



2021/0214(COD)

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

PA_Legam

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 emphasises 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-industrial levels.

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 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

(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 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 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

(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. ***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

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***

compared to goods imported into the customs territory of the Union.

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

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.

(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 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 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

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 well as any carbon price paid abroad.

(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

(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. ***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 methods¹⁹.

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 methods¹⁹.

¹⁹ 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).

¹⁹ 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

(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.

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, ***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

(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 2016²³. 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.

²³ 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 **and industry** 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 2016²³. 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.

²³ 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

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

to prevent the risk of carbon leakage.

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

Amendment

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.

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

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.

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)

(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 incompatible with the objectives set out in the Union climate and environmental legislation;

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*** 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

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).

Amendment

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 **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 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 ***shall, by means of*** implementing acts, ***adopt*** 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 ***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

Amendment

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.

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^{1a}.**

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

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 central database referred to in Article 14(4).

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

Amendment

2. The request for registration referred to in paragraph 1 shall include the following information to be included in the database upon registration:

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

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.

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 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

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

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 have to surrender, in accordance with Article 22.

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 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

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 ***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

deleted

and peer evaluation of the accreditation bodies.

Amendment 107

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 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

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.

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 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

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.

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, 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 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 **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

(f) of the right of the authorised declarant or of the person to appeal ***under national rules.***

Amendment

(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

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.

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

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.

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

Amendment

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.

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 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 ***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:

- (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

deleted

legislative proposal.

Amendment 137

Proposal for a regulation Article 31 – paragraph 1

Text proposed by the Commission

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.*

Amendment

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 CO₂ 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

Amendment

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

(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

Amendment

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

(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

Title	Establishing a carbon border adjustment mechanism
References	COM(2021)0564 – C9-0328/2021 – 2021/0214(COD)
Committee responsible Date announced in plenary	ENVI 13.9.2021
Opinion by Date announced in plenary	ITRE 13.9.2021
Associated committees - date announced in plenary	11.11.2021
Rapporteur for the opinion Date appointed	Izabela-Helena Kloc 1.10.2021
Discussed in committee	2.2.2022
Date adopted	20.4.2022
Result of final vote	+: 57 -: 16 0: 3
Members present for the final vote	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 Nienaß, 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 Spyraiki, Jessica Stegrud, Beata Szydło, Riho Terras, Grzegorz Tobiszowski, Patrizia Toia, Isabella Tovaglieri, Henna Virkkunen, Pernille Weiss, Carlos Zorrinho
Substitutes present for the final vote	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 Skyttedal, 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, Łukasz 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 Nienä, 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