of the CBAM on least developed countries. To that end, the Commission and the Member States should implement provisions in this Regulation with flexibility and provide targeted technical and financial support to them, in accordance with Article 24a. The Commission should implement this Regulation with due regard for LDCs and provide flexibility where possible, while reducing CBAM surrender obligations in relation to goods imported from least developed countries, as appropriate and compatible with WTO rules. The Commission should monitor the efficiency of the flexibility and support, regularly report to the European Parliament and the Council on its findings in that regard and act on those findings as necessary.*

## **Amendment 6**

### **Proposal for a regulation**

#### **Recital 13**

##### *Text proposed by the Commission*

(13) As an instrument to prevent carbon leakage and reduce GHG emissions the CBAM should ensure that imported products are subject to a regulatory system that applies carbon costs equivalent to the ones that otherwise would have been borne under the EU ETS. The CBAM is a climate measure which should prevent the risk of carbon leakage and support the Union's increased ambition on climate mitigation, *while ensuring WTO compatibility.*

##### *Amendment*

(13) As an instrument to prevent carbon leakage and reduce GHG emissions the CBAM should ensure that imported products are subject to a regulatory system that applies carbon costs equivalent to the ones that otherwise would have been borne under the EU ETS. The CBAM is a climate measure which should prevent the risk of carbon leakage and support the Union's increased ambition on climate mitigation. *It should be WTO compatible, pay proper attention to impacts on countries which are recognised by the UN as least developed countries or countries which have been identified by the World Bank as lower middle-income countries and which have been particularly affected by the CBAM. Support should be provided to countries in those categories, in respect of the principle of policy coherence for*

*development laid down in Article 208 TFEU, and contribute to the honouring of the Union's and other developed countries' commitment to provide new and additional, predictable and adequate funding for climate action in developing countries.*

#### *Justification*

*The commitment referred to was initially made in paragraph 8 of the Copenhagen Accord in the context of the UNFCCC process for international climate action. It is still not being honoured, as the climate finance provided cannot be said to be additional to the official development assistance delivered for different purposes. Neither is the climate finance provided adequate, given the enormous acute needs of poor countries.*

### **Amendment 7**

#### **Proposal for a regulation**

#### **Recital 18**

##### *Text proposed by the Commission*

(18) The EU ETS and the CBAM have a common objective of pricing GHG 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 GHG emissions, in line with the environmental objective set out in Union.

##### *Amendment*

(18) The EU ETS and the CBAM have a common objective of pricing GHG 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 GHG emissions, in line with the environmental objective set out in Union. ***The revenues generated through the sale of the CBAM certificates should be used to support climate action in countries in which the CBAM imposes a minimum price for the greenhouse gas emissions associated with the production of relevant goods exported to the Union. This greatly increases the effectiveness and integrity of the CBAM as a climate protection arrangement and will help generate acceptance and support for this system at international level, including in the WTO. It also increases the symmetry with the EU ETS.***



## Justification

*Using CBAM for repayment of Next Generation EU loans, thereby slightly reducing Member States' payment burden, does nothing for the climate. It weakens CBAM's credibility as a legitimate trade measure under article XX of GATT. CBAM imposes a price on GHG emissions and increases investment needs and causes compliance challenges and costs. The impact assessment recognises that "Many countries in the Global South, and on the African continent in particular, are exposed to relatively high risks" (part 2, annex III, p 21-22). Poor countries should be compensated and get support.*

## Amendment 8

### Proposal for a regulation

#### Recital 52

##### *Text proposed by the Commission*

(52) The Commission should evaluate the application of this Regulation before the end of the transitional period and report to the European Parliament and the Council. The report of the Commission should in particular focus on possibilities to enhance climate actions towards the objective of a climate neutral Union by 2050. The Commission should, as part of that evaluation, initiate collection of information necessary to possibly extend the scope to indirect emissions, as well as to other goods and services at risk of carbon leakage, and to develop methods of calculating embedded emissions based on the environmental footprint methods<sup>47</sup>.

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<sup>47</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).

##### *Amendment*

(52) The Commission should evaluate the application of this Regulation before the end of the transitional period and report to the European Parliament and the Council. The report of the Commission should in particular focus on possibilities to enhance climate actions towards the objective of a climate neutral Union by 2050. ***It should also evaluate the potential impact of this Regulation on Least Developed Countries and how it can assist in the accelerating the decarbonisation process in those countries.*** The Commission should, as part of that evaluation, initiate collection of information necessary to possibly extend the scope to indirect emissions, as well as to other goods and services at risk of carbon leakage, and to develop methods of calculating embedded emissions based on the environmental footprint methods<sup>47</sup>.

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<sup>47</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).

## Amendment 9

### Proposal for a regulation Recital 55

*Text proposed by the Commission*

(55) As the CBAM aims to encourage cleaner production processes, the EU stands ready to ***work with low and middle-income countries towards the*** de-carbonisation of ***their*** manufacturing industries. ***Moreover, the Union should support less developed countries with the necessary technical assistance in order to facilitate their adaptation to the new obligations established by this regulation.***

*Amendment*

(55) As the CBAM aims to encourage cleaner production processes, the EU stands ready to ***provide technical and financial assistance to support*** de-carbonisation of manufacturing industries ***in low-income countries and lower middle-income countries. The CBAM revenue will also be used for provision of financial support to least developed countries, as well as to countries not belonging to this category, but defined by the World Bank as a lower middle-income country and facing particularly important costs related to the CBAM, including compliance costs and costs for investments to bring down relevant emissions towards levels similar to those of competing producers in the Union or in other third countries. In this light, the CBAM should not harm or hinder the socioeconomic progress of least developed countries.***

## Amendment 10

### Proposal for a regulation Recital 57 a (new)

*Text proposed by the Commission*

*Amendment*

***(57a) The Commission should regularly monitor any changes in trade flows from Least Developed Countries attributable to the CBAM in order to evaluate the efficiency of this Regulation, including its contribution to the prevention of carbon leakage and its impact on trade flows between the Union and Least Developed Countries. The Commission should also regularly monitor the technical assistance provided to Least Developed Countries in***

*order to evaluate its effectiveness in contributing to the decarbonisation process in those countries.*

## Amendment 11

### Proposal for a regulation

#### Recital 59

##### *Text proposed by the Commission*

(59) 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 on Better Law-Making of 13 April 2016<sup>51</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.

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<sup>51</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

##### *Amendment*

(59) 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 on Better Law-Making of 13 April 2016<sup>51</sup>, ***and also guarantee the participation of local civil society organisations, governments and other stakeholders in developing countries.*** 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.

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<sup>51</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

## Amendment 12

### Proposal for a regulation

#### Article 1 – paragraph 1

##### *Text proposed by the Commission*

1. This Regulation establishes a

##### *Amendment*

1. This Regulation establishes a

carbon border adjustment mechanism (the ‘CBAM’) for addressing greenhouse gas emissions embedded in the goods referred to in Annex I, upon their importation into the customs territory of the Union, in order to prevent the risk of carbon leakage.

carbon border adjustment mechanism (the ‘CBAM’) for addressing greenhouse gas emissions embedded in the goods referred to in Annex I, upon their importation into the customs territory of the Union, in order to prevent the risk of carbon leakage **and contribute to the reduction of global greenhouse gas emissions. It incentivises and supports the reduction of emissions in third countries, while not harming or hindering the socioeconomic progress of least developed countries.**

### **Amendment 13**

#### **Proposal for a regulation Article 3 – paragraph 1 – point 28 a (new)**

*Text proposed by the Commission*

*Amendment*

**(28a) ‘Least developed country’ means country included in the list of such countries established by the United Nation’s Economic and Social Committee;**

### **Amendment 14**

#### **Proposal for a regulation Article 3 – paragraph 1 – point 28 b (new)**

*Text proposed by the Commission*

*Amendment*

**(28b) ‘Lower middle-income country’ means country classified as such by the World Bank.**

### **Amendment 15**

#### **Proposal for a regulation Article 24 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 24a**

*Usage of the revenues from the sale of the  
CBAM certificates*

- 1. The revenue generated from the sale of the CBAM certificates, or the equivalent in financial value, shall be used for investments with the purpose of reducing greenhouse gas emissions and facilitating transitions into resource-efficient economies and societies with increased resilience against impacts of climate change in the least developed countries and lower-middle income countries. At the same time, it will serve to finance technical assistance and support that compensate compliance costs in those countries and to the extent necessary to cover the costs of the operation, maintenance and enforcement of the CBAM.*
- 2. The financing of climate action and compliance shall not crowd out other development and humanitarian assistance, the support provided in third countries shall also be guided by the Sustainable Development Goals as well as the goals established in the Global Europe-NDICI Regulation and the Paris agreement.*
- 3. Beneficiary countries shall be selected among least developed countries, as well as among lower middle-income countries particularly affected by CBAM.*
- 4. Decisions taken in accordance with paragraphs 1 and 4 shall be guided by the principles of the UN's Agenda 2030, the Sustainable Development Goals and the poverty reduction and eradication primary objective of the Union's development policy, as well as by the goals established in the Global Europe – NDICI Regulation, ensuring coherence with the Global Gateway strategy. The Commission shall on a yearly basis report to the European Parliament and the Council on this implementation, including on the results achieved, in order to ensure transparency.*

## *Justification*

*Revenue should be used for climate action in third countries. Recommend that the Commission report how these resources have been spent to ensure they do not crowd out other development or humanitarian assistance. Gender-sensitivity is important as impacts both of climate change and of climate actions can be very different for women and men and gender equality should be strived for, as set out in SDG 5.*

### **Amendment 16**

#### **Proposal for a regulation Article 30 – paragraph 2**

##### *Text proposed by the Commission*

2. Before the end of the transitional period, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation. The report shall contain, in particular, the assessment of the possibilities to further extend the scope of embedded emissions to indirect emissions and to other goods at risk of carbon leakage than those already covered by this Regulation, as well as an assessment of the governance system. It shall also contain the assessment of the possibility to further extend the scope to embedded emissions of transportation services as well as to goods further down the value chain and services that may be subject to the risk of carbon leakage in the future.

##### *Amendment*

2. Before the end of the transitional period, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation. The report shall contain, in particular, the assessment of the possibilities to further extend the scope of embedded emissions to indirect emissions and to other goods at risk of carbon leakage than those already covered by this Regulation, as well as an assessment of the governance system. It shall also contain the assessment of the possibility to further extend the scope to embedded emissions of transportation services as well as to goods further down the value chain and services that may be subject to the risk of carbon leakage in the future. ***Finally, it shall also contain an analysis of the financial, environmental and social impact of the CBAM in least developed countries.***

### **Amendment 17**

#### **Proposal for a regulation Article 30 – paragraph 2 a (new)**

##### *Text proposed by the Commission*

##### *Amendment*

***2a. The Commission shall regularly monitor any changes in trade flows from Least Developed Countries (LDCs)***

*attributable to the CBAM with regard to any product covered under this Regulation, in order to evaluate the impact of this Regulation on the LDCs and the impact of trade flows between the Union and the LDCs. The Commission shall also regularly monitor the technical assistance provided to the LDCs in order to evaluate its effectiveness in contributing to the decarbonisation process in those countries.*

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Establishing a carbon border adjustment mechanism
<b>References</b>	COM(2021)0564 – C9-0328/2021 – 2021/0214(COD)
<b>Committee responsible</b> Date announced in plenary	ENVI 13.9.2021
<b>Opinion by</b> Date announced in plenary	DEVE 16.12.2021
<b>Rapporteur for the opinion</b> Date appointed	Evin Incir 24.1.2022
<b>Date adopted</b>	22.3.2022
<b>Result of final vote</b>	+: 23 –: 3 0: 0
<b>Members present for the final vote</b>	Barry Andrews, Eric Andrieu, Anna-Michelle Asimakopoulou, Hildegard Bentele, Dominique Bilde, Udo Bullmann, Catherine Chabaud, Antoni Comín i Oliveres, Ryszard Czarnecki, Gianna Gancia, Charles Goerens, Mónica Silvana González, Pierrette Herzberger-Fofana, György Hölvényi, Rasa Juknevičienė, Beata Kempa, Karsten Lucke, Pierfrancesco Majorino, Erik Marquardt, Christian Sagartz, Tomas Tobé, Miguel Urbán Crespo, Chrysoula Zacharopoulou, Bernhard Zimniok
<b>Substitutes present for the final vote</b>	Benoît Biteau, Marlene Mortler



## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

23	+
ID	Dominique Bilde, Gianna Gancia
NI	Antoni Comín i Oliveres
PPE	Anna-Michelle Asimakopoulou, Hildegard Bentele, György Hölvényi, Rasa Juknevičienė, Marlene Mortler, Christian Sagartz, Tomas Tobé
Renew	Barry Andrews, Catherine Chabaud, Charles Goerens, Chrysoula Zacharopoulou
S&D	Eric Andrieu, Udo Bullmann, Mónica Silvana González, Karsten Lucke, Pierfrancesco Majorino
The Left	Miguel Urbán Crespo
Verts/ALE	Benoît Biteau, Pierette Herzberger-Fofana, Erik Marquardt

3	-
ECR	Ryszard Czarnecki, Beata Kempa
ID	Bernhard Zimniok

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention

6.4.2022

## **OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS**

for the Committee on the Environment, Public Health and Food Safety

on the proposal for a regulation of the European Parliament and of the Council establishing a carbon border adjustment mechanism  
(COM(2021)0564 – C9-0328/2021 – 2021/0214(COD))

Rapporteur for opinion: Damien Carême

### **SHORT JUSTIFICATION**

In 2015 the European Union signed the Paris Agreement, in which countries made a commitment to limit the rise in temperatures to 1.5 °C. Six years on it is clear that global warming is triggering tipping points within ecosystems<sup>1</sup> and that the EU's target of a 55% reduction in net emissions by 2030 is not enough to stay on the pathway of the Paris Agreement: more ambitious measures are needed.

Since the effects of climate change are felt all over the planet and the climate emergency knows no borders, coordinated global action is required. This is one of the main objectives of the Carbon Border Adjustment Mechanism (CBAM): to encourage greater climate ambition internationally through a virtuous circle of pricing of carbon and other greenhouse gases. To live up to its promise, the mechanism must be designed to give industries in Europe and elsewhere a real incentive to reduce their emissions and accelerate their transition.

To act as an incentive to reduce emissions in the EU and worldwide, the CBAM must replace current protection measures against the risks of carbon leakage. The CBAM's targets are incompatible with the maintenance until 2035 of allowances allocated free of charge to the sectors covered by the mechanism. Maintaining these allowances would not only hamper the application of the 'polluter pays' principle, but would also considerably weaken the incentive to take climate action within and outside the EU, given that more than 95% of industrial emissions<sup>2</sup> are currently covered by free allowances. To respond to the climate emergency while taking account of the affected industries' need to gather information and plan ahead, a two-year transition period should be provided for. The CBAM should come into force fully from 1 January 2025, in parallel with the phasing out of the free allowances.

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<sup>1</sup> Preliminary Findings of the Intergovernmental Panel on Climate Change (IPCC), June 2021.

<sup>2</sup> <https://ercst.org/2020-state-of-the-eu-ets-report/>

Furthermore, as a tool of our climate policy, the CBAM should focus not only on the ETS sectors presenting the greatest risk of carbon leakage, but also and especially on the sectors that contribute the most to global warming. Although the Commission's proposal includes a number of the most carbon-intensive sectors, others such as the chemical and plastics sectors are absent: a proposal that also covers the missing sectors and downstream products should be put forward before the end of the transitional period. In addition, as soon as the mechanism comes into force, its scope should be extended to indirect emissions because their inclusion would better reflect the carbon cost borne by European industry and would encourage third countries exporting to the EU to adopt production processes that generate lower emissions too.

It is essential to ensure that implementation of the CBAM is effective and fair. Consequently, any fraud should be carefully examined and severely punished. If necessary, the CBAM should be adapted to prevent and combat these practices. Closer coordination between the competent authorities of the Member States is also essential in this regard. The creation of a European CBAM Authority should be seriously examined to facilitate the mechanism's implementation and strengthen coordination between authorities: before the end of the transitional period, the Commission will have to provide a detailed examination of the question, accompanied by a legislative proposal on the matter, where relevant.

Finally, since the CBAM aims to encourage a greater climate ambition internationally, the implementation of this mechanism should be accompanied by multilateral and bilateral cooperation initiatives on the climate. With this in mind, at least a share of the revenues generated by the CBAM should be used to help support climate action in the least developed countries. This reinforces the coherence of the objectives of this mechanism and its compatibility with WTO principles. It should also be recognised that the impact of carbon pricing can be much greater for low-income countries. That is why countries designated by the UN as least developed countries should be exempted from some CBAM obligations, while giving the Commission responsibility for ensuring that this does not lead to circumventions.

The CBAM is essential to reduce emissions at European and global level while protecting industries from competition that is unfair and dangerous for the climate. However, it is vitally important to recognise that the CBAM will not be sufficient to decarbonise European industry and to secure global climate action that is finally in line with the Paris Agreement targets. At national, European and global level, the CBAM must be part of a much more extensive policy of decarbonising industry, reducing emissions and preserving biodiversity.

