Council of the
European Union

Brussels, 4 March 2022
(OR. en)

6771/22

Interinstitutional File:
2021/0214(COD)

LIMITE

FISC 56
ECOFIN 175
ENV 172
UD 44
CLIMA 84

NOTE

From:	Presidency
To:	Permanent Representatives Committee/Council
Subject:	Draft regulation of the European Parliament and of the Council establishing a carbon border adjustment mechanism *- Presidency compromise text*

Delegations will find attached the Presidency compromise text.

DRAFT

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing a carbon border adjustment mechanism

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

Whereas:

[1] OJ C, p.. [OP please insert the number of the opinion]
[2] OJ C, p.. [OP please insert the number of the opinion]

(1) The Commission has, in its communication on the European Green Deal[3], set out a new growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy, where there are no net emissions (emissions after deduction of removals) of greenhouse gases ('GHG emissions') in 2050 and where economic growth is decoupled from resource use. The European Green Deal also aims to protect, conserve and enhance the EU's natural capital, and protect the health and well-being of citizens from environment-related risks and impacts. At the same time, that transformation must be just and inclusive, leaving no one behind. The Commission also announced in its EU Action Plan: Towards Zero Pollution for Air, Water and Soil[4] the promotion of relevant instruments and incentives to better implement the polluter pays principle as set out in Article 191(2) of the Treaty on the Functioning of the European Union ('TFEU') and thus complete the phasing out of 'pollution for free' with a view to maximising synergies between decarbonisation and the zero pollution ambition.

(2) The Paris Agreement[5], adopted in December 2015 under the United Nations Framework Convention on Climate Change ('UNFCCC') entered into force in November 2016. The Parties to the Paris Agreement, in its Article 2, have agreed to hold the increase in the global average temperature well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels.

[3] Communication from the Commission of 11 December 2019 on the European Green Deal (COM(2019) 640 final).
[4] Communication from the Commission of 12 May 2021 on Pathway to a Healthy Planet for All (COM(2021) 400).
[5] OJ L 282, 19.10.2016, p.4

(3) Tackling climate and other environmental-related challenges and reaching the objectives of the Paris Agreement are at the core of the European Green Deal. The value of the European Green Deal has only grown in light of the very severe effects of the COVID-19 pandemic on the health and economic well-being of the Union's citizens.

(4) The Union is committed to reducing its economy-wide GHG emissions by at least 55 per cent by 2030 below 1990 levels, as set out in the submission to the UNFCCC on behalf of the European Union and its Member States on the update of the nationally determined contribution of the European Union and its Member States[6].

(5) Regulation (EU) 2021/1119 of the European Parliament and of the Council[7] has enshrined in legislation the target of economy-wide climate neutrality by 2050. That Regulation also establishes a binding Union reduction commitment of GHG emissions of at least 55 per cent below 1990 levels by 2030.

[6] Council of the European Union ST/14222/1/20/REV1.

[7] Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulation (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

(6) The Special Report of the Intergovernmental Panel on Climate Change (IPCC) on the impacts of global temperature increases of 1.5°C above pre-industrial levels and related global GHG emission pathways[8] provides a strong scientific basis for tackling climate change and illustrates the need to step up climate action. That report confirms that in order to reduce the likelihood of extreme weather events, GHG emissions need to be urgently reduced, and that climate change needs to be limited to a global temperature increase of 1.5°C. The Contribution of Working Group I to the Sixth Assessment Report of the IPCC[9] recalls that climate change is already affecting every region on Earth and projects that in the coming decades climate changes will increase in all regions. This report stresses that unless there are immediate, rapid and large-scale reductions in GHG emissions, limiting warming close to 1.5°C or even 2°C will be beyond reach.

[8] IPCC, 2018: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J.B.R. Matthews, Y. Chen, X. Zhou, M.I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, and T. Waterfield (eds.)].

