

POSCO's comments on the draft Implementing Regulation on authorising CBAM declarants

About POSCO

POSCO, a South Korean-headquartered company, is the seventh-largest steel producer in the world and has been investing in the European Union (EU) since 1980. Our EU operations are headquartered in Frankfurt, Germany, and with a presence in nine Member States, we are currently creating over 600 direct jobs in the EU and many more indirect jobs. POSCO also plays a key role in supplying high quality steel to the EU industry. We supply high-quality steel products to European automobile, home appliances and renewable energy manufacturers.

POSCO is actively seeking to address environmental issues such as climate change, air pollution, and waste. In December 2020, POSCO became the first Asian steel making company to adopt a 2050 carbon neutrality plan. POSCO has a concrete and achievable roadmap to reach carbon neutrality, focusing on developing and deploying our breakthrough hydrogen reduction steelmaking technology (HyREX). We are investing significant amounts of resources in applying green technologies to reduce environmental impact and achieve our decarbonization goals.

The Republic of Korea introduced the Korea Emissions Trading Scheme (K-ETS) in 2015. Since then, POSCO has been meticulously complying with the Measurement, Reporting and Verification (MRV) systems to meet requirements under the K-ETS.

General comments

POSCO is fully committed to cooperating with the European Commission and relevant stakeholders for successful implementation of the EU Carbon Border Adjustment Mechanism (CBAM). POSCO is also strongly committed to reducing carbon emissions and is investing heavily in applying green technologies to reduce the environmental impact of its production process. It is therefore important for POSCO that the **EU CBAM is implemented in a way that incentivizes the steel industry to further innovate and invest in developing breakthrough technologies to reduce carbon emissions and reward steel producers who provide high-quality and clean steel products to the EU.**

It is central to the functioning of the CBAM (and of the EU ETS) that imported goods should only be allowed on the EU market after the right amount of CBAM certificates have been purchased, and ultimately released. It would be very harmful to EU industries and third country operators who significantly invested in clean technology if goods are allowed to enter the EU market, without the purchase and release of CBAM certificates commensurate to the actual emissions.

In our view, there is a significant risk that this could happen, if CBAM declarants are not sufficiently screened and controlled, and are allowed to make imports of CBAM goods for extended periods of time with emissions declaration that are lower than default values but without having received solid data from third country operators. In effect, CBAM declarants will never, or almost never have access to the data, or have the skills necessary, to determine on their own whether actual emissions were calculated accurately. The only way for CBAM declarants to have any chance to be accurate about emissions lower than default values is if they receive emission data that comes from third

country operators that have registered on the CBAM registry and submitted third-party verification report.

As explained below, POSCO expresses its view on the draft Implementing Regulation (IR) concerning the authorization of CBAM declarants:

- 1) applicants for an authorized CBAM declarant must be encouraged to import CBAM goods from third country operators who will register on the CBAM Registry in accordance with Article 14 of the CBAM Regulation, submit emissions data, and share emissions data securely with declarants; and
- 2) a long assessment period on application for authorization of up to 180 days is excessively long and could hinder the timely authorization of CBAM declarants and unduly restrict imports of CBAM goods.

POSCO appreciates the opportunity to express its views and we respectfully request the Commission to consider the following suggestions for further revision and clarification.

1. Encouraging import of CBAM goods from third country operators who are registered on the CBAM Registry

Applicants for an authorized CBAM declarant must be encouraged to import CBAM goods from third country operators who will register to the CBAM Registry in accordance with Article 14 of the CBAM Regulation¹, upload installation data, submit emissions data, and share emissions data securely with declarants. In our view, operators in third countries who register and provide verified emission data via the CBAM Registry will be a lot more trustworthy in terms of quality of emission data and likely to provide clean steel products because they are confident enough to share the information directly with the Commission and have subjected their emission data to verifications by independent accredited verifiers.

This will benefit relevant stakeholders as follows:

- **Third country operators** can provide confidential elements of emission data directly to the European Commission and national competent authorities of EU Member States via the CBAM Registry.
- **Authorized CBAM declarants** can rely on trustworthy emission data directly provided by third country operators and use it for submitting CBAM declarations. They won't need to receive commercially sensitive information for the purpose of preparing their declarations.
- The more third operators register via the CBAM Registry and directly provide emission data, the easier it will be for authorized CBAM declarants to comply with the CBAM. This would also increase the reliability of emission data, helping the **Commission** and the national authorities in ensuring that the CBAM is successfully implemented and complied with.

¹ [Regulation \(EU\) 2023/956](#) of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism, OJ L 130, 16.5.2023, p. 52–104

To clarify, there is currently no obligation, no incentive even, under the CBAM Regulation for EU importers to make best efforts to import CBAM goods from third country operators who are registered to the CBAM Registry. Thus, the draft IR does not directly include any wording on this.