## AMENDMENTS

The Committee on Economic and Monetary Affairs calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to take into account the following amendments:

## Amendment 1

### Proposal for a regulation Recital 1

#### *Text proposed by the Commission*

(1) The Commission has, in its communication on the European Green Deal<sup>31</sup>, set out a new growth strategy that 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 ('GHG emissions') in 2050 and where economic growth is decoupled from resource use. The European Green Deal also aims to protect, conserve and enhance the EU's natural capital, **and** 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 EU Action Plan: Towards Zero Pollution for Air, Water and Soil<sup>32</sup> the promotion of relevant instruments and incentives to better implement the polluter pays principle as 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.

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<sup>31</sup> Communication from the Commission of 11 December 2019 on the European Green Deal (COM(2019)0640).

<sup>32</sup> Communication from the Commission of 12 May 2021 on Pathway to a Healthy

#### *Amendment*

(1) The Commission has, in its communication on the European Green Deal<sup>31</sup>, set out a new growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient, **open** and competitive economy, where there are no net emissions (emissions after deduction of removals) of greenhouse gases ('GHG emissions') in 2050 and where economic growth is decoupled from resource use. The European Green Deal also aims to protect, conserve and enhance the EU's natural capital, **to** protect the health and well-being of citizens **and future generations** from environment-related risks and impacts **and to contribute to the achievement of the objectives of the Paris Agreement and the Convention on Biological Diversity, as well as the United Nations Sustainable Development Goals**. At the same time, that transformation must be just and inclusive, leaving no one behind. The Commission also announced in its EU Action Plan: Towards Zero Pollution for Air, Water and Soil<sup>32</sup> the promotion of relevant instruments and incentives to better implement the polluter pays principle as 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.

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<sup>31</sup> Communication from the Commission of 11 December 2019 on the European Green Deal (COM(2019)0640).

<sup>32</sup> Communication from the Commission of 12 May 2021 on Pathway to a Healthy

## Amendment 2

### Proposal for a regulation

#### Recital 2 a (new)

*Text proposed by the Commission*

*Amendment*

***(2a) Subject to compliance with the specific measures set out in Article XX of the General Agreement on Tariffs and Trade, there is nothing to prevent the adoption or application by any WTO member of measures necessary to protect the health and life of people and animals and the preservation of plant life, or related to the conservation of finite natural resources.***

## Amendment 3

### Proposal for a regulation

#### Recital 3

*Text proposed by the Commission*

*Amendment*

(3) Tackling climate and other environmental-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.

(3) Tackling climate and other environmental-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 ***public health, national health systems and citizens' health security, as well as on the resilience of economies, the competitiveness of companies in the Union and the economic well-being of the Union's citizens, particularly with regard to employment and working conditions.***

## Amendment 4

### Proposal for a regulation

#### Recital 6

*Text proposed by the Commission*

(6) The Special Report of the Intergovernmental Panel on Climate Change (IPCC) on the impacts of global temperature increases of 1.5°C above pre-industrial levels and related global GHG emission pathways<sup>36</sup> 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, GHG emissions need to be urgently reduced, and that climate change needs to be limited to a global temperature increase of 1.5°C.

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<sup>36</sup> IPCC, 2018: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J.B.R. Matthews, Y. Chen, X. Zhou, M.I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, and T. Waterfield (eds.)].

## **Amendment 5**

### **Proposal for a regulation** **Recital 7 a (new)**

*Text proposed by the Commission*

*Amendment*

(6) The Special Report of the Intergovernmental Panel on Climate Change (IPCC) on the impacts of global temperature increases of 1.5°C above pre-industrial levels and related global GHG emission pathways<sup>36</sup> 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, GHG emissions need to be urgently reduced, and that climate change needs to be limited to a global temperature increase of 1.5°C. ***Only through multilateral efforts and if the Union and its main trading partners step up their efforts will it be possible to achieve the objectives set out in the Paris Agreement.***

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<sup>36</sup> IPCC, 2018: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J.B.R. Matthews, Y. Chen, X. Zhou, M.I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, and T. Waterfield (eds.)].

*Amendment*

***(7a) The Union has a responsibility to continue to play a leading role in global***

*climate action, in cooperation with all of the world's other economies.*

## Amendment 6

### Proposal for a regulation Recital 8

*Text proposed by the Commission*

(8) As long as a significant number of the Union's international partners have policy approaches that do not result in 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 were to transfer production to other countries or imports from those countries would replace equivalent but less GHG emissions intensive products. That could lead to an increase in their total emissions globally, thus jeopardising the reduction of GHG emissions that is urgently needed if the world is to keep the global average temperature to well below 2 °C above pre-industrial levels.

*Amendment*

(8) As long as a significant number of the Union's international partners have policy approaches that do not result in the same level of climate ambition *and action in mitigating climate change, and as the Union increases its climate ambition*, there *could be* a risk of carbon leakage. Carbon leakage occurs if, for reasons of costs related to climate policies, businesses in certain industry sectors or subsectors were to transfer production to other countries *that do not tax GHG emissions or tax at a lower rate* or imports from those countries would replace equivalent but less GHG emissions intensive products. That could lead to an increase in their total emissions globally, thus jeopardising the reduction of GHG emissions that is urgently needed if the world is to keep the global average temperature to well below 2 °C above pre-industrial levels. *The risk of carbon leakage is particularly prevalent in trade-exposed and carbon-intensive industrial sectors.*

## Amendment 7

### Proposal for a regulation Recital 9

*Text proposed by the Commission*

(9) The initiative for a carbon border adjustment mechanism ('CBAM') is a part of the 'Fit for 55 Package'. That mechanism is to serve as an essential element of the EU toolbox to meet the

*Amendment*

(9) The initiative for a carbon border adjustment mechanism ('CBAM') is a part of the 'Fit for 55 Package'. That mechanism is to serve as an essential element of the EU toolbox to meet the



objective of a climate-neutral Union **by 2050** in line with the Paris Agreement by addressing risks of carbon leakage resulting from the increased Union climate ambition.

objective of a climate-neutral Union **fully** in line with the Paris Agreement **and WTO rules** by addressing risks of carbon leakage resulting from the increased Union climate ambition **whilst ensuring a level playing field within the single market and by incentivising more ambitious climate action internationally**.

## Amendment 8

### Proposal for a regulation Recital 10

#### *Text proposed by the Commission*

(10) Existing mechanisms to address the risk of carbon leakage in sectors or sub-sectors at risk of carbon leakage are the transitional free allocation of EU ETS allowances and financial measures to compensate for indirect emission costs incurred from GHG emission costs passed on in electricity prices respectively laid down in Articles 10a(6) and 10b of Directive 2003/87/EC. However, free allocation under the EU ETS **weakens** the price signal that the system provides for the installations receiving **it** compared to full auctioning and **thus affects** the incentives for investment into further abatement of emissions.

#### *Amendment*

(10) Existing mechanisms to address the risk of carbon leakage in sectors or sub-sectors at risk of carbon leakage are the transitional free allocation of EU ETS allowances and financial measures to compensate for indirect emission costs incurred from GHG emission costs passed on in electricity prices respectively laid down in Articles 10a(6) and 10b of Directive 2003/87/EC. However, free allocation under the EU ETS **and compensation for indirect emission costs have contributed to reducing the risk of carbon leakage but weaken** the price signal that the system provides for the installations receiving **them** compared to full auctioning and **payment in full of indirect emission costs, and thus affect** the incentives for investment into further abatement of emissions. **Moreover, in its 2020 audit report, the European Court of Auditors found that the transitional free allocation of allowances under the EU ETS between 2013 and 2018 was not well enough targeted to encourage the reduction of greenhouse gas emissions. Furthermore, the free allowances under the ETS weaken the CBAM's compatibility with WTO rules. The CBAM will therefore be introduced in parallel with the phasing out of the free**



*allowances.*

## Amendment 9

### Proposal for a regulation

#### Recital 11

*Text proposed by the Commission*

(11) The CBAM seeks to replace *these* 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.*

## Amendment 10

### Proposal for a regulation

#### Recital 11 a (new)

*Text proposed by the Commission*

*Amendment*

(11) The CBAM seeks to replace *progressively the* existing carbon leakage *mechanisms*, by ensuring equivalent carbon pricing for imports and domestic products *and while ensuring that Union products exported to the global market are not replaced by more carbon intensive products, which would undermine the objective of reducing global emissions. The allocation* of free allowances should be phased out *in parallel with the phasing-in* of the CBAM.

*(11a) This gradual transition should be supported by a review mechanism in which the Commission assesses the implementation and the effectiveness of the instrument in terms of protecting against the risk of carbon leakage. Moreover, the Commission should carry out an analysis of the mechanism's impact on export markets and assess the necessity of introducing support measures for exports that would remain WTO-compliant and consistent with the Union's climate and environmental objectives or*

*other measures to address the carbon leakage risk on export markets.*

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## Amendment 11

### Proposal for a regulation

#### Recital 12

*Text proposed by the Commission*

(12) *While the objective of the CBAM is to prevent the risk of carbon leakage, this Regulation would also encourage the use of more GHG emissions-efficient technologies by producers from third countries, so that less emissions per unit of output are generated.*

*Amendment*

(12) The CBAM would also *promote the reduction of the Union's imported emissions by encouraging the deployment and* use of more GHG emissions-efficient technologies by producers from third countries, so that less emissions per unit of output are generated. *It will therefore be relevant to export more sustainable products manufactured in the Union and avoid substitutes at a global level with higher carbon footprints, thus preserving the Union's economic and industrial competitiveness.*

## Amendment 12

### Proposal for a regulation

#### Recital 12 a (new)

*Text proposed by the Commission*

*Amendment*

*(12a) While the objective of the CBAM, combined with a revised ETS, is primarily to reduce GHG emissions inside and outside the Union in the pursuit of the Paris Agreement targets and the 2050 decarbonisation target, the CBAM could also bring other economic and climate benefits. By contributing to ensuring effective and meaningful carbon pricing, this Regulation can act as an economic incentive to spur investments in the decarbonisation of the economies of the Union and the world and promote the reduction of the Union's imported*

*emissions. This Regulation can also act as an incentive for a greater climate ambition and promote multilateral dialogue with a view to setting a minimum carbon price globally.*

## Amendment 13

### Proposal for a regulation

#### Recital 13

##### *Text proposed by the Commission*

(13) As an instrument to prevent carbon leakage and reduce GHG emissions the CBAM should ensure that imported products are subject to a regulatory system that applies carbon costs equivalent to the ones that otherwise would have been borne under the EU ETS. The CBAM is a climate measure which should prevent the risk of carbon leakage and support the Union's increased ambition on climate mitigation, while ensuring WTO compatibility.

##### *Amendment*

(13) As an instrument to prevent carbon leakage and reduce GHG emissions the CBAM should ensure that imported products are subject to a regulatory system that applies carbon costs equivalent to the ones that otherwise would have been borne under the EU ETS. The CBAM is a climate ***and environmental protection*** measure which should prevent the risk of carbon leakage and support the Union's increased ambition on climate mitigation, while ensuring WTO compatibility.

## Amendment 14

### Proposal for a regulation

#### Recital 15

##### *Text proposed by the Commission*

(15) In order to exclude from the CBAM third countries or territories fully integrated into, or linked, to the EU ETS in the event of future agreements, the power to adopt acts in accordance with Article 290 of TFEU should be delegated to the Commission in respect of amending the list of countries in Annex II. Conversely, those third countries or territories should be excluded from the list in Annex II and be subject to CBAM whereby they do not effectively charge the ETS price on goods exported to the Union.

##### *Amendment*

(15) In order to exclude from the CBAM third countries or territories fully integrated into, or linked, to the EU ETS in the event of future agreements, ***and where the carbon cost burden is equivalent to that under the EU ETS***, the power to adopt acts in accordance with Article 290 of TFEU should be delegated to the Commission in respect of amending the list of countries in Annex II. Conversely, those third countries or territories should be excluded from the list in Annex II and be subject to CBAM whereby they do not effectively charge the ETS price on goods exported to the Union.

***The Commission should consistently monitor the status of third countries in order to allow for an appropriate classification.***

## Amendment 15

### Proposal for a regulation

#### Recital 17

*Text proposed by the Commission*

(17) The GHG emissions to be regulated by the CBAM should correspond to those GHG emissions covered by Annex I to the EU ETS in Directive 2003/87/EC, namely carbon dioxide ('CO<sub>2</sub>') as well as, where relevant, nitrous oxide ('N<sub>2</sub>O') and perfluorocarbons ('PFCs'). The CBAM should ***initially*** apply to direct emissions of those GHG from the production of goods up to the time of import into the customs territory of the Union, and after the end of a transition period ***and upon further assessment***, as well to indirect emissions, mirroring the scope of the EU ETS.

*Amendment*

(17) The GHG emissions to be regulated by the CBAM should correspond to those GHG emissions covered by Annex I to the EU ETS in Directive 2003/87/EC, namely carbon dioxide ('CO<sub>2</sub>') as well as, where relevant, nitrous oxide ('N<sub>2</sub>O') and perfluorocarbons ('PFCs'). The CBAM should apply to direct emissions of those GHG from the production of goods up to the time of import into the customs territory of the Union, and after the end of a transition period, as well to indirect emissions, mirroring the scope of the EU ETS. ***If the ETS is to cover additional gases, the CBAM should reflect that change and also be extended to cover the emissions of those gases.***

## Amendment 16

### Proposal for a regulation

#### Recital 18

*Text proposed by the Commission*

(18) The EU ETS and the CBAM have a common objective of pricing GHG 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 GHG emissions, in line with the environmental objective set out in Union.

*Amendment*

(18) The EU ETS and the CBAM have a common objective of pricing GHG 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 ***urgent*** need to curb GHG emissions, in line with the environmental objective set out in Union ***and in the Paris***

*Agreement.*

**Amendment 17**

**Proposal for a regulation**

**Recital 20**

*Text proposed by the Commission*

(20) The CBAM system has some specific features compared with the EU ETS, including on the calculation of the price of CBAM certificates, on the possibilities to trade certificates and on their validity over time. These are due to the need to preserve the effectiveness of the CBAM as a measure preventing carbon leakage over time and to ensure that the management of the system is not excessively burdensome in terms of obligations imposed on the operators and of resources for the administration, while at the same time preserving an equivalent level of flexibility available to operators under the EU ETS.

*Amendment*

(20) The CBAM system has some specific features compared with the EU ETS, including on the calculation of the price of CBAM certificates, on the possibilities to trade certificates and on their validity over time. These are due to the need to preserve the effectiveness of the CBAM as a measure preventing carbon leakage over time and to ensure that the management of the system is not excessively burdensome in terms of obligations imposed on the operators and ***Union enterprises, particularly SMEs and micro-enterprises***, of resources for the administration, while at the same time preserving an equivalent level of flexibility available to operators under the EU ETS.

**Amendment 18**

**Proposal for a regulation**

**Recital 21**

*Text proposed by the Commission*

(21) In order to preserve ***its*** effectiveness as a carbon leakage measure, ***the CBAM*** needs to reflect closely the EU ETS price. While on the EU ETS market the price of allowances 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

*Amendment*

(21) In order to preserve ***the CBAM's*** effectiveness as a carbon leakage measure, ***its direct emissions price*** needs to reflect closely the EU ETS price. While on the EU ETS market the price of allowances 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

ETS while at the same ensuring that the system remains manageable for the administrative authorities.

EU ETS while at the same ensuring that the system remains manageable for the administrative authorities. ***The CBAM system should be carefully designed and supervised by the competent authorities to prevent, identify and punish all types of abuse or fraud.***

## Amendment 19

### Proposal for a regulation

#### Recital 22

##### *Text proposed by the Commission*

(22) Under the EU ETS, the total number of allowances issued (the ‘cap’) determines the supply of emission allowances and provides certainty about the maximum emissions of GHG. The carbon price is determined by the balance of this supply against the demand of the market. Scarcity is necessary for there to be a price incentive. As it is not possible to impose a cap on the number of CBAM certificates available to importers, if importers had the possibility to carry forward and trade CBAM certificates, this could result in situations where the price for CBAM certificates would no longer reflect the evolution of the price in the EU ETS. That would weaken the incentive for decarbonisation between domestic and imported goods, favouring carbon leakage and impairing the overarching climate objective of the CBAM. It could also result in different prices for operators of different countries. Therefore, the limits to the possibilities to trade CBAM certificates and to carry them forward is justified by the need to avoid undermining the effectiveness and climate objective of the CBAM and to ensure even handed treatment to operators from different countries. However, in order to preserve the possibility for importers to optimise their costs, this Regulation should foresee a system where ***authorities*** can re-purchase a

##### *Amendment*

(22) Under the EU ETS, the total number of allowances issued (the ‘cap’) determines the supply of emission allowances and provides certainty about the maximum emissions of GHG. The carbon price is determined by the balance of this supply against the demand of the market. Scarcity is necessary for there to be a price incentive. As it is not possible to impose a cap on the number of CBAM certificates available to importers, if importers had the possibility to carry forward and trade CBAM certificates, this could result in situations where the price for CBAM certificates would no longer reflect the evolution of the price in the EU ETS. That would weaken the incentive for decarbonisation between domestic and imported goods, favouring carbon leakage and impairing the overarching climate objective of the CBAM. It could also result in different prices for operators of different countries. Therefore, the limits to the possibilities to trade CBAM certificates and to carry them forward is justified by the need to avoid undermining the effectiveness and climate objective of the CBAM and to ensure even handed treatment to operators from different countries. However, in order to preserve the possibility for importers to optimise their costs, this Regulation should foresee a system where ***the Commission*** can re-

certain amount of excess certificates from the importers. Such amount is set at a level which allows a reasonable margin for importers to leverage their costs over the period of validity of the certificates whilst preserving the overall price transmission effect, ensuring that the environmental objective of the measure is preserved.

purchase a certain amount of excess certificates from the importers. Such amount is set at a level which allows a reasonable margin for importers to leverage their costs over the period of validity of the certificates whilst preserving the overall price transmission effect, ensuring that the environmental objective of the measure is preserved.