[9] IPCC, 2021: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, S. L. Connors, C. Péan, S. Berger, N. Caud, Y. Chen, L. Goldfarb, M. I. Gomis, M. Huang, K. Leitzell, E. Lonnoy, J.B.R. Matthews, T. K. Maycock, T. Waterfield, O. Yelekçi, R. Yu and B. Zhou (eds.)]

(7) The Union has been pursuing an ambitious policy on climate action and has put in place a regulatory framework to achieve its 2030 GHG emissions reduction target. The legislation implementing that target consists, inter alia, of Directive 2003/87/EC of the European Parliament and of the Council , which establishes a system for GHG emission allowance trading within the Union ('EU ETS') and delivers harmonised pricing of GHG emissions at Union level for energy-intensive sectors and subsectors, Regulation (EU) 2018/842 of the European Parliament and of the Council[10], which introduces national targets for reduction of GHG emissions by 2030, and Regulation (EU) 2018/841 of the European Parliament and of the Council[11], which requires Member States to compensate GHG emissions from land use with removals of emissions from the atmosphere.

(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 and pursue efforts to limit the temperature increase to 1.5°C above pre- industrial levels.

[10] Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (OJ L 156, 19.6.2018, p. 26).

[11] Regulation (EU) 2018/841 of the European Parliament and of the Council of 30 May 2018 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework, and amending Regulation (EU) No 525/2013 and Decision No 529/2013/EU (OJ L 156, 19.6.2018, p. 1).

(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.

(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.

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

(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 are generated.

(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.

(14) This Regulation should apply to goods imported into the customs territory of the Union from third countries, except where their production has already been subject to the EU ETS, whereby it applies to third countries or territories, or to a carbon pricing system fully linked with the EU ETS.

(15) In order to exclude from the CBAM third countries or territories fully integrated into, or linked, to the EU ETS in the event of future agreements, the power to adopt acts in accordance with Article 290 of TFEU should be delegated to the Commission in respect of amending the list of countries in Annex II. Conversely, those third countries or territories should be excluded from the list in Annex II and be subject to CBAM whereby they do not effectively charge the ETS price on goods exported to the Union.

(16) With a view to preventing the risk of carbon leakage in offshore installations, this Regulation should apply to the goods, or processed products from those goods as resulting from the inward processing procedure, that are brought to an artificial island, a fixed or floating installation, or any other structure on the continental shelf or in the exclusive economic zone of a Member State that are adjacent to the customs territory of the Union. Implementing powers should be conferred on the Commission to lay down detailed conditions for the application of the CBAM to such goods in those cases.

(17) The GHG emissions to be regulated by the CBAM should correspond to those GHG emissions covered by Annex I to the EU ETS in Directive 2003/87/EC, namely carbon dioxide ('CO2') as well as, where relevant, nitrous oxide ('N2O') and perfluorocarbons ('PFCs'). The CBAM should initially apply to direct emissions of those GHG from the production of goods up to the time of import into the customs territory of the Union, and after the end of a transition period and upon further assessment, as well to indirect emissions, mirroring the scope of the EU ETS.

(18) The EU ETS and the CBAM have a common objective of pricing GHG emissions embedded in the same sectors and goods through the use of specific allowances or certificates. Both systems have a regulatory nature and are justified by the need to curb GHG emissions, in line with the binding environmental objective set out in Union law[12] to reduce the Union's net GHG emissions by at least 55 per cent below 1990 levels by 2030 and to reach economy-wide climate neutrality by 2050.

[12] Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulation (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

(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.

(20) The CBAM system has some specific features compared with the EU ETS, including on the calculation of the price of CBAM certificates, on the possibilities to trade certificates and on their validity over time. These are due to the need to preserve the effectiveness of the CBAM as a measure preventing carbon leakage over time and to ensure that the management of the system is not excessively burdensome in terms of obligations imposed on the operators and of resources for the administration, while at the same time preserving an equivalent level of flexibility available to operators under the EU ETS.

