

Feedback

Authorizing CBAM declarants

FISCALEAD S.A.S (France)

COMMISSION IMPLEMENTING DRAFT REGULATION laying down rules for the application of Regulation (EU) 2023/956 of the European

Parliament and of the Council as regards the conditions and procedures related to the status of authorised CBAM declarant

Article 1 (3)

Procedures for application

(3) Where the applicant is a legal person established in a third country and is in one of the situations referred to in Article 5, point (31)(b), of Regulation (EU) 952/2013 of the European Parliament and of the Council⁴, the applicant shall provide its address in that third country and its address of establishment in the Member State where the application is submitted.

>> We then understand that it should be equally possible, for an indirect customs representative to specify its EU head office address, and the non-EU one of the non-EU represented company? Is it something that could be expressly mentioned in the texts as it would be required indeed for sake of transparency and to guarantee the CBAM audit trail of non-EU companies. Especially for situations provided for in Article 5 (3) of the Regulation (EU) 2023/956.

Article 4 (4)

Assessment of the application by the competent authority

Where the applicant is not established in the Member State of submission of the application, the competent authority shall refuse the application. The competent authority shall notify the applicant of the refusal and the reasons thereof without delay.

>> *Considering the likely difficulty for CBAM goods non-EU importers to find agreed CBAM indirect customs representatives, would it be possible to expressly foresee an exception for indirect customs representatives? Such an indirect customs representative should be allowed to submit an application in its name (in its role of representative) but for the account of a non-EU company, to cover any of the Member State CBAM obligations. i.e. an non-EU company which could be importing in any of the Member States. It is not clear from the DRAFT texts whether once an indirect customs representative will be granted with a CBAM declarant authorization, the name and details of the represented (non-)EU person could be mentioned. We emphasize on the importance of anticipating and application online form with such a level of granularity.*

Article 8

Identification of importers of electricity

Each person to whom explicit capacity has been allocated for the import of electricity in accordance with Article 5(4) of Regulation (EU) 2023/956, and who nominates that capacity for import,

>> *"that capacity": What if the operator has nominated less capacity than what has been allocated (for XY reasons)? Suggestion: "and who nominates partially or totally that capacity" may be appropriate.*

shall provide, within one month after the first customs declaration, the competent authority of the Member State in which the customs declaration was lodged with the following:

(a) the information referred to in Article 5(5), points (a), (b) and (c), of Regulation (EU) 2023/956;

>> *In case of indirect customs representation, it should be specified which EORI number is expected: the one from the indirect*



representative for CBAM? and /or the one from the operator? A lot of non-EU companies still have an EORI number.

(b) an indication that capacity for the import of electricity has been allocated to them and that they have nominated that capacity for import in accordance with Article 5(4) of Regulation (EU) 2023/956;

>> cf. earlier comment: >> "that capacity": What if the operator has nominated less capacity than what has been allocated (for XY reasons)? Suggestion: "and who nominates partially or totally that capacity" may be appropriate.

(c) documents supporting the indication referred to in point (b) of this paragraph.

>> *What specific type of document will be required to demonstrate that our client has been allocated a capacity for importing electricity? May any financial / pricing indications be struck through or blanked?*

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