## **Amendment 20**

### **Proposal for a regulation**

#### **Recital 23**

*Text proposed by the Commission*

(23) Given that the CBAM applies 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 regime. One of those simplifications should consist in a declarative system where importers should report the total verified GHG 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 resulting from obligations for accredited verifiers under this Regulation and the EU ETS.

*Amendment*

(23) Given that the CBAM applies 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 regime. One of those simplifications should consist in a ***simple and accessible*** declarative system where importers should report the total verified GHG 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 resulting from obligations for accredited verifiers under this Regulation and the EU ETS.

## **Amendment 21**

### **Proposal for a regulation**

#### **Recital 24**

*Text proposed by the Commission*

(24) In terms of sanctions, Member States should apply penalties to infringements of this Regulation and ensure that they are implemented. The amount of those penalties should be identical to penalties currently applied

*Amendment*

(24) In terms of sanctions, Member States should apply penalties to infringements of this Regulation and ensure that they are implemented. The amount of those penalties should be identical to penalties currently applied



within the Union in case of infringement of EU ETS according to Article 16(3) and (4) of Directive 2003/87/EC.

within the Union in case of infringement of EU ETS according to Article 16(3) and (4) of Directive 2003/87/EC. ***Penalties to infringements of this Regulation, including for attempts at circumvention, should be dissuasive, so as to avoid undermining the effectiveness of the CBAM.***

## Amendment 22

### Proposal for a regulation Recital 28

#### *Text proposed by the Commission*

(28) Whilst the ultimate objective of the CBAM is a ***broad*** product coverage, it would be prudent to start with a selected number of sectors ***with relatively homogeneous*** products ***where there is a risk of carbon leakage. Union sectors deemed at risk of carbon leakage are*** listed in Commission Delegated Decision 2019/708<sup>42</sup>.

#### *Amendment*

(28) Whilst the ultimate objective of the CBAM is a ***complete*** product coverage, it would be prudent to start with a selected number of sectors ***that are responsible for the largest share of GHG emissions. Before the end of the transitional period, the Commission should present a legislative proposal to extend the scope of this Regulation to other products than those*** listed in *Annex I*. ***This should be based on an impact assessment on the effects of different possibilities and timelines for this further extension of the scope to the rest of the sectors referred to in the Commission Delegated Decision 2019/708<sup>42</sup>, including, among other elements, an extension to oil, paper, glass, plastics, chemicals and downstream products, as well as the components of finished products that use products covered by this Regulation. The Commission should take account of the potential social impacts of extending the scope and propose measures to minimise those effects, where necessary.***

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<sup>42</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

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<sup>42</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. 2).

sectors and subsectors deemed at risk of carbon leakage for the period 2021 to 2030 (OJ L 120, 8.5.2019, p. 2).

## Amendment 23

### Proposal for a regulation

#### Recital 34

##### *Text proposed by the Commission*

(34) However, 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 closely resembling those of steel products. Inclusion of aluminium is also relevant as the scope of *the CBAM may be extended to cover also* indirect emissions *in the future*.

##### *Amendment*

(34) However, 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 closely resembling those of steel products. Inclusion of aluminium is also relevant as the *Commission should propose an extension of the scope of CBAM to indirect emissions, accompanied by an impact assessment, at the end of the transitional period*.

## Amendment 24

### Proposal for a regulation

#### Recital 39 a (new)

##### *Text proposed by the Commission*

##### *Amendment*

*(39a) While competent authorities are responsible to handle requests for authorisations and to manage national registries, all the necessary information and data should be transmitted to the Commission through the EU central registry database. The Commission should have the responsibility to ensure the coordination of national registries inclusive of accounts of authorised declarants and accredited verifiers, to manage CBAM certificates, it should act as a central administrator and it should have the power to request from competent authorities whenever it considers relevant,*

*information to tackle practices of circumvention, to avoid risks of mismanagement of declarations and CBAM certificates as well as fraud.*

## Amendment 25

### Proposal for a regulation

#### Recital 42

*Text proposed by the Commission*

(42) The system should allow operators of production installations in third countries to register in a central database and to make their verified embedded GHG emissions from production of goods available to authorised declarants. An operator should be able to choose not to have *its name*, address and contact details in the central database made accessible to the public.

*Amendment*

(42) The system should allow operators of production installations in third countries to register in a central database and to make their verified embedded GHG emissions from production of goods available to authorised declarants. An operator should be able to choose not to have address and contact details in the central database made accessible to the public.

## Amendment 26

### Proposal for a regulation

#### Recital 43

*Text proposed by the Commission*

(43) CBAM certificates differ from EU ETS allowances for which daily auctioning is an essential feature. The need to set a clear price for CBAM certificates makes a 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 accurately reflect the pricing trend of EU ETS allowances 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 (on a weekly basis) than in the timeframe established by the EU ETS (on a daily basis). The Commission should be tasked to calculate

*Amendment*

(43) CBAM certificates differ from EU ETS allowances for which daily auctioning is an essential feature. The need to set a clear price for CBAM certificates makes a daily publication excessively burdensome and confusing for operators, as daily prices risk becoming obsolete upon publication. Thus, the publication of CBAM prices *for direct emissions* on a weekly basis would accurately reflect the pricing trend of EU ETS allowances 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 (on a weekly basis) than in the timeframe established by the EU ETS (on a daily basis). The Commission should be

and publish that average price.

tasked to calculate and publish that average price.

## Amendment 27

### Proposal for a regulation Recital 44

#### *Text proposed by the Commission*

(44) In order to give the authorised declarants flexibility in complying with their CBAM obligations and allow them to benefit from fluctuations in the price of EU ETS allowances, the CBAM certificates should be valid for a period of two years from the date of purchase. The authorised declarant should be allowed to re-sell to the ***national authority*** a portion of the certificates bought in excess. The authorised declarant should build up during the year the amount of certificates required at the time of surrendering, with thresholds set at the end of each quarter.

#### *Amendment*

(44) In order to give the authorised declarants flexibility in complying with their CBAM obligations and allow them to benefit from fluctuations in the price of EU ETS allowances, the CBAM certificates should be valid for a period of two years from the date of purchase. The authorised declarant should be allowed to re-sell to the ***Commission*** a portion of the certificates bought in excess. The authorised declarant should build up during the year the amount of certificates required at the time of surrendering, with thresholds set at the end of each quarter.

## Amendment 28

### Proposal for a regulation Recital 50

#### *Text proposed by the Commission*

(50) A transitional period should apply during the period 2023 until 2025. A CBAM without financial adjustment should apply, with the objective to facilitate a smooth roll out of the mechanism hence reducing the risk of disruptive impacts on trade. Declarants should have to report on a quarterly basis the actual embedded emissions in goods imported during the transitional period, detailing direct and indirect emissions as well as any carbon price paid abroad.

#### *Amendment*

(50) A transitional period should apply during the period 2023 until 2025. A CBAM without financial adjustment should apply, with the objective to facilitate a smooth roll out of the mechanism hence reducing the risk of disruptive impacts on trade. Declarants should have to ***submit a quarterly report that is easy to read, accessible and drawn up in accordance with a common template***, on the actual embedded emissions in goods imported during the transitional period, detailing direct and indirect emissions as well as any carbon

price paid abroad.

## Amendment 29

### Proposal for a regulation

#### Recital 52

*Text proposed by the Commission*

(52) The Commission should evaluate the application of this Regulation ***before the end of the transitional period and*** report to the European Parliament and the Council. ***The report of the Commission should in particular focus on possibilities to enhance*** climate actions towards the objective of a climate neutral Union by 2050. The Commission should, as part of that evaluation, initiate collection of information necessary to ***possibly extend the scope to indirect emissions, as well as to other goods and services at risk of carbon leakage, and to develop methods of calculating embedded emissions based on the environmental footprint methods***<sup>47</sup>.

*Amendment*

(52) ***Before the end of the transitional period,*** the Commission should ***collect information,*** evaluate the application of this Regulation ***and develop methods of calculating embedded emissions based on the environmental footprint methods*** and report ***on those matters*** to the European Parliament and the Council. ***Before the end of the transitional period, the Commission should present a legislative proposal to extend to scope of this Regulation to other goods than the ones listed in Annex 1. The Commission should assess the governance system of the mechanism, including in relation to the setting up of a European CBAM Authority, and present an impact assessment, accompanied, if appropriate, by a legislative proposal for a more centralised governance system.*** The Commission should ***produce a report by the end of the transitional period and every five years after that on enhancing*** climate actions towards the objective of a climate neutral Union by 2050. The Commission should, as part of that evaluation, ***assess the risks of circumvention and fraud identified and, where appropriate, propose measures to address them, assess the social effects of extending the regulation and the effectiveness of the mechanism with regard to the risk of carbon leakage and*** initiate collection of information necessary to ***prevent distortion of competition in the Union and in global markets. The Commission should monitor and comment on any challenges brought forward in relation to the CBAM's***

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<sup>47</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).*

## **Amendment 30**

### **Proposal for a regulation Recital 53**

#### *Text proposed by the Commission*

(53) In light of the above, a dialogue with third countries should continue and there should be space for cooperation and solutions that could inform the specific choices that will be made on the details of the design of the measure during the implementation, in particular during the transitional period.

#### *Amendment*

(53) In light of the above, a dialogue with third countries should continue and there should be space for cooperation and solutions that could inform the specific choices that will be made on the details of the design of the measure during the implementation, in particular during the transitional period. ***In that connection, the Commission should work to create an international working group, with, in particular, the WTO and the OECD, to determine the guiding principles on methods of calculating embedded emissions and international rules on carbon pricing mechanisms.***

## **Amendment 31**

### **Proposal for a regulation Recital 54**

#### *Text proposed by the Commission*

(54) The Commission should strive to engage in an even handed manner and in line with the international obligations of the EU, with the third countries whose trade to the EU is affected by this Regulation, to explore possibilities for dialogue and cooperation with regard to the

#### *Amendment*

(54) The Commission should strive to engage in an even handed manner and in line with the international obligations of the EU, with the third countries whose trade to the EU is affected by this Regulation, to explore possibilities for dialogue and cooperation with regard to the

implementation of specific elements of the Mechanism set out this Regulation and related implementing acts. It should also explore possibilities for concluding agreements to take into account their carbon pricing mechanism.

implementation of specific elements of the Mechanism set out this Regulation and related implementing acts. ***In particular, the Commission should maintain a permanent dialogue with third countries that have set carbon pricing and ensure that third countries with equivalent climate policies are not penalised.*** It should also explore possibilities for concluding agreements to take into account their carbon pricing mechanism. ***The Commission should enter into negotiations with third countries that have the same climate ambitions in order to facilitate the trading of products covered by the CBAM, provided that the partner countries apply a carbon adjustment to other countries and a carbon pricing as the Union does. The Commission should also promote the adoption of a carbon pricing system globally, for example through discussions within the OECD Inclusive Framework, and in line with the Paris Agreement targets.***

## Amendment 32

### Proposal for a regulation Recital 55

#### *Text proposed by the Commission*

(55) As the CBAM aims to encourage cleaner production processes, the EU stands ready to work with low and middle-income countries towards the decarbonisation of their manufacturing industries. ***Moreover, the Union should support less developed countries*** with the necessary technical assistance in order to facilitate their adaptation to the new obligations established by this regulation.

#### *Amendment*

(55) As the CBAM aims to encourage cleaner production processes, the EU stands ready to work with low and middle-income countries towards the decarbonisation of their manufacturing industries ***and to provide them*** with the necessary ***strategic documents and*** technical assistance ***and help them to strengthen their environmental technologies and standards***, in order to facilitate their adaptation to the new obligations established by this regulation ***in order to avoid the risk of circumventing the CBAM.***

## Amendment 33

### Proposal for a regulation Recital 55 a (new)

*Text proposed by the Commission*

*Amendment*

***(55a) The relative impacts of carbon prices can be much higher for low-income countries while CBAM may give rise to unintended economic risks due to additional costs for exporters and deteriorating terms of trade especially in the least developed countries (LDCs). To manage such negative impacts the rapid decarbonisation of carbon intensive sectors in those countries is needed. Therefore, financial support in favour of LDCs to reduce greenhouse gas emissions, to adapt to the impacts of climate change, to fund research and development for mitigation and adaptation should be provided.***

## Amendment 34

### Proposal for a regulation Recital 55 b (new)

*Text proposed by the Commission*

*Amendment*

***(55b) All revenues from the sale of carbon border adjustment mechanism certificates should be transferred to the Union budget as own resources, in accordance with the procedures set out in Article 311 TFEU, pursuant to Annex 2 of the legally binding Interinstitutional Agreement between the European Parliament, the Council and the Commission of 16 December 2020<sup>1a</sup> and as proposed by the Commission on 22 December 2021 in its legislative proposal to amend the Own Resources Decision<sup>1b</sup>.***

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<sup>1a</sup> *Interinstitutional Agreement of 16 December 2020 between the European*



*Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap for the introduction of new own resources (OJ L 433I, 22.12.2020, p. 28.).*

*<sup>1b</sup> COM(2021)0570 final*

## Amendment 35

### Proposal for a regulation Recital 58 a (new)

*Text proposed by the Commission*

*Amendment*

***(58a) Given that this Regulation will generate additional compliance costs for affected sectors, compensatory actions need to be taken in order to prevent the total level of regulatory burdens from increasing. Before this Regulation enters into force, the Commission should present, where appropriate, proposals to offset the regulatory burdens brought in by this Regulation.***

## Amendment 36

### Proposal for a regulation Recital 59

*Text proposed by the Commission*

*Amendment*

(59) 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 on Better Law-Making of 13 April 2016<sup>51</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council

(59) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at **the level of the relevant experts and industrial sectors**, 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>51</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the



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.

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.

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<sup>51</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

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<sup>51</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

### **Amendment 37**

#### **Proposal for a regulation Recital 61**

##### *Text proposed by the Commission*

(61) 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.

##### *Amendment*

(61) 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.  
***According to Europol, carbon credit fraud has cost more than EUR 5 billion in lost government revenues. The CBAM system should therefore introduce appropriate and effective mechanisms for avoiding losses of government revenues.***

### **Amendment 38**

#### **Proposal for a regulation Article 1 – paragraph 1**

##### *Text proposed by the Commission*

1. This Regulation establishes a carbon border adjustment mechanism (the 'CBAM') for addressing greenhouse gas emissions embedded in the goods referred

##### *Amendment*

1. This Regulation establishes a carbon border adjustment mechanism (the 'CBAM') for addressing greenhouse gas emissions ('GHG emissions') embedded in

to in Annex I, upon their importation into the customs territory of the Union, in order to prevent the risk of carbon leakage.

the goods referred to in Annex I, upon their importation into the customs territory of the Union, in order to prevent the risk of carbon leakage **and to encourage the reduction of GHG emissions globally.**

## Amendment 39

### Proposal for a regulation Article 1 – paragraph 2

*Text proposed by the Commission*

2. The CBAM complements the **system** established for greenhouse gas emission allowance trading within the Union by Directive 2003/87/EC by applying an equivalent set of rules to imports into the customs territory of the Union of goods referred to in Article 2.

*Amendment*

2. The CBAM complements the **Union’s regulatory framework to achieve its goals of reducing greenhouse gases by 2030 and to achieve climate neutrality in every economic sector by 2050 at the latest on the basis of a set of rules equivalent to those** established for greenhouse gas emission allowance trading within the Union by Directive 2003/87/EC by applying an equivalent set of rules to imports into the customs territory of the Union of goods referred to in Article 2.

## Amendment 40

### Proposal for a regulation Article 1 – paragraph 3

*Text proposed by the Commission*

3. The mechanism will progressively become an alternative to the mechanisms established under Directive 2003/87/EC to prevent the risk of carbon leakage, **notably** the allocation of allowances free of charge in accordance with Article 10a of that Directive.

*Amendment*

3. The mechanism will progressively become an alternative to the mechanisms established under Directive 2003/87/EC to prevent the risk of carbon leakage, **namely** the allocation of allowances free of charge in accordance with Article 10a of that Directive.

## Amendment 41

### Proposal for a regulation Article 2 – paragraph 1

*Text proposed by the Commission*

1. This Regulation applies to goods as listed in Annex I, originating in a third country, when those goods, or processed products from those goods as resulting from the inward processing procedure referred to in Article 256 of Regulation (EU) No 952/2013 of the European Parliament and of the Council<sup>53</sup>, are imported into the customs territory of the Union.

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<sup>53</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).

*Amendment*

1. This Regulation applies to goods as listed in Annex I, originating in a third country, when those goods, or processed products from those goods as resulting from the inward processing procedure referred to in Article 256 of Regulation (EU) No 952/2013 of the European Parliament and of the Council<sup>53</sup>, are imported into the customs territory of the Union. ***Annex I shall be regularly assessed and revised, where appropriate.***

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<sup>53</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).