(21) In order to preserve its effectiveness as a measure preventing carbon leakage, the CBAM needs to reflect closely the EU ETS price. While on the EU ETS market the price of allowances released into the market is determined through auctions, the price of CBAM certificates should reasonably reflect the price of such auctions through averages calculated on a weekly basis. Such weekly average prices reflect closely the price fluctuations of the EU ETS and allow a reasonable margin for importers to take advantage of the price changes of the EU ETS while at the same ensuring that the system remains manageable for the administrative authorities.

(22) Under the EU ETS, the total number of allowances issued (the 'cap') determines the supply of emission allowances and provides certainty about the maximum emissions of GHG. The carbon price is determined by the balance of this supply against the demand of the market. Scarcity is necessary for there to be a price incentive. As it is not intended to impose a cap on the number of CBAM certificates available to importers, if importers had the possibility to carry forward and trade CBAM certificates, this could result in situations where the price for CBAM certificates would no longer reflect the evolution of the price in the EU ETS. That would weaken the incentive for decarbonisation between domestic and imported goods, favouring carbon leakage and impairing the overarching climate objective of the CBAM. It could also result in different prices for operators of different countries. Therefore, the limits to the possibilities to trade CBAM certificates and to carry them forward is justified by the need to avoid undermining the effectiveness and climate objective of the CBAM and to ensure even handed treatment to operators from different countries. However, in order to preserve the possibility for importers to optimise their costs, this Regulation should foresee a system where authorities can re-purchase a certain amount of excess certificates from the importers. Such amount is set at a level which allows a reasonable margin for importers to leverage their costs over the period of validity of the certificates whilst preserving the overall price transmission effect, ensuring that the environmental objective of the measure is preserved.

(23) Given that the CBAM applies to imports of goods into the customs territory of the Union rather than to installations, certain adaptations and simplifications would also need to apply in the CBAM regime. One of those simplifications should consist in a declarative system where importers should report the total verified GHG emissions embedded in goods imported in a given calendar year. A different timing compared to the compliance cycle of the EU ETS should also be applied to avoid any potential bottleneck resulting from obligations for accredited verifiers under this Regulation and the EU ETS.

(24) In terms of penalties, 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. However, where the goods are introduced into the Union by a person other than an authorised CBAM declarant without complying with the obligation of this Regulation, the amount of those penalties should be higher in order to be effective and dissuasive. The application of penalties under this Regulation is without prejudice to application of penalties that may be imposed under Union or national law for the infringement of other relevant obligations, in particular as regards custom rules.

(25) While the EU ETS applies to certain production processes and activities, the CBAM should target the corresponding imports of goods. That requires clearly identifying imported goods by way of their classification in the Combined nomenclature[13] ('CN') and linking them to embedded GHG emissions.

(26) The product coverage of the CBAM should reflect the activities covered by the EU ETS as that scheme is based on quantitative and qualitative criteria linked to the environmental objective of Directive 2003/87/EC and is the most comprehensive GHG emissions regulatory system in the Union.

[13] Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

(27) Setting a product scope for the CBAM reflecting the activities covered by the EU ETS would also contribute to ensuring that imported products are granted a treatment that is not less favourable than that accorded to like products of domestic origin.

(28) Whilst the ultimate objective of the CBAM is a broad product coverage, it would be prudent to start with a selected number of sectors with relatively homogeneous products where there is a risk of carbon leakage. Union sectors deemed at risk of carbon leakage are listed in Commission Delegated Decision 2019/708[14].

(29) The goods under this Regulation should be selected after a careful analysis of their relevance in terms of cumulated GHG emissions and risk of carbon leakage in the corresponding EU ETS sectors while limiting complexity and administrative burden. In particular, the actual selection should take into account basic materials and basic products covered by the EU ETS with the objective of ensuring that emissions embedded in emission-intensive products imported into the Union are subject to a carbon price that is equivalent to that applied to EU products, and to mitigate risks of carbon leakage. Other relevant criteria to narrow the selection should be: firstly, relevance of sectors in terms of emissions, namely whether the sector is one of the largest aggregate emitters of GHG emissions; secondly, sector's exposure to significant risk of carbon leakage, as defined pursuant to Directive 2003/87/EC; thirdly, the need to balance broad coverage in terms of GHG emissions while limiting complexity and administrative effort.