At the same time, we note that the draft IR provides in recital (10) that “to ensure that only bona fide importers become authorized CBAM declarants, the competent authorities should make sure that the applicant has not been involved in a serious or repeated infringement of legislation including economic criminal offences, and that it has a good financial rating” and provides detailed rules on criteria for granting the status of authorized CBAM declarant in Article 10 (serious or repeated infringements) and Article 11 (conditions for financial and operational capacity).

We suggest the Commission to add the following wording as Article 11.1(e):²

The applicant agrees to import CBAM goods made by third country operators that have registered with the CBAM Registry in accordance with Article 14 of the CBAM Regulation, whenever possible. The applicant will be made aware of the risks associated with using emission data from third country operators that have not registered on the CBAM Registry. When such data is used, they will be required to demonstrate that they have put in place the additional due diligence and data quality controls necessary to ensure that the emission data received and submitted is accurate.

Further, when the competent authority determines the revocation of the status of authorized CBAM declarants in accordance with Article 23 of the draft IR, the competent authority could consider the fact that the authorized CBAM declarants made use of third country operators registered in the CBAM Registry as an indication of good faith to comply with CBAM obligations.

In our view, this will encourage authorized CBAM declarants to import CBAM goods from third country operators who will register to the CBAM Registry and, thus, contribute to the successful implementation of the CBAM.

2. Excessively long period for the assessment of applications for authorization

Article 4 (assessment of the application by the competent authority) and Article 5 (request for additional information by the competent authority) of the draft IR provides an assessment period of 120 days for reviewing applications submitted by EU-based importers, which can be extended to

² Article 11.1 of the draft IR provides “The criteria laid down in Article 17(2), point (b), of Regulation (EU) 2023/956 shall be fulfilled where the following conditions are met:

- (a) the applicant is not subject to bankruptcy proceedings;
- (b) the applicant is not in arrears with the payment of customs duties, taxes or charges which are collected on or in connection with the import of goods, financial regulatory obligations and all other duties related to its economic activity;
- (c) the applicant demonstrates, on the basis of supporting documents provided together with the application, a sufficient financial standing to meet its obligations and fulfil commitments having regard to the type and volume of the economic activity performed by indicating the financial figures and any other financial information;
- (d) the applicant has an administrative organisation suitable for fulfilment of the estimated obligations to surrender CBAM certificates, and has internal controls capable of preventing, detecting and correcting errors in CBAM declarations and CBAM certificates management, and of preventing and detecting illegal or any irregular transactions.

180 days if additional information is required. **This period is excessively long and could hinder the timely authorization of CBAM declarants and unduly hinder imports of CBAM goods.**

To ensure compliance with CBAM obligations starting in January 2026, most importers will seek to obtain the status of CBAM declarants in advance. However, in certain circumstances, that will not be possible. For instance, if the distribution channel of importing CBAM goods unexpectedly changes during the definitive period, resulting in a change in the role of the CBAM declarant, imports could be restricted for up to 180 days, while the competent authority reviews the new application.

If the importation of CBAM goods is restricted due to CBAM obligations, the CBAM would *de facto* be a “disguised restriction on international trade” and create “arbitrary or unjustifiable discrimination” against imported goods. Further, this restriction goes against the minimizing administrative burden, which is explicitly provided in recitals 3 and 12 of the draft IR.³

To ensure smooth authorization procedures for both importers and competent authorities, we request the Commission to consider the following:

- (1) Minimize the assessment period as much as possible (e.g., 60 days for reviewing applications and 90 days if additional information is required);
- (2) Implement a fast-track authorization procedure for declarants who have diligently fulfilled their reporting obligations during the transitional period; and
- (3) Allow the importation of CBAM goods by an applicant that has not yet been authorized if the assessment period exceeds 120 days, to safeguard conventional trade flows. This could be subject to the requirement to regularize the situation once the authorization decision has been made: if the decision is positive, by the applicant; or if it is negative, by another authorized CBAM declarant.

In our view, these measures will facilitate a more efficient and smooth authorization procedures, ensuring that importers can meet their CBAM obligations without unnecessarily delay or restrict the importation of CBAM goods.

* * *

³ Recital (3) provides “the Commission is to adopt implementing rules for the submission of the application and for the authorisation procedure, duly considering the need to minimize administrative burden, through automation of procedures and self-declaration of information to the extent possible.” Further, recital (12) provides “to ensure a proportionate application of the procedures, the competent authorities may, in their evaluation of the criteria for granting an authorisation, consider the specific characteristics of the applicant, and in particular micro, small and medium- sized enterprises that should not be subject to unnecessary administrative burden.”