**Amendment 42**

**Proposal for a regulation  
Article 2 – paragraph 7 – point a**

*Text proposed by the Commission*

a) the third country or territory has concluded an agreement with the Union, setting out an obligation to apply the 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;

**Amendment 43**

**Proposal for a regulation  
Article 2 – paragraph 9 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

(a) the third country or territory has concluded an agreement with the Union, setting out an obligation to apply the 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, ***climate*** and competition;

***(ba) if the Commission or the competent authorities have identified repeated and confirmed cases of fraud***

*originating in that third country or territory.*

#### **Amendment 44**

##### **Proposal for a regulation Article 2 – paragraph 10**

*Text proposed by the Commission*

10. The Commission is empowered to adopt delegated acts in accordance with Article 28 to set out requirements and procedures for countries or territories that are deleted from the list in Annex II, Section B, to ensure the application of this Regulation to their 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 the third countries or territories from Union market coupling and require explicit capacity allocation at the border between the Union and the third country, so that the CBAM can apply.

*Amendment*

10. The Commission is empowered to adopt delegated acts in accordance with Article 28 to set out requirements and procedures for countries or territories that are deleted from the list in Annex II, Section B, to ensure the application of this Regulation to their territories with regard to electricity. If in such cases market coupling remains incompatible with the application of this Regulation, the Commission may decide, ***by means of a delegated act***, to exclude the third countries or territories from Union market coupling and require explicit capacity allocation at the border between the Union and the third country, so that the CBAM can apply.

#### **Amendment 45**

##### **Proposal for a regulation Article 2 – paragraph 12**

*Text proposed by the Commission*

12. The Union, may conclude agreements with third countries with a view to take account of carbon pricing mechanisms in these countries in the application of Article 9.

*Amendment*

12. ***The Commission shall initiate a regular dialogue with the authorities in the third countries responsible for collecting the carbon price.*** The Union, may conclude agreements with third countries with a view to take account of carbon pricing mechanisms in these countries in the application of Article 9. ***However, those agreements shall not lead to undue preferential treatment of imports from third countries as regards the CBAM certificates to be surrendered and***

*shall not take into account any carbon pricing mechanisms that are considered to be practices of circumvention within the meaning of Article 27(2).*

#### Amendment 46

##### Proposal for a regulation Article 2 – paragraph 12 a (new)

*Text proposed by the Commission*

*Amendment*

***(12a) The Commission shall support Member States to efficiently inform authorities, companies and, where necessary, citizens in each Member State about the regulatory content and consequences of implementing the CBAM, and shall ensure that information is shared appropriately.***

#### Amendment 47

##### Proposal for a regulation Article 3 – paragraph 1 – point 16

*Text proposed by the Commission*

*Amendment*

(16) ‘embedded emissions’ mean direct emissions released during the production of goods, calculated pursuant to the methods set out in Annex III;

(16) ‘embedded emissions’ mean direct ***and indirect*** emissions released during the production of goods, calculated pursuant to the methods set out in Annex III, ***and the energy consumed by the producer during the production of goods pursuant to the methods to be defined by the Commission in accordance with Article 7(7a);***

#### Amendment 48

##### Proposal for a regulation Article 3 – paragraph 1 – point 18

*Text proposed by the Commission*

*Amendment*

(18) ‘CBAM certificate’ means a certificate in electronic format

(18) ‘CBAM certificate’ means a certificate, ***common to all Member States,***

corresponding to one tonne of embedded emissions in goods;

in electronic format corresponding to one tonne of embedded emissions in goods;

#### **Amendment 49**

##### **Proposal for a regulation**

##### **Article 3 – paragraph 1 – point 22**

*Text proposed by the Commission*

(22) ‘actual emissions’ mean the emissions calculated based on primary data from the production processes of goods;

*Amendment*

(22) ‘actual emissions’ mean the emissions calculated based on primary data from the production processes of goods ***and from the energy consumed during the production processes of goods;***

#### **Amendment 50**

##### **Proposal for a regulation**

##### **Article 5 – paragraph 3 – point f**

*Text proposed by the Commission*

(f) information necessary to demonstrate the declarant’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 three last financial years for which the accounts were closed;

*Amendment*

(f) information ***strictly*** necessary to demonstrate the declarant’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 three last financial years for which the accounts were closed;

#### **Amendment 51**

##### **Proposal for a regulation**

##### **Article 5 – paragraph 3 – point h a (new)**

*Text proposed by the Commission*

*Amendment*

***(ha) the name and contact details of the third country competent authority in charge of collecting the carbon price paid by the operator in that third country,***

*where relevant;*

## **Amendment 52**

### **Proposal for a regulation**

#### **Article 5 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

**5a. In the event of repeated failure by an authorised declarant to meet the obligations laid down in this Regulation, the competent authority in the Member State concerned shall withdraw the authorisation granted to the declarant.**

## **Amendment 53**

### **Proposal for a regulation**

#### **Article 5 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

6. The Commission is empowered to adopt implementing acts, concerning the standard format of the application and the delays and procedure to be followed by the competent authority when processing applications for authorisation in accordance with paragraph 1 and the rules for identification by the competent authority of the declarants for the importation of electricity. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

6. The Commission is empowered to adopt implementing acts, concerning the **single** standard format of the application and the delays and procedure to be followed by the competent authority when processing applications for authorisation in accordance with paragraph 1 and the rules for identification by the competent authority of the declarants for the importation of electricity. **The format of the application shall allow for machine readability in order to ease the exchange of information across Member States.** Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

## **Amendment 54**

### **Proposal for a regulation**

#### **Article 5 – paragraph 6 a (new)**

*Text proposed by the Commission*

*Amendment*

**6a. Authorised declarants shall complete the standardised declaration form included into their individual accounts at the national registry set up by competent authorities. Once the information is transmitted to the EU central registry, the Commission may request the remaining competent authorities to provide any proof regarding the information required under paragraph 3, point (d).**

## **Amendment 55**

### **Proposal for a regulation Article 7 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Embedded emissions in goods shall be calculated pursuant to the methods set out in Annex III.

1. Embedded **direct** emissions in goods shall be calculated pursuant to the methods set out in Annex III.

## **Amendment 56**

### **Proposal for a regulation Article 7 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

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

2. Embedded **direct** emissions in goods other than electricity shall be determined based on the actual emissions in accordance with the methods set out in Annex III, points 2 and 3. When actual emissions cannot be adequately determined, the embedded emissions shall be determined by reference to default values in accordance with the methods set out in Annex III, point 4.1.



## Amendment 57

### Proposal for a regulation

#### Article 7 – paragraph 7 a (new)

*Text proposed by the Commission*

*Amendment*

**7a. The Commission is empowered to adopt delegated acts in accordance with Article 28 regarding the definition of a method of calculating indirect embedded emissions for simple and complex products and relevant default values, as well as a method of determining the CBAM price of indirect embedded emissions.**

## Amendment 58

### Proposal for a regulation

#### Article 7 – paragraph 7 b (new)

*Text proposed by the Commission*

*Amendment*

**7b. The Commission shall adopt the implementing acts referred to in paragraph 6 by 31 December 2023, with a view to ensuring their application from 1 January 2024. The Commission shall adopt the delegated acts referred to in paragraph 7a after carrying out an impact assessment at the end of the transitional period.**

## Amendment 59

### Proposal for a regulation

#### Article 8 – paragraph 3 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

The Commission is empowered to adopt implementing acts concerning the principles of verification referred to in paragraph 1 as regards the **possibility to waive** the obligation for the verifier to visit the installation where relevant goods are

The Commission is empowered to adopt implementing acts concerning the principles of verification referred to in paragraph 1 as regards the **accuracy of the information in the CBAM declaration**, the obligation for the verifier to visit the

produced and the obligation to set thresholds for deciding whether misstatements or non-conformities are material and concerning the supporting documentation needed for the verification report.

installation where relevant goods are produced and the obligation to set thresholds for deciding whether misstatements or non-conformities are material and concerning the supporting documentation needed for the verification report.

## Amendment 60

### Proposal for a regulation Article 9 – paragraph 2

*Text proposed by the Commission*

2. The authorised declarant shall keep records *of* the documentation, certified by *an independent person*, required to demonstrate that the declared embedded emissions were subject to a carbon price in the country of origin of the goods and keep evidence of the proof of the actual payment for that carbon price which should not have been subject to an export rebate or any other form of compensation *on exportation*.

*Amendment*

2. The authorised declarant shall keep records *and send to the competent authorities* the documentation, certified by *a verifier accredited pursuant to Article 18 in accordance with the competences established in Article 8(1) concerning the verification of embedded emissions. The accredited verifier shall be* required to demonstrate that the declared embedded emissions were subject to a carbon price in the country of origin of the goods and keep evidence of the proof of the actual payment for that carbon price which should not have been subject to an export rebate or any other form of compensation.

## Amendment 61

### Proposal for a regulation Article 10 – paragraph 1

*Text proposed by the Commission*

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 a central database referred to in Article 14(4).

*Amendment*

1. The Commission shall register the information on *operators of installations located in third countries* and on *their installations* in a central database referred to in Article 14(4) *accessible by national authorities*.

## Amendment 62

### Proposal for a regulation

#### Article 10 – paragraph 2 – point c a (new)

*Text proposed by the Commission*

*Amendment*

***(ca) the name and contact details of the third country competent authority in charge of collecting the carbon price paid by the operator in that third country, where relevant;***

## Amendment 63

### Proposal for a regulation

#### Article 10 – paragraph 6

*Text proposed by the Commission*

*Amendment*

6. The records referred to in paragraph 5, point (c), shall be sufficiently detailed to enable the verification in accordance with paragraph 5, point (b), and to enable any competent authority to review, in accordance with Article 19(1), the CBAM declaration made by an authorised declarant to whom the relevant information was disclosed in accordance with paragraph 8.

6. The records referred to in paragraph 5, point (c), shall be sufficiently detailed to enable the verification in accordance with paragraph 5, point (b), and to enable any competent authority to ***verify and*** review, in accordance with Article 19(1), the CBAM declaration made by an authorised declarant to whom the relevant information was disclosed in accordance with paragraph 8.

## Amendment 64

### Proposal for a regulation

#### Article 11 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. Competent authorities shall set up national registries with accounts of authorised declarants. Those accounts shall be connected and interchangeable with all competent authorities and automatically integrated in the EU central registry database system managed by the Commission.***

## Amendment 65

### Proposal for a regulation Article 11 – paragraph 2

*Text proposed by the Commission*

2. Member States shall require that competent authorities exchange any information that is essential or relevant to the exercise of their functions and duties.

*Amendment*

2. Member States shall require that competent authorities exchange any information that is essential or relevant to the exercise of their functions and duties, ***either automatically via the EU central registry database, or upon request and within a delay of 3 months, when another competent authority or the Commission issues such request for specific information related to the calculation of the CBAM certificates.***

## Amendment 66

### Proposal for a regulation

#### Article 11 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2a. The Commission shall require Member States to ensure that the competent authorities carry out skills development and specialised training in that area for their staff.***

## Amendment 67

### Proposal for a regulation Article 12 – paragraph 1

*Text proposed by the Commission*

The Commission shall assist the competent authorities in carrying out their obligations under this Regulation and coordinate their activities.

*Amendment*

The Commission shall assist the competent authorities in carrying out their obligations under this Regulation and coordinate their activities. ***In that context, the Commission shall produce a guide and instructional documentation to assist the national competent authorities. When appropriate, the Commission shall update those***

*documents.*

## **Amendment 68**

### **Proposal for a regulation**

#### **Article 14 – title**

*Text proposed by the Commission*

National registries and central database

*Amendment*

National registries and the **EU** central **registry** database

## **Amendment 69**

### **Proposal for a regulation**

#### **Article 14 – paragraph 1**

*Text proposed by the Commission*

1. The competent authority of each Member State shall establish a national registry of declarants authorised in that Member State in the form of a standardised electronic database containing the data regarding the CBAM certificates of those declarants, and to provide for confidentiality in accordance with the conditions set out in Article 13.

*Amendment*

1. The competent authority of each Member State shall establish a national registry of declarants authorised in that Member State in the form of a standardised electronic database containing the data regarding the CBAM certificates of those declarants, and to provide for confidentiality in accordance with the conditions set out in Article 13. ***Such a standardised electronic database shall be built to be compatible with the EU central registry database built by the Commission, in such a way that the data can be automatically uploaded into the central database.***

## **Amendment 70**

### **Proposal for a regulation**

#### **Article 14 – paragraph 2 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(da) the carbon price paid in a third country for related embedded emissions;***

## Amendment 71

### Proposal for a regulation

#### Article 14 – paragraph 2 – point d b (new)

*Text proposed by the Commission*

*Amendment*

**(db) the report of the accredited verifier;**

## Amendment 72

### Proposal for a regulation

#### Article 14 – paragraph 3

*Text proposed by the Commission*

*Amendment*

3. The information in the database referred to in paragraph 2 shall be confidential.

3. ***The Commission shall establish a central database to automatically collect the information referred to in paragraph 2 which shall be automatically accessible to competent authorities of each Member State.*** The information in the database referred to in paragraph 2 shall be confidential.

## Amendment 73

### Proposal for a regulation

#### Article 14 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***3a. The EU central registry database shall aim to ensure an efficient and transparent management of the information provided by the authorised declarant and it shall be managed by the Commission. The Commission may ask further information from competent authorities to ensure the consistency of the information provided by the declarant and for purposes of its reports.***

## Amendment 74

### Proposal for a regulation Article 14 – paragraph 4

*Text proposed by the Commission*

4. The Commission shall establish a central database accessible to the public containing the names, addresses and contact details of the operators **and** the location of installations in third countries in accordance with Article 10(2). An operator may choose not to have its **name**, address and contact details accessible to the public.

*Amendment*

4. The Commission shall establish a central database accessible to the public containing the names, addresses and contact details of the operators, the location of installations in third countries in accordance with Article 10(2). An operator may choose not to have its address and contact details accessible to the public **but such information shall always be made available for competent authorities**.

## Amendment 75

### Proposal for a regulation Article 15 – paragraph 2

*Text proposed by the Commission*

2. The central administrator shall carry out risk-based controls on transactions recorded in national registries through an independent transaction log to ensure that there are no irregularities in the purchase, holding, surrender, re-purchase and cancellation of CBAM certificates.

*Amendment*

2. The central administrator shall carry out risk-based controls on transactions recorded in national registries through an independent transaction log to ensure that there are no irregularities in the **calculation**, purchase, holding, surrender, re-purchase and cancellation of CBAM certificates.

## Amendment 76

### Proposal for a regulation Article 15 – paragraph 3

*Text proposed by the Commission*

3. If irregularities are identified as a result of the controls carried out under paragraph 2, the Commission shall inform the Member State or Member States concerned for further investigation in order to correct the identified irregularities.

*Amendment*

3. If irregularities are identified as a result of the controls carried out under paragraph 2, the Commission shall inform the Member State or Member States concerned for further investigation in order to correct the identified irregularities

*within 3 months.*

#### **Amendment 77**

##### **Proposal for a regulation Article 16 – paragraph 4**

*Text proposed by the Commission*

4. If the authorised declarant has ceased its economic activity or its authorisation was revoked, the competent authority shall close the account of that declarant.

*Amendment*

4. If the authorised declarant has ceased its economic activity or its authorisation was revoked, the competent authority shall close the account of that declarant ***after 2 years.***

#### **Amendment 78**

##### **Proposal for a regulation Article 17 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) the declarant has not been involved in a serious infringement or repeated infringements of customs legislation, taxation rules and market abuse rules and has no record of serious criminal offences relating to its economic activity during the five years preceding the application;

*Amendment*

(a) the declarant has not been involved in a serious infringement or repeated infringements of customs legislation, taxation rules and market abuse rules and has no record of serious criminal offences relating to its economic activity during the five years preceding the application; ***the declarant is not resident for tax purposes in, or incorporated under the laws of, jurisdictions that feature on the EU list of non-cooperative jurisdictions;***

#### **Amendment 79**

##### **Proposal for a regulation Article 17 – paragraph 1 – point a (new)**

*Text proposed by the Commission*

*Amendment*

***(aa) the declarant has not been involved in a serious or repeated infringement to this Regulation which has led to the withdrawal of its authorisation by the competent authority of another***



*Member State, in accordance with Article 5(5a);*

## **Amendment 80**

### **Proposal for a regulation Article 17 – paragraph 2**

*Text proposed by the Commission*

2. Where the competent authority finds that the conditions listed in paragraph 1 are not fulfilled, or where the applicant has failed to provide the information listed in Article 5(3), the authorisation of the declarant shall be refused.

*Amendment*

2. Where the competent authority finds that the conditions listed in paragraph 1 are not fulfilled, or where the applicant has failed to provide the information listed in Article 5(3), the authorisation of the declarant shall be refused. ***The competent authority shall notify the declarant of that refusal as soon as possible.***

## **Amendment 81**

### **Proposal for a regulation Article 17 – paragraph 9**

*Text proposed by the Commission*

9. The competent authority shall revoke the authorisation for a declarant who no longer meets the conditions laid down in paragraph 1, or who fails to cooperate with that authority.

