

## Input regarding authorization of CBAM declarants

On behalf of Danish Industry, we thank you for the opportunity to provide input to the consultation regarding conditions and procedures related to the status of authorized CBAM declarant.

The following paragraph is a resumé of the main points of feedback for this draft regulation on authorization as CBAM declarants. An elaboration of the individual points can be found in the following corresponding paragraphs.

- 1) **Timing with the authorization process:** Companies face potential delays with authorization, as they are informed of CBAM reporting obligations only after importing goods, necessitating solutions like retroactive authorization.
- 2) **Threshold of one tonne:** The one-tonne threshold is unclear in its application and implications, requiring further clarification due to its seemingly low value.
- 3) **Concerns about compliance and authorization:** Companies risk losing CBAM importer authorization due to difficulties in obtaining emissions data, highlighting the need for tailored compliance mechanisms, especially for SMEs.
- 4) **Administrative capacities:** The requirement for proving sufficient administrative capacity poses significant challenges for SMEs, necessitating clear criteria for assessment.
- 5) **Revocation of authorization:** There is a contradiction regarding the revocation and reapplication of authorization, requiring clearer guidelines to understand the process.
- 6) **Clarifications for cross-border operations:** Clarification is needed on the point of importers of less than one tonne, and the authorization mechanism should account for companies operating across multiple Member States.
- 7) **Simplifications for AEO certified companies:** A simplified authorization process should be implemented for AEO-certified companies, potentially exempting them from certain financial and operational capacity requirements.
- 8) **Clarifications of deadlines in the legal text:** The deadlines for assessing applications are complex and interconnected, necessitating clarity and guidance on how extensions and additional information requests impact the initial deadlines.

### **1. Timing issues with the authorization process**

Currently, companies subject to CBAM are advised of their reporting obligation *after* they have imported CBAM goods. If this remains the case in the definitive period, companies will have no knowledge of the need to be authorized CBAM declarants before their goods arrive at the EU border. Thus, companies will not be able to obtain authorization prior to their import of CBAM-goods, and goods will risk being stranded at the border until companies have been authorized as CBAM declarants, leading to significant delays. This appears to be an issue that must be handled urgently.

A possible solution to this issue could be the possibility for companies to be authorized for import with retroactive effect for first-time importers. Another solution could be to implement a minimum threshold for authorization, where imports under a certain level need not apply for authorization.

### **2. Threshold of one tonne**

Following the wording in recital no. 11 as well as the threshold specified in art. 13 regarding the consultation period, it appears that *one tonne* has been selected as a relevant threshold value. However, it appears unclear what this threshold will indicate and/or be applied towards. It would be beneficial to clarify this, especially since it appears to be quite a low threshold.

### **3. Concerns about compliance and authorization**

Given the current challenges of many companies to submit CBAM-reports using real emissions data, we are concerned that companies might lose their authorization as CBAM importers if they are considered to be non-compliant with the regulation, despite their efforts to gather data from suppliers. Most companies attempt to be compliant and gather the required data to report under CBAM, but in some cases, suppliers are not able or willing to submit real emissions data, making it difficult for importers to be compliant with the regulation.

While default values will once again be an option in the definitive period from 2026, this will be an added cost for companies importing CBAM goods. This will particularly affect SMEs, who are already struggling with the added administrative costs and burdens of CBAM. Thus, we believe that there should be a tailored mechanism to address this issue. This could be similar to the option which exists at the moment, where companies have the option to prove and document in the CBAM registry, that

they have taken all measures to gather the necessary information for reporting.

Additionally, the proposal states that in order to obtain authorization as CBAM declarant, companies must meet the condition of not having been involved in repeated infringement of customs legislation and taxation rules amongst other things. Would it be possible to elaborate how potential non-compliance during the transitional period of the CBAM implementation will potentially – if at all – factor into this decision-making process?

#### **4. Administrative capacities**

Regarding the conditions for financial and operational capacity in art. 11, the proposal states that companies must prove they have an administrative organization suitable for fulfilling the estimated obligations, internal controls, etc. As CBAM currently represents a substantial administrative burden, especially for SMEs, it is essential to consider the size of many of the affected companies when determining whether the necessary administrative capacity has been proven when applying for authorization. This correlates to the point in art. 11.3, which takes the specific amount of imported goods into account.

There are companies who import high volumes of CBAM goods but have a limited number of employees. Thus, it is important to clarify what specific criteria will be used by the National Competent Authority to determine whether the company has the *“administrative organization suitable for the fulfillment of CBAM obligations”* (Art. 11.1 (d)).

#### **5. Revocation of authorization**

In art. 9, it is stated that when CBAM authorization is revoked, the CBAM account shall remain under the status of ‘closed’ until the fifth year following the revocation. In art. 21, it states that a declarant whose status of authorized CBAM declarant has been revoked, may reapply for an authorization at any time. The two statements of art. 9 and art. 21 regarding revocation and reapplication seem initially contradictory. It would be beneficial to ensure more clarity towards this process and the interconnectedness of the mechanisms of revocation and reapplication.

#### **6. Clarifications regarding cross-border operations**

Regarding no. 11 in the recital, it is stated that *“data received during the transitional period shows that importers importing less than one tonne are not engaging in cross-border activity”*.

This point is rather unclear, as the fact that companies *import* goods which are subject to CBAM must inherently entail that the company is indeed engaging in cross-border activity. It would be beneficial to get some clarification on this point.

In art. 12, the proposal states that the company must not have applied for or been granted authorization in another Member State. It would be beneficial to get elaboration on this point, especially regarding CBAM-importers with subsidiaries within the EU, as well as the reasoning behind the restriction for companies to only import CBAM-goods through one Member State.

#### **7. Simplifications for AEO certified companies**

Generally, it should be considered to implement a simplified authorization process for companies who already hold AEO status. To this regard, it would for example be beneficial to consider companies with AEO status to be exempted from the demonstrating financial and operational capacity as proposed in art. 11. Another point of simplifications would be to either exempt or reduce AEO companies from the requirement to provide a guarantee as proposed in art. 17.

#### **8. Clarifications of deadlines in the legal text**

Overall, a number of deadlines for assessing applications are presented in the legal text, particularly in art. 4, 5 and 6. These deadlines appears to be both interconnected and complex, which can potentially lead to confusion and delays in authorization for companies. There is a lack of clarity regarding the relationship between these deadlines, which should be cleared up in the legal text. Additionally, there is a need for guidance on how both extensions and the request for additional information influence the initial deadlines for application as authorized CBAM declarant.