

Baar, Switzerland, 27-11-2024

## **Public consultation authorising CBAM declarants**

Dear,

We thank the European Commission for the opportunity to comment on the draft implementing regulation relating to the Authorisation of Authorised Declarants. We have the following comments:

1. Delay in the Authorisation process: We encourage the Commission to consider what provisions will be made available to importers should they not receive authorised status from the competent authority (as set out in Articles 4 and 5 of the draft implementing regulation) by 1 January 2026. A timeline for final decision on authorisation would be welcome.
2. Development of IT-system and CBAM Registry: Noting the separate consultation relating to development of the CBAM Registry. We encourage the Commission to allow for the development of API connectivity for reporting by Authorised Declarants allowing for multi-country reporting for CBAM purposes and linking of Declarant accounts where suitable.
3. Record of CBAM Declarant during Transition period: We recommend that the Commission provides additional clarification on how CBAM Declarants and existing records will be considered as part of the application process for the authorisation of authorised declarants. This too applies the records of past CBAM Declarants into the CBAM Registry.
4. Definition of Authorised CBAM Declarant: Noting Articles 5 and 17 of Regulation 2023/956, we continue to note challenges relating to the issue of the definition of Authorised CBAM Declarant as it relates to indirect representatives acting as the CBAM Declarant for non-EU established importers – in particular in relation to Article 1(c) of the draft implementing regulation.

We foresee a challenge whereby most third-party indirect representatives will not accept the financial liability of CBAM Certificates while potentially impacting existing customs arrangements whereby multiple providers are used in different EU Member States for importing products into the EU and VAT compliance. We encourage the Commission to consider additional simplifications. We envision such simplifications could include:

- Allow for a splitting of the importer of record purposes of Customs and VAT. We note that Article 5 of Regulation 2013/952 as incorporated in Article 3 of Regulation 2023/956 sets out that the person liable for applying for the status

of authorised CBAM declarant shall either be the customs declarant in its own name or the person in whose name such a declaration is lodged. This would allow for the possibility of a non-EU importer to appoint an EU subsidiary as importer for Customs and CBAM purposes while still remaining the person liable for the payment of the applicable VAT.

- Based on existing EU mechanisms such as EU REACH and the designation of a single Only Representative across EU Member States for the purposes of ensuring compliance with relevant EU REACH obligations and the submission of necessary information and data.

5. Clarification of data request: We recommend additional clarification in the Annex to draft implementing regulation to specify whether the box relating to the EORI number refers to the indirect representative or the operator is required.

Yours sincerely,

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