*Amendment*

9. The competent authority shall revoke the authorisation for a declarant who no longer meets the conditions laid down in paragraph 1, or who fails to cooperate with that authority. ***The competent authority shall inform the Commission and the other competent authorities of any refusal or revocation by introducing the necessary information in the national registry that shall be immediately transferred to the central database.***

## **Amendment 82**

### **Proposal for a regulation Article 18 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a. The Commission is empowered to adopt delegated acts in accordance with Article 28 specifying conditions for accredited verifiers to be able to comply with Articles 21, 32 and 34 of the Implementing Regulation (EU) No 2018/2067 related to on-site visits when the site is located in a third country.**

## **Amendment 83**

### **Proposal for a regulation Article 19 a (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 19 a*

##### ***Information portal for authorised declarants***

- 1. On ... [the date of entry into force of this Regulation], the Commission shall set up a web portal to support authorised declarants, especially SMEs and micro-enterprises, in declaring the information required by this Regulation.**
- 2. The portal referred to in paragraph 1 shall provide information on:**
  - (i) the CO<sub>2</sub> price charged in third countries, as referred to in Article 9;**
  - (ii) any agreement concluded by the Union with a third country which affects the CBAM certificates to be surrendered for imports from that third country and how the CBAM certificates are affected;**
  - (iii) answers to specific questions from companies on how to correctly fill out their declarations;**
  - (iv) the national competent authorities of each Member State.**
- 3. The Commission shall regularly assess the possibility of improving the information and assistance provided by the web portal.**

## Amendment 84

### Proposal for a regulation Article 20 – paragraph 1

*Text proposed by the Commission*

1. The **competent authority of each Member State** shall sell CBAM certificates to declarants **authorised in that Member State** at the price calculated in accordance with Article 21.

*Amendment*

1. The **Commission** shall sell CBAM certificates to **authorised** declarants at the price calculated in accordance with Article 21.

## Amendment 85

### Proposal for a regulation Article 20 – paragraph 2

*Text proposed by the Commission*

2. The **competent authority** shall ensure that each CBAM certificate is assigned a unique unit identification code upon its creation and shall register the unique unit identification number, the price and date of sale of the certificate in the **national** registry in the account of the authorised declarant purchasing it.

*Amendment*

2. The **Commission** shall ensure that each CBAM certificate is assigned a unique unit identification code upon its creation and shall register the unique unit identification number, the price and date of sale of the certificate in the **EU central** registry **database** in the account of the authorised declarant purchasing it. **Such information shall be automatically reflected in the national registry.**

## Amendment 86

### Proposal for a regulation Article 21 – paragraph 3

*Text proposed by the Commission*

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

*Amendment*

3. The Commission is **also** empowered to adopt implementing acts to further define the methodology to calculate the average price of CBAM certificates and practical arrangements for the publication of the price. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

## Amendment 87

### Proposal for a regulation Article 22 – paragraph 1

*Text proposed by the Commission*

1. By 31 May of each year, the authorised declarant shall surrender a number of CBAM certificates to the **competent authority** that corresponds to the embedded emissions declared in accordance with Article 6(2)(c) and verified in accordance with Article 8 for the calendar year preceding the surrender.

*Amendment*

1. By 31 May of each year, the authorised declarant shall surrender a number of CBAM certificates to the **Commission** that corresponds to the embedded emissions declared in accordance with Article 6(2)(c) and verified in accordance with Article 8 for the calendar year preceding the surrender.

## Amendment 88

### Proposal for a regulation Article 22 – paragraph 3

*Text proposed by the Commission*

3. Where the **competent authority** finds that the number of CBAM certificates in the account of an authorised declarant is not in compliance with the obligations pursuant to paragraph 2, second sentence, **that authority** shall notify the adjustment and request that the authorised declarant surrenders the additional CBAM certificates within one month.

*Amendment*

3. Where the **Commission** finds that the number of CBAM certificates in the account of an authorised declarant is not in compliance with the obligations pursuant to paragraph 2, second sentence, **it** shall notify the adjustment and request that the authorised declarant surrenders the additional CBAM certificates within one month.

## Amendment 89

### Proposal for a regulation Article 23 – paragraph 1

*Text proposed by the Commission*

1. The **competent authority of each Member State** shall, on request by a **declarant** authorised **in that Member State**, re-purchase the excess of CBAM certificates remaining on the account of the

*Amendment*

1. The **Commission** shall, on request by an authorised **declarant**, re-purchase the excess of CBAM certificates remaining on the account of the declarant in the national registry **and in the EU central** registry

declarant in the national registry after the certificates have been surrendered in accordance with Article 22. The request to re-purchase shall be submitted by 30 June of each year when CBAM certificates were surrendered.

*database* after the certificates have been surrendered in accordance with Article 22. The request to re-purchase shall be submitted by 30 June of each year when CBAM certificates were surrendered.

## Amendment 90

### Proposal for a regulation Article 24 – paragraph 1

*Text proposed by the Commission*

By 30 June of each year, the *competent authority of each Member State* shall cancel any CBAM certificates that were purchased during the year before the previous calendar year and that remained in the accounts in the national registry of the declarants *authorised in that Member State*.

*Amendment*

By 30 June 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 accounts in the national registry of the *authorised* declarants.

## Amendment 91

### Proposal for a regulation Article 26 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

*1a. An accredited verifier who has provided false information in its CBAM declaration shall be excluded from the national registry. An accredited verifier who has certified the accuracy of false information contained in a CBAM declaration shall have its certificate revoked by the relevant national authority.*

## Amendment 92

### Proposal for a regulation Article 26 – paragraph 2

*Text proposed by the Commission*

2. Any person other than an authorised declarant, introducing goods into the customs territory of the Union without surrendering CBAM certificates according to this Regulation shall be **liable** to the penalty referred to in paragraph 1 in the year of introduction of the goods, for each CBAM certificate that the person should have surrendered.

*Amendment*

2. ***In addition to the administrative and criminal sanctions referred to in paragraph 5***, any person other than an authorised declarant, introducing goods into the customs territory of the Union without surrendering CBAM certificates according to this Regulation shall be **subject** to the penalty referred to in paragraph 1 in the year of introduction of the goods, for each CBAM certificate that the person should have surrendered.

**Amendment 93**

**Proposal for a regulation  
Article 26 – paragraph 3**

*Text proposed by the Commission*

3. Payment of the penalty shall in no case release the authorised declarant from the obligation to surrender the outstanding number of CBAM certificates in a given year to the ***competent authority of the Member State where the declarant has been authorised***.

*Amendment*

3. Payment of the penalty shall in no case release the authorised declarant from the obligation to surrender the outstanding number of CBAM certificates in a given year to the ***Commission***.

**Amendment 94**

**Proposal for a regulation  
Article 26 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. In the event of repeated failure by an authorised declarant to meet the obligations of this Regulation, the competent authorities of the Member States concerned shall withdraw the declarant's import authorisation in accordance with Article 5(5a).***

## Amendment 95

### Proposal for a regulation Article 26 – paragraph 5

*Text proposed by the Commission*

5. Member States may apply administrative or criminal sanctions for failure to comply with the CBAM legislation in accordance with their national rules ***in addition to penalties referred to in paragraph 2***. Such sanctions shall be effective, proportionate and dissuasive.

*Amendment*

5. ***In addition to the penalties referred to in paragraph 1***, Member States may apply administrative or criminal sanctions for failure to comply with the CBAM legislation in accordance with their national rules. ***In all cases the Member States shall apply administrative or criminal sanctions to any person, other than an authorised declarant, introducing goods into the customs territory of the Union without surrendering the CBAM certificates***. Such sanctions shall be effective, proportionate and dissuasive.

## Amendment 96

### Proposal for a regulation Article 26 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

5a. ***The Commission, in cooperation with the competent authorities, shall provide guidelines for the Member States aimed at fostering an effective, proportionate and dissuasive harmonised system of administrative and criminal sanctions.***

## Amendment 97

### Proposal for a regulation Article 27 – title

*Text proposed by the Commission*

*Amendment*

Circumvention

***Fraud and*** circumvention

## Amendment 98

**Proposal for a regulation**  
**Article 27 – paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

1. The Commission shall take action ***on its own initiative or at the request of the Member State***, based on relevant and objective data, in accordance with this Article, to address practices of ***fraud and*** circumvention of this Regulation.

**Amendment 99**

**Proposal for a regulation**  
**Article 27 – paragraph 2**

*Text proposed by the Commission*

2. Practices of circumvention ***include situations where a change in the pattern of trade in relation to goods included in the scope of*** this Regulation ***has*** insufficient due cause or economic justification other than avoiding obligations as laid down in this Regulation and ***consist in replacing those goods with slightly modified products, which*** are not ***included in the list of goods in Annex I but belong to a sector included in the scope of this Regulation.***

*Amendment*

2. Practices of ***fraud and*** circumvention ***are measures that have the objective of avoiding the obligations laid down in*** this Regulation. ***Those are situations which stem from a practice, process of work with*** insufficient due cause or economic justification other than avoiding obligations as laid down in this Regulation and ***include, but*** are not ***limited to:***

**Amendment 100**

**Proposal for a regulation**  
**Article 27 – paragraph 2 – point a (new)**

*Text proposed by the Commission*

*Amendment*

***(a) situations that consist in replacing those goods with slightly modified products, which are not included in the list of goods in Annex I but belong to a sector included in the scope of this Regulation;***



## **Amendment 101**

### **Proposal for a regulation**

#### **Article 27 – paragraph 2 – point b (new)**

*Text proposed by the Commission*

*Amendment*

***(b) situations that consist in replacing those goods with goods with a lower carbon content than that of the products normally produced in the exporting country, with the sole aim of export to the Union;***

## **Amendment 102**

### **Proposal for a regulation**

#### **Article 27 – paragraph 2 – point c (new)**

*Text proposed by the Commission*

*Amendment*

***(c) situations that consist in sending those goods to a country or region referred to in Article 2(3) or to any other intermediate country or region prior to their importation to the Union market, with the aim of avoiding or reducing the obligations under this Regulation;***

## **Amendment 103**

### **Proposal for a regulation**

#### **Article 27 – paragraph 2 – point d (new)**

*Text proposed by the Commission*

*Amendment*

***(d) false declarations as to the identity of the producer of the product concerned, or of the nature of the product concerned, or of the production process involved in making it;***

## **Amendment 104**

### **Proposal for a regulation**

#### **Article 27 – paragraph 2 – point e (new)**

*Text proposed by the Commission*

*Amendment*

**(e) any other measure to potentially avoid or evade obligations under this Regulation, or undermine their effects, including on overall GHG emissions.**

## **Amendment 105**

### **Proposal for a regulation Article 27 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. Where the Commission identifies cases of fraud or circumvention as referred to in paragraph 2 of this Article, it shall notify the relevant national competent authorities with the aim of imposing, where appropriate, the penalties provided for in Article 26.**

## **Amendment 106**

### **Proposal for a regulation Article 27 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. A Member State or any party affected or benefitted by the situations described in paragraph 2 may notify the Commission if it is confronted, over a two-month period compared with the same period in the preceding year with a significant decrease in the volume of imported goods included in the scope of this Regulation and an increase of volume of imports of slightly modified products, which are not included in the list of goods in Annex I. The Commission shall continually monitor any significant change of pattern of trade of goods and slightly modified products at Union level.**

**3. Following a complaint from an interested party or on its own initiative, the Commission may decide, following an investigation, to extend obligations laid down in this Regulation in whatever way is necessary to prevent future circumvention or fraud in relation to the CBAM, when circumvention or fraud of the measures in force is taking place taking into account the Union's international commitments, in particular those under the relevant WTO agreements.**

## Amendment 107

### Proposal for a regulation Article 27 – paragraph 4

*Text proposed by the Commission*

*Amendment*

**4. The notification referred to in paragraph 3 shall state the reasons on which it is based and shall include relevant data and statistics regarding the goods and products referred to in paragraph 2.**

**deleted**

## Amendment 108

### Proposal for a regulation Article 27 – paragraph 5

*Text proposed by the Commission*

*Amendment*

**5. Where the Commission, taking into account the relevant data, reports and statistics, including when provided by the customs authorities of Member States, has sufficient reasons to believe that the circumstances referred to in paragraph 3 are occurring in one or more Member States, it is empowered to adopt delegated acts in accordance with Article 28 to supplement the scope of this Regulation in order to include slightly modified products for anti-circumvention purposes.**

**5. Investigations shall be initiated pursuant to this Article on the initiative of the Commission or at the request of a Member State or of any interested party on the basis of sufficient evidence regarding the factors set out in paragraph 2. The Commission shall be responsible for the initiation of an investigation and shall also have the power to instruct customs authorities of Member States to subject imports to registration. The Commission shall provide information to the Member States once an interested party or a Member State has submitted a request justifying the initiation of an investigation and the Commission has completed its analysis thereof, or where the Commission has itself determined that there is a need to initiate an investigation.**

## Amendment 109

### Proposal for a regulation Article 27 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

**5a.** *The Commission shall carry out the investigation and may be assisted by customs authorities. The Commission shall conclude the investigation in due time.*

## **Amendment 110**

**Proposal for a regulation**  
**Article 27 – paragraph 5 b (new)**

*Text proposed by the Commission*

*Amendment*

**5b.** *Where a case of circumvention has been detected as a result of the investigation, the Commission shall impose a penalty pursuant to Article 26 on an authorised declarant involved in any circumvention and, if appropriate, the operator of the installation located in the third country that is linked to that authorised declarant. Where appropriate, the penalty shall also entail the withdrawal of import authorisation and shall be extended to the operator.*

## **Amendment 111**

**Proposal for a regulation**  
**Article 27 – paragraph 5 c (new)**

*Text proposed by the Commission*

*Amendment*

**5 c.** *The Commission shall report every two years to the European Parliament and the Council on the main fraud and circumvention practices it has identified. Where appropriate, the Commission shall present a legislative proposal to prevent and mitigate those practices.*

## Amendment 112

### Proposal for a regulation Article 28 – paragraph 2

*Text proposed by the Commission*

2. The power to adopt delegated acts referred to in Articles 2(10), 2(11), 18(3) and 27(5) shall be conferred on the Commission for an indeterminate period of time.

*Amendment*

2. The power to adopt delegated acts referred to in Articles 2(10), 2(11), **7(7a), 8(3) and (3a)**, 18(3) and 27(5) shall be conferred on the Commission for an indeterminate period of time.

## Amendment 113

### Proposal for a regulation Article 28 – paragraph 3

*Text proposed by the Commission*

3. The delegation of power referred to in Articles 2(10), 2(11), 18(3) and 27(5) may be revoked at any time by the European Parliament or by the Council.

*Amendment*

3. The delegation of power referred to in Articles 2(10), 2(11), **7(7a), 8(3) and (3a)**, 18(3) and 27(5) may be revoked at any time by the European Parliament or by the Council.

## Amendment 114

### Proposal for a regulation Article 28 – paragraph 7

*Text proposed by the Commission*

7. A delegated act adopted pursuant to Articles 2(10), 2(11), 18(3) and 27(5) 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

*Amendment*

7. A delegated act adopted pursuant to Articles 2(10), 2(11), **7(7a), 8(3) and (3a)**, 18(3) and 27(5) 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

of the Council.

European Parliament or of the Council.

## Amendment 115

### Proposal for a regulation Article 30 – paragraph 1

*Text proposed by the Commission*

1. The Commission shall collect the information necessary ***with a view to extending the scope of this Regulation to indirect emissions and goods other than those listed in Annex I, and*** develop methods of calculating embedded emissions based on environmental footprint methods.

*Amendment*

1. The Commission shall collect the information necessary ***to*** develop methods of calculating embedded emissions based on environmental footprint methods. ***Before the end of the transitional period, the Commission shall present a legislative proposal to extend the scope of this Regulation to other products than those listed in Annex I. The proposal shall be based on an impact assessment on the effects of the different possibilities and timelines for this further extension of the scope to the rest of sectors of the Commission Delegated Decision (EU) 2019/708, including among other elements an extension to oil, paper, glass, plastics, chemicals and downstream products, as well as the components of finished products that use products covered by this Regulation.***

## Amendment 116

### Proposal for a regulation Article 30 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. Before the end of the transitional period, the Commission shall assess the governance system of the CBAM, including in relation to the setting up of the European CBAM Authority. As a result of that assessment, the Commission shall present a report to the European Parliament and the Council to be accompanied, if appropriate, by a legislative proposal for a more centralised***

*governance system.*

## Amendment 117

### Proposal for a regulation

#### Article 30 – paragraph 2

*Text proposed by the Commission*

2. Before the end of the transitional period, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation. The report shall contain, in particular, ***the assessment of the possibilities to further extend the scope of embedded emissions to indirect emissions and to other goods at risk of carbon leakage than those already covered by this Regulation, as well as an assessment of the governance system. It shall also contain the assessment of the possibility to further extend the scope to embedded emissions of transportation services as well as to goods further down the value chain and services that may be subject to the risk of carbon leakage in the future.***

*Amendment*

2. Before the end of the transitional period, ***and every five years thereafter, or at any moment at the request of the European Parliament or the Council***, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation. The report shall contain, in particular:

- an assessment of the ***social effects of extending the CBAM to goods other than those listed in Annex I, with measures aiming at minimising those effects;***

- ***identification of circumvention and fraud practices and possible measures to address those practices;***

- the assessment of the possibility to further extend the scope to embedded emissions of transportation services and services that may be subject to the risk of carbon leakage;

- ***an examination of any potential complaints by third countries in relation to the compatibility of this Regulation with the applicable rules of the WTO;***

- ***an assessment of the effectiveness of the CBAM with regard to the risk of carbon***

*leakage.*

## Amendment 118

### Proposal for a regulation Article 30 – paragraph 3

*Text proposed by the Commission*

3. The report **by the Commission** shall, if appropriate, be accompanied by a legislative proposal.

*Amendment*

3. The report **referred to in paragraph 2** shall, if appropriate, be accompanied by a legislative proposal **in order to introduce the changes based on the information from the report.**

## Amendment 119

### Proposal for a regulation Chapter IX – title

*Text proposed by the Commission*

Coordination with free allocation of allowances under the EU ETS

*Amendment*

Coordination with **the phasing out of the** free allocation of allowances under the EU ETS

## Amendment 120

### Proposal for a regulation Article 31 – title

*Text proposed by the Commission*

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

*Amendment*

**Phasing out of the** free allocation of allowances under the EU ETS

## Amendment 121

### Proposal for a regulation Article 31 – paragraph 1

*Text proposed by the Commission*

1. The CBAM certificates to be

*Amendment*

1. **The phasing out of the free**



surrendered in accordance with Article 22 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*.

*allocation of allowances shall be aligned with the phasing in of the CBAM*. The CBAM certificates to be surrendered in accordance with Article 22 shall reflect the *price paid by* installations producing within the Union *under Directive XXXX/XX/XX (revised EU ETS)*.

## Amendment 122

### Proposal for a regulation

#### Article 31 – paragraph 2

*Text proposed by the Commission*

2. The Commission is empowered to adopt implementing acts laying down a calculation methodology for the reduction referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

*Amendment*

2. The Commission is empowered to adopt implementing acts laying down a calculation methodology for the reduction referred to in paragraph 1. Those implementing acts shall be adopted *by the end of the transitional period and* in accordance with the examination procedure referred to in Article 29(2).

## Amendment 123

### Proposal for a regulation

#### Article 35 – paragraph 1

*Text proposed by the Commission*

1. Each declarant shall, for each quarter of a calendar year, submit a report ('CBAM report') containing information on the goods imported during that quarter, to the competent authority of the Member State of importation or, if goods have been imported to more than one Member State, to *the* competent authority of the Member *State at the declarant's choice*, no later than one month after the end of each quarter.

*Amendment*

1. Each declarant shall, for each quarter of a calendar year, submit a report ('CBAM report') containing information on the goods imported during that quarter, to the competent authority of the Member State of importation or, if goods have been imported to more than one Member State, to *each* competent authority of the Member *States in which the declarant imports goods*, no later than one month after the end of each quarter.

## Amendment 124

### Proposal for a regulation

#### Article 35 – paragraph 2 – point b

*Text proposed by the Commission*

(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 tonne of CO<sub>2</sub>e emissions per tonne of each type of goods, calculated in accordance with the method set out in Annex III;

*Amendment*

(b) the actual total embedded **direct** emissions, expressed in tonnes of CO<sub>2</sub>e emissions per megawatt-hour of electricity or for other goods in tonne of CO<sub>2</sub>e emissions per tonne of each type of goods, calculated in accordance with the method set out in Annex III;

## Amendment 125

### Proposal for a regulation

#### Article 35 – paragraph 2 – point c

*Text proposed by the Commission*

(c) the actual total embedded indirect emissions, expressed in tonnes of CO<sub>2</sub>e emissions per tonne of each type of other goods than electricity, calculated in accordance with a method set out in **an implementing act referred to in paragraph 6**;

*Amendment*

(c) the actual total embedded indirect emissions, expressed in tonnes of CO<sub>2</sub>e emissions per tonne of each type of other goods than electricity, calculated in accordance with a method set out in **the delegated acts referred to in Article 7(7a)**;

## Amendment 126

### Proposal for a regulation

#### Article 35 – paragraph 2 – point d

*Text proposed by the Commission*

(d) the carbon price due in **a** country of origin for the embedded emissions in the imported goods, which is not subject to an export rebate or other form of compensation on exportation.

*Amendment*

(d) the carbon price due in **the** country of origin for the embedded emissions in the imported goods, which is not subject to an export rebate or other form of compensation on exportation.

## Amendment 127

### Proposal for a regulation

### Article 35 – paragraph 3

*Text proposed by the Commission*

3. The competent authority shall communicate the information referred to in paragraph 2 to the Commission at the latest two months after the end of the quarter covered by a report.

*Amendment*

3. The competent authority shall communicate the information referred to in paragraph 2 to the Commission at the latest two months after the end of the quarter covered by a report **and the information shall be available in the EU central registry database.**

### Amendment 128

#### Proposal for a regulation Article 35 – paragraph 6

*Text proposed by the Commission*

6. The Commission is empowered to adopt implementing acts concerning the information to be reported, the procedures for communicating the information referred to in paragraph 3 and the conversion of the carbon price paid in foreign currency into euro at yearly average exchange rate. The Commission is also empowered to adopt implementing acts to further define the necessary elements of the calculation method set out in Annex III, 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 the verification of this data. ***The Commission is further empowered to adopt implementing acts to develop a calculation method for indirect emissions embedded in imported goods.***

*Amendment*

6. The Commission is empowered to adopt implementing acts concerning the information to be reported, the procedures for communicating the information referred to in paragraph 3 and the conversion of the carbon price paid in foreign currency into euro at yearly average exchange rate. The Commission is also empowered to adopt implementing acts to further define the necessary elements of the calculation method set out in Annex III, 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 the verification of this data.

### Amendment 129

#### Proposal for a regulation Annex III – part 2 – point 1 – introductory part

*Text proposed by the Commission*

For determining the specific actual embedded emissions of simple goods produced in a given installation, ***only direct emissions shall be accounted for. For this purpose***, the following equation is to be applied:

*Amendment*

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

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Establishing a carbon border adjustment mechanism
<b>References</b>	COM(2021)0564 – C9-0328/2021 – 2021/0214(COD)
<b>Committee responsible</b> Date announced in plenary	ENVI 13.9.2021
<b>Opinion by</b> Date announced in plenary	ECON 13.9.2021
<b>Rapporteur for the opinion</b> Date appointed	Damien Carême 1.9.2021
<b>Date adopted</b>	31.3.2022
<b>Result of final vote</b>	+: 41 –: 12 0: 3
<b>Members present for the final vote</b>	Gunnar Beck, Isabel Benjumea Benjumea, Stefan Berger, Gilles Boyer, Carlo Calenda, Engin Eroglu, Markus Ferber, Jonás Fernández, Frances Fitzgerald, José Manuel García-Margallo y Marfil, Luis Garicano, Valentino Grant, Claude Gruffat, Enikő Győri, Eero Heinäluoma, Michiel Hoogeveen, Danuta Maria Hübner, Stasys Jakeliūnas, France Jamet, Othmar Karas, Billy Kelleher, Ondřej Kovařík, Ioannis Lagos, Aurore Lalucq, Philippe Lamberts, Aušra Maldeikienė, Pedro Marques, Costas Mavrides, Csaba Molnár, Siegfried Mureşan, Luděk Niedermayer, Lefteris Nikolaou-Alavanos, Piernicola Pedicini, Lídia Pereira, Kira Marie Peter-Hansen, Sirpa Pietikäinen, Dragoş Pişlaru, Evelyn Regner, Antonio Maria Rinaldi, Dorien Rookmaker, Alfred Sant, Joachim Schuster, Ralf Seekatz, Pedro Silva Pereira, Paul Tang, Irene Tinagli, Ernest Urtasun, Inese Vaidere, Johan Van Overtveldt, Stéphanie Yon-Courtin, Marco Zanni, Roberts Zīle
<b>Substitutes present for the final vote</b>	Manon Aubry, Damien Carême, Roman Haider, Chris MacManus, Jessica Stegrud

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

41	+
NI	Enikő Győri
PPE	Isabel Benjumea Benjumea, Stefan Berger, Markus Ferber, Frances Fitzgerald, José Manuel García-Margallo y Marfil, Danuta Maria Hübner, Othmar Karas, Aušra Maldeikienė, Siegfried Mureşan, Luděk Niedermayer, Lídia Pereira, Sirpa Pietikäinen, Ralf Seekatz, Inese Vaidere
Renew	Gilles Boyer, Carlo Calenda, Engin Eroglu, Luis Garicano, Billy Kelleher, Ondřej Kovařík, Dragoş Pişlaru, Stéphanie Yon-Courtin
S&D	Jonás Fernández, Aurore Lalucq, Pedro Marques, Costas Mavrides, Csaba Molnár, Evelyn Regner, Alfred Sant, Joachim Schuster, Pedro Silva Pereira, Paul Tang, Irene Tinagli
Verts/ALE	Damien Carême, Claude Gruffat, Stasys Jakeliūnas, Philippe Lamberts, Piernicola Pedicini, Kira Marie Peter-Hansen, Ernest Urtaşun

12	-
ECR	Michiel Hoogeveen, Dorien Rookmaker, Jessica Stegrud, Johan Van Overtveldt, Roberts Zīle
ID	Gunnar Beck, Roman Haider, France Jamet
NI	Ioannis Lagos, Lefteris Nikolaou-Alavanos
The Left	Manon Aubry, Chris MacManus

3	0
ID	Valentino Grant, Antonio Maria Rinaldi, Marco Zanni

Key to symbols:

+ : in favour

- : against

0 : abstention

12.1.2022

## OPINION OF THE COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT

for the Committee on the Environment, Public Health and Food Safety

on the proposal for a regulation of the European Parliament and of the Council establishing a carbon border adjustment mechanism  
(COM(2021)0564 – C9-0328/2021 – 2021/0214(COD))

Rapporteur for opinion: Zbigniew Kuźmiuk

### AMENDMENTS

The Committee on Agriculture and Rural Development calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to take into account the following amendments:

#### Amendment 1

##### Proposal for a regulation

##### Recital 1

*Text proposed by the Commission*

(1) The Commission has, in its communication on the European Green Deal<sup>31</sup>, set out a new growth strategy that 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 ('GHG emissions') in 2050 and where economic growth is decoupled from resource use. The European Green Deal also aims to protect, conserve and enhance the **EU's** natural capital, and protect the health and well-being of citizens from environment-related

*Amendment*

(1) The Commission has, in its communication on the European Green Deal<sup>31</sup>, set out a new **sustainable** growth strategy that aims to transform the Union into a fair, prosperous **and resilient** society, with a modern, resource-efficient, **circular** and competitive economy, where there are no net emissions (emissions after deduction of removals) of greenhouse gases ('GHG emissions') in 2050 and where economic growth is decoupled from resource use. The European Green Deal also aims to protect, conserve and enhance the **Union's** natural capital, **combat the decline of biodiversity** and protect the

risks and impacts. At the same time, that transformation must be just and inclusive, leaving no one behind. The Commission also announced in its EU Action Plan: Towards Zero Pollution for Air, Water and Soil<sup>32</sup> the promotion of relevant instruments and incentives to better implement the polluter pays principle as 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.

health and well-being of citizens from environment-related risks and impacts. At the same time, that transformation must be *balanced*, just and inclusive, *creating sustainable growth and jobs and* leaving no one behind. *In addition, the European Green Deal aims to support the global efforts towards the achievement of the Sustainable Development Goals of the United Nations 2030 Agenda for Sustainable Development (UN SDGs) and the Paris Agreement.* The Commission also announced in its EU Action Plan: Towards Zero Pollution for Air, Water and Soil<sup>32</sup> the promotion of relevant instruments and incentives to better implement the polluter pays principle as 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.

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<sup>31</sup> Communication from the Commission of 11 December 2019 on the European Green Deal (COM(2019) 640 final).

<sup>32</sup> Communication from the Commission of 12 May 2021 on Pathway to a Healthy Planet for All (COM(2021) 400).

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<sup>31</sup> Communication from the Commission of 11 December 2019 on the European Green Deal (COM(2019) 640 final).

<sup>32</sup> Communication from the Commission of 12 May 2021 on Pathway to a Healthy Planet for All (COM(2021) 400).

## Amendment 2

### Proposal for a regulation Recital 2 a (new)

*Text proposed by the Commission*

*Amendment*

***(2a) Article XX of the General Agreement on Tariffs and Trade (GATT) allows World Trade Organization (WTO) members to implement measures that are necessary to protect human, animal or plant life or health, or to conserve natural resources.***



### Amendment 3

#### Proposal for a regulation

##### Recital 8

*Text proposed by the Commission*

(8) As long as a significant number of the Union's international partners have policy approaches that do not result in 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 were to transfer production to other countries or imports from those countries would replace equivalent but less GHG emissions intensive products. That could lead to an increase in their total emissions globally, thus jeopardising the reduction of GHG emissions that is urgently needed if the world is to keep the global average temperature to well below 2 °C above pre-industrial levels.

*Amendment*

(8) As long as a significant number of the Union's international partners have **very different** policy approaches that do not result in the same level of climate ambition **than that of the Union and lead to significant differences in the price of GHG emissions**, there is a risk of carbon leakage. **That risk exists not only for industrial goods, but also potentially for agricultural products.** Carbon leakage occurs if, for reasons of costs related to **different levels of ambition in climate policy**, businesses in certain industry **or trade** sectors or subsectors were to transfer production to other countries or imports from those countries would replace equivalent but less GHG emissions intensive products. That could lead to an increase in their total emissions globally **while undermining the effectiveness of Union emission reduction policies**, thus jeopardising the reduction of GHG emissions that is urgently needed if the world is to keep the global average temperature to well below 2 °C above pre-industrial levels.

### Amendment 4

#### Proposal for a regulation

##### Recital 9

*Text proposed by the Commission*

(9) The initiative for a carbon border adjustment mechanism ('CBAM') is **a** part of the 'Fit for 55 Package'. That mechanism is to serve as an essential element of the EU toolbox to meet the

*Amendment*

(9) The initiative for a carbon border adjustment mechanism ('CBAM') is **an integral** part of the 'Fit for 55 package'. That mechanism is to serve as an essential element of the EU toolbox to meet the

objective of a climate-neutral Union by 2050 in line with the Paris Agreement by addressing risks of carbon leakage resulting from the increased Union climate ambition.

objective of a climate-neutral Union by 2050 in line with the Paris Agreement by addressing risks of carbon leakage resulting from the increased Union climate ambition ***and the enhanced EU ETS certification system. That initiative should be combined with incentives for innovation, aimed to facilitate the decarbonisation process and policies aimed at promoting investments in low-carbon industrial processes.***

## Amendment 5

### Proposal for a regulation Recital 10

*Text proposed by the Commission*

(10) Existing mechanisms to address the risk of carbon leakage in sectors or sub-sectors at risk of carbon leakage are the transitional free allocation of EU ETS allowances and financial measures to compensate for indirect emission costs incurred from GHG emission costs passed on in electricity prices respectively laid down in Articles 10a(6) and 10b of Directive 2003/87/EC. However, free allocation under the EU ETS ***weakens the price signal that the system provides for the installations receiving it compared to full auctioning and thus affects the incentives for investment into further abatement of emissions.***

*Amendment*

(10) Existing mechanisms to address the risk of carbon leakage in sectors or sub-sectors at risk of carbon leakage are the transitional free allocation of EU ETS allowances and financial measures to compensate for indirect emission costs incurred from GHG emission costs passed on in electricity prices respectively laid down in Articles 10a(6) and 10b of Directive 2003/87/EC. However, free allocation under the EU ETS ***should be gradually phased-out, in line with Union's commitment and targets for decarbonisation and in order to comply with the WTO's trade rules and avoid double compensation.***

## Amendment 6

### Proposal for a regulation Recital 11

*Text proposed by the Commission*

(11) The CBAM seeks to replace these existing mechanisms by addressing the risk of carbon leakage in a different way,

*Amendment*

(11) The CBAM seeks to replace these 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.

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. ***CBAM should be transparent, proportionate and easy to administer and should avoid any undue financial and administrative burden on enterprises, especially small and medium-sized enterprises (SMEs).*** 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 ***nor should lead to any market distortion. Therefore, the compatibility with WTO rules should be provided for by the phase out of free allowances in the Union market ensuring similar treatment of domestic and imported products based on the principle of non-discrimination.***

## Amendment 7

### Proposal for a regulation Recital 12

#### *Text proposed by the Commission*

(12) While the objective of the CBAM is to prevent the risk of carbon leakage, this Regulation would also encourage the use of more GHG emissions-efficient technologies by producers from third countries, so that less emissions per unit of output are generated.

#### *Amendment*

(12) While the objective of the CBAM is to prevent the risk of carbon leakage, this Regulation would also encourage the use of more GHG emissions-efficient technologies ***and regenerative practices, for example in agriculture,*** by producers from third countries, so that less emissions per unit of output are generated. ***It would also encourage carbon pricing worldwide, thus enhancing a global level playing field. At the same time, the CBAM should be seen as a way of supporting industry through innovation and investment funding, contributing effectively to a just***

*transition to a carbon-neutral economy and creating new job opportunities and economic growth, while maintaining the necessary safeguards to protect industrial competitiveness in the Union.*

## Amendment 8

### Proposal for a regulation Recital 12 a (new)

*Text proposed by the Commission*

*Amendment*

*(12a) However, the problem of carbon leakage has to be seen in a broader context of the cumulative impact of the Union's growing environmental ambitions, as expressed, inter alia, in the European Green Deal component strategies, on the competitiveness of the Union economy as a whole. The disparity in production standards and requirements between the Union and its external trading partners is evident not only in the sectors covered by the EU ETS scheme, but also, inter alia, in agriculture. Therefore, a two-pronged approach is needed: the combat against carbon leakage through CBAM should be accompanied by favourable investment and production conditions in the Union, involving, for example, the more effective use of agricultural organic matter, such as livestock manure to replace chemical fertilisers; financial incentives for innovation, for production of bio-fertilisers and soil improvers from agricultural biomass and digestates from biogas; the removal of administrative barriers and the reduction of adjustment costs, especially for SMEs and the agricultural sector to ensure that their competitiveness is preserved. New resources for this purpose should be made available.*

## Amendment 9

### Proposal for a regulation Recital 13

*Text proposed by the Commission*

(13) As an instrument to prevent carbon leakage and reduce GHG emissions the CBAM should ensure that imported products are subject to a regulatory system that applies carbon costs equivalent to the ones that otherwise would have been borne under the EU ETS. The CBAM is a climate measure which should prevent the risk of carbon leakage and support the Union's increased ambition on climate mitigation, while ensuring WTO compatibility.

*Amendment*

(13) As an instrument to prevent carbon leakage and reduce GHG emissions, the CBAM should ensure that imported products are subject to a regulatory system that applies carbon costs equivalent to the ones that otherwise would have been borne under the EU ETS. The CBAM is a climate ***and environmental protection*** measure, which should prevent the risk of carbon leakage, ***promote carbon pricing globally, enhance decarbonisation in a cost-effective and technology-neutral way*** and support the Union's increased ambition on climate mitigation, while ensuring WTO compatibility. ***Support measures for farmers in adapting to changes in fertiliser price or sourcing should be made available under existing appropriate instruments, notably the CAP and the NextGenerationEU, rather than compromising the efficacy and WTO compatibility of the CBAM itself.***

## Amendment 10

### Proposal for a regulation Recital 13 a (new)

*Text proposed by the Commission*

*Amendment*

***(13a) While not its main objective, the CBAM could also indirectly contribute to improving the Union's strategic resilience and autonomy, to shortening, making more sustainable and diversifying Union industries' supply chains in order to reduce overdependence on a few markets, to relocating industrial production in sectors of strategic importance to the Union, and to creating quality jobs at***

*local level.*

## Amendment 11

### Proposal for a regulation

#### Recital 19

*Text proposed by the Commission*

(19) However, while the EU ETS sets an absolute cap on the GHG emissions from the activities under its scope and allows tradability of allowances (so called ‘cap and trade system’), the CBAM should not establish quantitative limits to import, so as to ensure that trade flows are not restricted. Moreover, while the EU ETS applies to installations based in the Union, the CBAM should be applied to certain goods imported into the customs territory of the Union.

*Amendment*

(19) However, while the EU ETS sets an absolute cap on the GHG emissions from the activities under its scope and allows tradability of allowances (so called ‘cap and trade system’), the CBAM should not establish quantitative limits to import, so as to ensure that trade flows are not restricted ***and that any unfair competition is prevented.*** Moreover, while the EU ETS applies to installations based in the Union, the CBAM should be applied to certain goods imported into the customs territory of the Union.

## Amendment 12

### Proposal for a regulation

#### Recital 28

*Text proposed by the Commission*

(28) Whilst the ultimate objective of the CBAM is a broad product coverage, it would be prudent to start with a selected number of sectors with relatively homogeneous products where there is a risk of carbon leakage. Union sectors deemed at risk of carbon leakage are listed in Commission Delegated Decision 2019/708<sup>42</sup>.

*Amendment*

(28) Whilst the ultimate objective of the CBAM is a broad product coverage, it would be prudent to start with a selected number of sectors with relatively homogeneous products where there is a ***potential*** risk of carbon leakage. Union sectors deemed at risk of carbon leakage are listed in Commission Delegated Decision (EU) 2019/708<sup>42</sup>. ***Any further extension of the sectors and products covered by the CBAM should take place after an exhaustive scientific analysis and risk assessment, based on the latest available scientific evidence. The potential contribution of such extension, and possible negative effects, as well as the effects on the stability of the internal***

***market, should also be taken into consideration.***

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<sup>42</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. 2).

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<sup>42</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. 2).

### **Amendment 13**

#### **Proposal for a regulation Recital 31 a (new)**

*Text proposed by the Commission*

*Amendment*

***(31a) The scope of the CBAM should be extended to agricultural products after the phasing-in period. Meanwhile, the Commission should monitor the stability of the Union agricultural markets and foresee the viability of agricultural production as effect of the implementation of the CBAM certificates for the sectors involved.***

### **Amendment 14**

#### **Proposal for a regulation Recital 37 a (new)**

*Text proposed by the Commission*

*Amendment*

***(37a) The European Green Deal objectives in the agricultural sector could result in additional carbon leakage to third countries and in a loss of Union producers' competitiveness. In addition, the inclusion of fertilisers in the CBAM could lead to a further increase of agricultural production costs. The Union should therefore strengthen its support to promote sustainable fertiliser***



*management by farmers in the Union and reduce fertiliser consumption through the use of digital systems, improved farming practices, investments in precision farming, increased cultivation of leguminous crops, support for organic farming and the financing of low-carbon agriculture projects.*

Amendment 15

**Proposal for a regulation**  
**Recital 37 b (new)**

*Text proposed by the Commission*

*Amendment*

*(37b) The Union's agricultural sector is one of the most productive and advanced in the world in terms of its commitment to climate and environmental protection. However, one of the main challenges it will face once the European Green Deal strategies are developed is climate dumping from countries that make slow progress in adopting their greener agricultures. Therefore, the scope of the CBAM should be extended to agricultural products without undue delay, provided that this is done following a comprehensive impact assessment and a broad cross-sectoral consultation, and is compatible with the Union tariff system. The inclusion of agricultural products in the scope of the CBAM is all the more important as the agricultural sector will be both directly and indirectly affected by the inclusion of other products, notably fertilisers, steel and aluminium. The Commission is committed to continuously monitoring the stability of the Union internal market, including agricultural markets in particular, and to taking strong remedial actions, including through financial compensation to farmers, if the profitability and viability of agricultural production is seriously affected by the implementation of the new mechanism.*



## Amendment 16

### Proposal for a regulation Recital 37 c (new)

*Text proposed by the Commission*

*Amendment*

***(37c) The extension of the scope of the CBAM to imported agricultural products could usefully complement the legal framework aimed at minimising the Union's contribution to deforestation and forest degradation worldwide, to significantly reduce the total carbon footprint of the Union, and to encourage the agroecological transformation of the Union's agri-food systems and those of its trading partners, including through the reallocation of agricultural aid. Such an agroecological transformation would reduce GHG emissions, protect and restore ecosystems, reduce the use of agrochemicals and associated pollution, promote sustainable consumption and production and food sovereignty. The Commission should assess the possibilities for such an extension of CBAM to imported agricultural products by 2030 at the latest.***

## Amendment 17

### Proposal for a regulation Recital 50

*Text proposed by the Commission*

*Amendment*

(50) A transitional period should apply during the period 2023 until 2025. A CBAM without financial adjustment should apply, with the objective to facilitate a smooth roll out of the mechanism hence reducing the risk of disruptive impacts on trade. Declarants should have to report on a quarterly basis the actual embedded emissions in goods imported during the transitional period, detailing direct and indirect emissions as

(50) A transitional period should apply during the period 2023 until 2025. A CBAM without financial adjustment should apply, with the objective to facilitate a smooth roll out of the mechanism hence reducing the risk of disruptive impacts on trade ***and internal market competitiveness***. Declarants should have to report on a quarterly basis the actual embedded emissions in goods imported during the transitional period,

well as any carbon price paid abroad.

detailing direct and indirect emissions as well as any carbon price paid abroad.

## Amendment 18

### Proposal for a regulation Recital 50 a (new)

*Text proposed by the Commission*

*Amendment*

***(50a) The inclusion of some basic products in the CBAM, such as fertilisers, will have a significant impact on downstream sectors in the Union. However, given the impact of additional costs on the competitiveness of Union economic sectors, including the farming sector, a risk of carbon leakage cannot be immediately ruled out. It seems appropriate to propose that the revenue from the CBAM be used as earmarked revenue in the Union budget with a view to offsetting both the cost of setting the mechanism up and the removal of free allowances, and to helping to finance transitional measures for Union economic sectors the competitiveness of which will be affected. The Commission should be empowered to set the arrangements for such a mechanism.***

#### *Justification*

*The inclusion of some basic products in the CBAM, such as fertilisers, will have a significant impact on European downstream sectors. However, given the impact of additional costs on the competitiveness of European economic sectors, including the European farming sector, a risk of carbon leakage cannot be immediately ruled out. It seems appropriate to propose that the revenue from the CBAM be used as earmarked revenue in the EU budget with a view to offsetting both the cost of setting the mechanism up and the removal of free allowances.*

## Amendment 19

### Proposal for a regulation Recital 51

*Text proposed by the Commission*

(51) To facilitate and ensure a proper functioning of the CBAM, the Commission should provide support to the competent authorities responsible for the application of this Regulation in carrying out their obligations.

*Amendment*

(51) To facilitate and ensure a proper functioning of the CBAM, the Commission should provide support to the competent authorities responsible for the application of this Regulation in carrying out their obligations ***as well as ensure that Member States' administrations are reimbursed for additional costs incurred as a result of implementing this Regulation.***

## Amendment 20

### Proposal for a regulation Recital 51 a (new)

*Text proposed by the Commission*

*Amendment*

***(51a) The Commission should establish clear and simplified rules and procedures to avoid excessive administrative and financial burdens associated with the management and the implementation of the CBAM, especially for SMEs.***

## Amendment 21

### Proposal for a regulation Recital 51 b (new)

*Text proposed by the Commission*

*Amendment*

***(51b) To facilitate and ensure a proper functioning of the CBAM and to avoid internal market distortions or excessive administrative burden for enterprises, in particular SMEs, the Commission should provide them with technical advice and technical assistance in order to facilitate their adaptation to the new obligations established by this Regulation and to***

*avoid causing technical obstacles to trade.*

## Amendment 22

### Proposal for a regulation

#### Recital 52

*Text proposed by the Commission*

(52) The Commission should evaluate the application of this Regulation before the end of the transitional period and report to the European Parliament and the Council. The report of the Commission should in particular *focus on possibilities to enhance climate actions towards the objective of a climate neutral Union by 2050. The Commission should, as part of that evaluation, initiate collection of information necessary to possibly extend the scope to indirect emissions*, as well as *to other goods and services* at risk of carbon leakage, *and to develop methods of calculating embedded emissions based on the environmental footprint methods*<sup>47</sup>.

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<sup>47</sup> Commission Recommendation 2013/179/EU of 9 April 2013 on the use of common methods to measure and communicate the life cycle environmental

*Amendment*

(52) The Commission should evaluate the application of this Regulation before the end of the transitional period and report to the European Parliament and the Council. The report of the Commission should, in particular, *assess as accurately as possible the real impact that the CBAM mechanism has on climate and environmental protection, the impact on the competitiveness and viability of the Union's economy, especially in the agricultural sector and on SMEs*, as well as *actual compliance costs. The report should also examine the effects on sustainable innovation and changes in trade flows and supply chains, notably concerning fertilisers, and the effects on the prices of fertilisers and agricultural production. It should also assess the possibility of dedicating revenues obtained through CBAM to the financing of measures aimed at reducing carbon emissions and promoting more sustainable use of fertilisers in the Union. The effects of the potential extension of the scope of this Regulation to agriculture and agri-food products, and other products at risk of carbon leakage, as well as to indirect emissions, should also be evaluated. The Commission should also develop methods of calculating embedded emissions based on the environmental footprint methods*<sup>47</sup>.

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<sup>47</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).

performance of products and organisations  
(OJ L 124, 4.5.2013, p. 1).

## **Amendment 23**

### **Proposal for a regulation Recital 52 a (new)**

*Text proposed by the Commission*

*Amendment*

***(52a) Agriculture is a sector of vital importance in terms of food supply, food security and food autonomy. Accordingly, the impact of the inclusion of fertilisers in the CBAM on Union agriculture, food supply, food security and food autonomy must be reviewed before the CBAM, including the financial adjustment for fertilisers, applies.***

## **Amendment 24**

### **Proposal for a regulation Recital 52 b (new)**

*Text proposed by the Commission*

*Amendment*

***(52b) In an effort to tackle sustainable development issues, particularly climate change, which are matters of global concern, the Union has been steadily raising its standards for many years. The European Green Deal and Farm to Fork Strategy may further raise standards in the Union with a view to achieving those goals. Farming sectors in the Union will therefore face carbon leakage to countries with less stringent climate requirements. As a result, the question of extending the scope of the CBAM to certain agricultural and agri-food products at risk of carbon leakage needs to be considered on the basis of information gathered during the transition period. The inclusion of agricultural and agri-food products in the scope of the CBAM is all the more important because the farming sector is***

***likely to be both directly and indirectly affected by the inclusion of other products used as inputs that will affect its production costs.***

*Justification*

*An in-depth analysis needs to be carried out on the impact of the CBAM on downstream farming sectors and on whether to include agricultural products in the scope of the CBAM. Extending the scope of the CBAM to downstream farming sectors could be effective in preventing the risk of carbon leakage, but there are feasibility issues that need to be addressed before any decision is taken.*

**Amendment 25**

**Proposal for a regulation  
Recital 53 a (new)**

*Text proposed by the Commission*

*Amendment*

***(53a) To facilitate the achievement of the objectives of this Regulation, to incentivise global climate action, both within the Union and globally, and to support a market for low-carbon goods, continuous dialogue with all relevant stakeholders and Union's trade partners should be carried.***

**Amendment 26**

**Proposal for a regulation  
Recital 59 a (new)**

*Text proposed by the Commission*

*Amendment*

***(59a) The Commission needs to attach particular importance to keeping importers updated, enabling them to factor in at an early stage the internal costs of implementing the CBAM, such as those relating to emissions reporting, record keeping, calculation and documentation.***

## Amendment 27

### Proposal for a regulation Recital 59 b (new)

*Text proposed by the Commission*

*Amendment*

***(59b) The Commission should propose funding for investment in the modernisation of large GHG-intensive industrial sectors, channelling it into measures to help increase energy efficiency, with particular regard for Member States with lower incomes.***

## Amendment 28

### Proposal for a regulation Article 1 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. This Regulation establishes a carbon border adjustment mechanism (the ‘CBAM’) for addressing greenhouse gas emissions embedded in the goods referred to in Annex I, upon their importation into the customs territory of the Union, in order to prevent the risk of carbon leakage.

1. This Regulation establishes a carbon border adjustment mechanism (the ‘CBAM’) for addressing greenhouse gas emissions embedded in the goods referred to in Annex I, upon their importation into the customs territory of the Union, in order to ***contribute to the gradual reduction of imported emissions, reduce the Union’s total carbon footprint***, prevent the risk of ***possible*** carbon leakage ***and encourage carbon pricing worldwide***.

## Amendment 29

### Proposal for a regulation Article 2 – paragraph 5 – point a

*Text proposed by the Commission*

*Amendment*

(a) the EU ETS established pursuant to Directive 2003/87/EC applies to that 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 third country or territory

(a) the EU ETS established pursuant to Directive 2003/87/EC applies to that 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 third country or territory

emission trading system;

emission trading system **and guaranteeing equal conditions for EU ETS participants and producers in those countries;**

*Justification*

*Some states have introduced carbon pricing on the basis of the CBAM notice. The EU ETS has been in place for more than 10 years, being refined over five of those years. The CBAM is to apply from 2023 or 2026. CO2 emission pricing systems in other countries may not be at all proportionate to the burden caused by the EU ETS.*

**Amendment 30**

**Proposal for a regulation**

**Article 2 – paragraph 5 – point b**

*Text proposed by the Commission*

*Amendment*

(b) the price paid in the country where the goods are originating in is effectively charged on those goods without any rebate beyond those also applied in the EU ETS.

(b) the price paid in the country where the goods are originating in is effectively charged on those goods without any rebate beyond those also applied in the EU ETS, **and the conditions for both EU ETS participants and producers from those countries can demonstrably be considered equivalent.**

*Justification*

*Some states have introduced carbon pricing on the basis of the CBAM notice. The EU ETS has been in place for more than 10 years, being refined over five of those years. The CBAM is to apply from 2023 or 2026. CO2 emission pricing systems in other countries may not be at all proportionate to the burden caused by the EU ETS.*

**Amendment 31**

**Proposal for a regulation**

**Article 3 – paragraph 1 – point 28**

*Text proposed by the Commission*

*Amendment*

(28) ‘indirect emissions’ mean emissions from the production of **electricity, heating and cooling**, which **is** consumed during the production processes

(28) ‘indirect emissions’ mean emissions from the production of **the goods referred to in Annex I**, which **are** consumed during the production processes



of goods.

of *others* goods.

## Amendment 32

### Proposal for a regulation

#### Article 3 – paragraph 1 – point 28 a (new)

*Text proposed by the Commission*

*Amendment*

***(28a) 'agricultural and food products' mean products listed in Annex I to the TFEU, as well as products not listed in that Annex but processed for use as food using products listed in that Annex;***

#### *Justification*

*The concept of agricultural and food products needs to be clearly defined. The above definition comes from the 2019 directive on unfair commercial practices.*

## Amendment 33

### Proposal for a regulation

#### Article 9 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. The authorised declarant shall keep records of the documentation, certified by an independent person, required to demonstrate that the declared embedded emissions were subject to a carbon price in the country of origin of the goods and keep evidence of the proof of the actual payment for that carbon price which should not have been subject to an export rebate or any other form of compensation ***on exportation***.

2. The authorised declarant shall keep records of the documentation, certified by an independent person, required to demonstrate that the declared embedded emissions were subject to a carbon price in the country of origin of the goods and keep evidence of the proof of the actual payment for that carbon price which should not have been subject to an export rebate or any other form of compensation.

## Amendment 34

### Proposal for a regulation

#### Article 11 – paragraph 2

*Text proposed by the Commission*

2. **Member States shall require that** competent authorities exchange any information that is essential or relevant to the exercise of their functions and duties.

*Amendment*

2. **The competent authorities shall** exchange any information that is essential or relevant to the exercise of their functions and duties. **The European Union Agency for the Cooperation of Energy Regulators shall support the coordination between the competent authorities.**

## **Amendment 35**

### **Proposal for a regulation**

#### **Article 12 – paragraph 1**

*Text proposed by the Commission*

The Commission shall assist the competent authorities in carrying out their obligations under this Regulation and coordinate their activities.

*Amendment*

**The Commission shall ensure that the activity of the competent authorities does not impose an excessive administrative burden or heavy compliance costs on Member States.** The Commission shall assist the competent authorities, **providing support where requested**, in carrying out their obligations under this Regulation and coordinate their activities.

## **Amendment 36**

### **Proposal for a regulation**

#### **Article 12 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

**For the purpose of the first paragraph, the Commission shall establish clear and simplified rules and procedures, to avoid excessive administrative and financial burdens associated with the management and the implementation of CBAM, especially for SMEs.**

## **Amendment 37**

### **Proposal for a regulation**

#### **Article 12 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***The Commission shall provide enterprises with technical advice and technical assistance in order to facilitate their adaptation to the obligations established by this Regulation.***

### **Amendment 38**

#### **Proposal for a regulation Article 12 – paragraph 1 c (new)**

*Text proposed by the Commission*

*Amendment*

***By [1 January 2024], the Commission shall publish detailed guidelines setting out the responsibilities of the competent authorities, the sources and principles of funding of their actions to fulfil the obligations imposed by this Regulation as well as a precise description of the responsibilities of, and procedures for, the national competent authorities in cases of proven non-compliance with this Regulation.***

### **Amendment 39**

#### **Proposal for a regulation Article 13 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

All information acquired by the competent authority in the course of performing its duty which is by its nature confidential or which is provided on a confidential basis shall be covered by an obligation of professional secrecy. Such information shall not be disclosed **by** the competent **authority** without the express permission of the person or authority that provided it. It may be shared with customs authorities, the Commission and the European Public Prosecutors Office and shall be treated in

All information acquired by the competent authority in the course of performing its duty which is by its nature confidential or which is provided on a confidential basis shall be covered by an obligation of professional secrecy. Such information shall not be disclosed **outside** the competent **authorities and the central administrator** without the express permission of the person or authority that provided it. It may be shared with customs authorities, the Commission and the

accordance with Council Regulation (EC) No 515/97.

European Public Prosecutors Office and shall be treated in accordance with Council Regulation (EC) No 515/97.

## **Amendment 40**

### **Proposal for a regulation**

#### **Article 21 – paragraph 1 – subparagraph 1**

##### *Text proposed by the Commission*

The Commission shall calculate the price of CBAM certificates as the average price of the closing prices of EU ETS allowances on the common auction platform in accordance with the procedures laid down in Commission Regulation (EU) No 1031/2010<sup>54</sup> for each calendar week.

##### *Amendment*

The Commission shall calculate the price of CBAM certificates as the average price of the closing prices of EU ETS allowances on the common auction platform in accordance with the procedures laid down in Commission Regulation (EU) No 1031/2010<sup>54</sup> for each calendar week. ***By applying Decision (EU) 2015/1814, the Commission establishes minimum and maximum prices for EU ETS allowances in order to enhance the efficiency and keep under control the social impacts of the transition and to avoid the possibility to circumvent the CBAM certificates system.***

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<sup>54</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 (OJ L 302, 18.11.2010, p. 1).

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<sup>54</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 (OJ L 302, 18.11.2010, p. 1).

## **Amendment 41**

### **Proposal for a regulation**

#### **Article 30 – paragraph 1**

##### *Text proposed by the Commission*

1. The Commission shall collect the information necessary with a view to extending the scope of this Regulation to indirect emissions and goods other than those listed in Annex I, ***and*** develop

##### *Amendment*

1. The Commission shall collect the information necessary with a view to ***monitoring the impact of the CBAM on climate and environmental protection, on the competitiveness of the Union***

methods of calculating embedded emissions based on environmental footprint methods.

*economy, especially in the agricultural and food sectors, and with regard to SMEs, on the viability of production facilities in the sectors covered by the Regulation, on the structure and volume of Union imports, on the costs to final customers and on developing countries. Based on the outcome of that scrutiny, the Commission shall examine the feasibility and relevance of extending the scope of this Regulation to indirect emissions and goods other than those listed in Annex I, including assessing the impact of the potential inclusion of agricultural and agri-food products. The Commission shall also develop methods of calculating embedded emissions based on environmental footprint methods and ensure an efficient and transparent verification and control system to guarantee the accuracy of the information received from third-country producers.*

## Amendment 42

### Proposal for a regulation Article 30 – paragraph 2

#### *Text proposed by the Commission*

2. Before the end of the transitional period, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation. The report shall contain, in particular, **the** assessment of the possibilities to further extend the scope of embedded emissions to indirect emissions and to other goods at risk of carbon leakage than those already covered by this Regulation, **as well as an** assessment of the governance system. **It shall also contain the** assessment of the possibility to further extend the scope to embedded emissions of transportation services as well as to goods further down the value chain and services that may be subject to the risk of carbon

#### *Amendment*

2. Before the end of the transitional period, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation. The report shall contain, in particular:

leakage in the future.

- (a)** *an assessment of the possibilities to further extend the scope of embedded emissions to indirect emissions and to other goods at risk of carbon leakage than those already covered by this Regulation;*
- (b)** *an assessment of the governance system;*
- (c)** *an assessment of the possibility to further extend the scope to embedded emissions of transportation services as well as to goods further down the value chain and services that may be subject to the risk of carbon leakage in the future;*
- (d)** *an assessment of the real impact on climate and environmental protection;*
- (e)** *an assessment of the impact on the competitiveness and viability of the Union's economy;*
- (f)** *an assessment of the impact on Union's imports;*
- (g)** *an identification of the effects on sustainable innovation and changes in trade flows, supply chains and prices with regards to fertilisers and agricultural sector;*
- (h)** *an identification of the effects on Union enterprises, including a quantitative assessment of impacts, specifically on SMEs, and actual compliance cost;*
- (i)** *an assessment of the effects from the potential extension of the scope of this Regulation to agricultural and food products and its potential implications;*
- (j)** *an assessment of whether the carbon embedded in the short-lived harvested wood products, accounted for in the land use, land use change and forestry sector, should be covered by this Regulation;*
- (k)** *an evaluation of the possibility of earmarking revenues from CBAM to promote measures contributing to*

*reducing Union carbon emissions and to reduce the agriculture's dependence on fertilisers.*

#### **Amendment 43**

##### **Proposal for a regulation Article 33 – paragraph 2**

*Text proposed by the Commission*

2. The customs authorities shall, at the moment of the release of those goods for free circulation at the latest, inform the declarant of the obligation referred to in paragraph 1.

*Amendment*

2. The customs authorities shall, at the moment of the release of those goods for free circulation at the latest, inform the declarant of the obligation referred to in paragraph 1. ***The Commission shall ensure that the new obligations imposed on customs authorities under this Regulation do not impose an excessive administrative burden or create substantial compliance cost.***

#### **Amendment 44**

##### **Proposal for a regulation Article 35 – paragraph 2 – point d**

*Text proposed by the Commission*

(d) the carbon price due in a country of origin for the embedded emissions in the imported goods, which is not subject to an export rebate or other form of compensation ***on exportation.***

*Amendment*

(d) the carbon price due in a country of origin for the embedded emissions in the imported goods, which is not subject to an export rebate or other form of compensation.

#### **Amendment 45**

##### **Proposal for a regulation Article 36 – paragraph 3 – point a**

*Text proposed by the Commission*

(a) Articles 32 to 34 shall apply until ***31 December 2025.***

*Amendment*

(a) Articles 32 to 34 shall apply until ***the end of the year in which the Commission has evaluated the application of this Regulation, reported to the***

***European Parliament and the Council and the European Parliament has given its consent to the full application of the CBAM, including the financial adjustment.***

#### **Amendment 46**

##### **Proposal for a regulation Article 36 – paragraph 3 – point d**

*Text proposed by the Commission*

(d) Articles 4, 6, 7, 8, 9, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 31 shall apply from 1 January **2026**.

*Amendment*

(d) Articles 4, 6, 7, 8, 9, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 31 shall apply from 1 January ***of the year after the Commission has evaluated the application of this Regulation, reported to the European Parliament and the Council and the European Parliament has given its consent to the full application of the CBAM, including the financial adjustment.***



## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Establishing a carbon border adjustment mechanism
<b>References</b>	COM(2021)0564 – C9-0328/2021 – 2021/0214(COD)
<b>Committee responsible</b> Date announced in plenary	ENVI 13.9.2021
<b>Opinion by</b> Date announced in plenary	AGRI 11.11.2021
<b>Rapporteur for the opinion</b> Date appointed	Zbigniew Kuźmiuk 17.9.2021
<b>Date adopted</b>	11.1.2022
<b>Result of final vote</b>	+ :                    27 - :                    3 0 :                    18
<b>Members present for the final vote</b>	Mazaly Aguilar, Clara Aguilera, Atidzhe Alieva-Veli, Álvaro Amaro, Attila Ara-Kovács, Carmen Avram, Benoît Biteau, Mara Bizzotto, Daniel Buda, Asger Christensen, Angelo Ciocca, Ivan David, Paolo De Castro, Jérémy Decerle, Salvatore De Meo, Herbert Dorfmann, Dino Giarrusso, Francisco Guerreiro, Martin Häusling, Martin Hlaváček, Krzysztof Jurgiel, Jarosław Kalinowski, Elsi Katainen, Gilles Lebreton, Norbert Lins, Chris MacManus, Colm Markey, Alin Mituța, Marlene Mortler, Ulrike Müller, Maria Noichl, Juozas Olekas, Pina Picierno, Maxette Pirbakas, Bronis Ropè, Anne Sander, Petri Sarvamaa, Simone Schmiedtbauer, Annie Schreijer-Pierik, Marc Tarabella, Veronika Vrecionová, Sarah Wiener, Juan Ignacio Zoido Álvarez
<b>Substitutes present for the final vote</b>	Eric Andrieu, Manuel Bompard, Petros Kokkalis, Zbigniew Kuźmiuk, Cristina Maestre Martín De Almagro

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

27	+
ECR	Mazaly Aguilar, Krzysztof Jurgiel, Zbigniew Kuźmiuk, Veronika Vrecionová
ID	Mara Bizzotto, Angelo Ciocca, Gilles Lebreton, Maxette Pirbakas
PPE	Colm Markey, Anne Sander, Annie Schreijer-Pierik
Renew	Atidzhe Alieva-Veli, Asger Christensen, Jérémy Decerle, Martin Hlaváček, Elsi Katainen, Alin Mituța, Ulrike Müller
S&D	Clara Aguilera, Eric Andrieu, Attila Ara-Kovács, Carmen Avram, Paolo De Castro, Cristina Maestre Martín De Almagro, Juozas Olekas, Pina Picierno, Marc Tarabella

3	-
S&D	Maria Noichl
The Left	Manuel Bompard, Petros Kokkalis

18	0
ID	Ivan David
NI	Dino Giarrusso
PPE	Álvaro Amaro, Daniel Buda, Salvatore De Meo, Herbert Dorfmann, Jarosław Kalinowski, Norbert Lins, Marlene Mortler, Petri Sarvamaa, Simone Schmiedtbauer, Juan Ignacio Zoido Álvarez
The Left	Chris MacManus
Verts/ALE	Benoît Biteau, Francisco Guerreiro, Martin Häusling, Bronis Ropé, Sarah Wiener

Key to symbols:

+ : in favour

- : against

0 : abstention

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	Establishing a carbon border adjustment mechanism			
<b>References</b>	COM(2021)0564 – C9-0328/2021 – 2021/0214(COD)			
<b>Date submitted to Parliament</b>	15.7.2021			
<b>Committee responsible</b> Date announced in plenary	ENVI 13.9.2021			
<b>Committees asked for opinions</b> Date announced in plenary	DEVE 16.12.2021	INTA 13.9.2021	BUDG 13.9.2021	ECON 13.9.2021
	ITRE 13.9.2021	IMCO 13.9.2021	AGRI 11.11.2021	
<b>Not delivering opinions</b> Date of decision	IMCO 1.9.2021			
<b>Associated committees</b> Date announced in plenary	BUDG 11.11.2021	ITRE 11.11.2021	INTA 11.11.2021	
<b>Rapporteurs</b> Date appointed	Mohammed Chahim 16.9.2021			
<b>Discussed in committee</b>	9.9.2021	2.2.2022	22.3.2022	
<b>Date adopted</b>	17.5.2022			
<b>Result of final vote</b>	+ : 49 - : 33 0 : 5			
<b>Members present for the final vote</b>	Mathilde Androuët, Margrete Auken, Simona Baldassarre, Marek Paweł Balt, Traian Băsescu, Aurélie Beigneux, Monika Beňová, Hildegard Bentele, Sergio Berlato, Alexander Bernhuber, Malin Björk, Simona Bonafè, Delara Burkhardt, Pascal Canfin, Sara Cerdas, Mohammed Chahim, Tudor Ciuhodaru, Nathalie Colin-Oesterlé, Esther de Lange, Christian Doleschal, Marco Dreosto, Bas Eickhout, Cyrus Engerer, Agnès Evren, Pietro Focchi, Raffaele Fitto, Andreas Glück, Catherine Griset, Jytte Guteland, Teuvo Hakkarainen, Martin Hojsík, Pär Holmgren, Jan Huitema, Yannick Jadot, Adam Jarubas, Petros Kokkalis, Ewa Kopacz, Peter Liese, Sylvia Limmer, Javi López, César Luena, Marian-Jean Marinescu, Fulvio Martusciello, Liudas Mažylis, Joëlle Mélin, Tilly Metz, Silvia Modig, Dolors Montserrat, Alessandra Moretti, Ville Niinistö, Ljudmila Novak, Grace O’Sullivan, Jutta Paulus, Stanislav Polčák, Jessica Polfjård, Nicola Procaccini, Luisa Regimenti, Frédérique Ries, María Soraya Rodríguez Ramos, Sándor Rónai, Rob Rooken, Silvia Sardone, Christine Schneider, Günther Sidl, Ivan Vilibor Sinčić, Linea Søgaaard-Lidell, Maria Spyraiki, Nicolae Ștefănuță, Nils Torvalds, Edina Tóth, Véronique Trillet-Lenoir, Petar Vitanov, Alexandr Vondra, Mick Wallace, Pernille Weiss, Emma Wiesner, Michal Wiezik, Tiemo Wölken, Anna Zalewska			
<b>Substitutes present for the final vote</b>	Michael Bloss, Manuel Bompard, Milan Brglez, Stelios Kypouropoulos, Manuela Ripa, Christel Schaldemose, Vincenzo			

	Sofo, Idoia Villanueva Ruiz
<b>Date tabled</b>	24.5.2022

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

49	+
PPE	Nathalie Colin-Oesterlé, Agnès Evren, Stelios Kypouropoulos, Maria Spyrali
Renew	Pascal Canfin, Martin Hojsík, Jan Huitema, Frédérique Ries, María Soraya Rodríguez Ramos, Nicolae Ștefănuță, Linea Søgaard-Lidell, Nils Torvalds, Véronique Trillet-Lenoir, Emma Wiesner, Michal Wiezik
S&D	Marek Paweł Balt, Monika Beňová, Simona Bonafè, Milan Brglez, Delara Burkhardt, Sara Cerdas, Mohammed Chahim, Tudor Ciuhodaru, Cyrus Engerer, Jytte Guteland, Javi López, César Luena, Alessandra Moretti, Sándor Rónai, Christel Schaldemose, Günther Sidl, Petar Vitanov, Tiemo Wölken
The Left	Malin Björk, Manuel Bompard, Petros Kokkalis, Silvia Modig, Idoia Villanueva Ruiz, Mick Wallace
Verts/ALE	Margrete Auken, Michael Bloss, Bas Eickhout, Pär Holmgren, Yannick Jadot, Tilly Metz, Ville Niinistö, Grace O'Sullivan, Jutta Paulus, Manuela Ripa

33	-
ECRx	Sergio Berlato, Pietro Fiocchi, Raffaele Fitto, Nicola Procaccini, Rob Rooken, Vincenzo Sofo, Alexandr Vondra, Anna Zalewska
ID	Mathilde Androuët, Simona Baldassarre, Aurélia Beigneux, Marco Dreosto, Catherine Griset, Teuvo Hakkarainen, Sylvia Limmer, Joëlle Mélin, Silvia Sardone
NI	Edina Tóth
PPE	Traian Băsescu, Hildegard Bentele, Alexander Bernhuber, Christian Doleschal, Adam Jarubas, Ewa Kopacz, Esther de Lange, Peter Liese, Marian-Jean Marinescu, Liudas Mažylis, Ljudmila Novak, Stanislav Polčák, Jessica Polfjård, Christine Schneider, Pernille Weiss

5	0
NI	Ivan Vilibor Sinčić
PPE	Fulvio Martusciello, Dolors Montserrat, Luisa Regimenti
Renew	Andreas Glück

Key to symbols:

+ : in favour

- : against

0 : abstention