[14] Commission Delegated Decision (EU) 2019/708 of 15 February 2019 supplementing Directive 2003/87/EC of the European Parliament and of the Council concerning the determination of sectors and subsectors deemed at risk of carbon leakage for the period 2021 to 2030 (OJ L 120, 8.5.2019, p. 2).

(30) The use of the first criterion allows listing the following industrial sector in terms of cumulated emissions: iron and steel, refineries, cement, organic basic chemicals, and fertilisers.

(31) However, certain sectors listed in Commission Delegated Decision (EU) 2019/708 should not at this stage be addressed in this Regulation, due to their particular characteristics.

(32) In particular, organic chemicals are not included in the scope of this Regulation due to technical limitations that currently do not allow to clearly define the embedded emissions of imported goods. For these goods the applicable benchmark under the EU ETS is a basic parameter, which does not allow for an unambiguous allocation of emissions embedded in individual imported goods. A more targeted allocation to organic chemicals will require more data and analysis.

(33) Similar technical constraints apply to refinery products, for which it is not possible to unambiguously assign GHG emissions to individual output products. At the same time, the relevant benchmark in the EU ETS does not directly relate to specific products, such as gasoline, diesel or kerosene, but to all refinery output.

(34) However, aluminium products should be included in the CBAM as they are highly exposed to carbon leakage. Moreover, in several industrial applications they are in direct competition with steel products because of characteristics closely resembling those of steel products. Inclusion of aluminium is also relevant as the scope of the CBAM could be extended to cover also indirect emissions at the end of the transitional phase.

(35) Similarly, products such as tubes and pipe fittings, or structures, should be included in the scope of the CBAM despite their low level of emissions occurring during their production process, as their exclusion would increase the likelihood of circumventing the enclosure of steel products in the CBAM by modifying the pattern of trade towards downstream products.

(36) Conversely, this Regulation should not apply to certain products whose production does not entail meaningful emissions like ferrous scrap (under CN code 7204), ferro-alloys (CN code 7202) and certain fertilisers (under CN code 3105 60 00).

(37) Import of electricity should be included in the scope of this Regulation, as this sector is responsible for 30 per cent of the total GHG emissions in the Union. The enhanced Union climate ambition would increase the gap in carbon costs between electricity production in the Union and abroad. That increase combined with the progress in connecting the Union electricity grid to that of its neighbours would increase the risk of carbon leakage due to increased imports of electricity, a significant part of which is produced by coal-fired power plants.

(37a) In order to avoid excessive burden as regards competent national administrations and importers, it is appropriate to provide a minimum threshold under which the obligations under this Regulation should not apply. This de minimis provision, however, is without prejudice to a continued application of the provisions under Union or national law that are necessary to ensure compliance with the obligations under this Regulation as well as, in particular, with the customs rules, including prevention of fraud.

(38) As importers of goods covered by this Regulation should not have to fulfil their CBAM obligations under this Regulation at the time of importation, specific administrative measures should be applied to ensure that the obligations are fulfilled at a later stage. Therefore, importers should only be entitled to import CBAM goods after they have been granted an authorisation by competent authorities responsible for the application of this Regulation.

(38a) The customs authorities should not allow the importation of goods by any other person than an authorised CBAM declarant. In accordance with Article 46 and 48 of Regulation (EU) No 952/2013, the customs authorities may carry out checks on the goods, including with respect to the identification of the authorised CBAM declarant, the eight-digit CN code, the quantity and the country of origin of the imported goods, the date of declaration and the customs procedure. The Commission should include the risks relating to CBAM in the design of the common risk criteria and standards pursuant to Article 50 of Regulation (EU) No 952/2013.

(38b) During a transitional period, the customs authorities should inform customs declarants of the need to report information, so as to contribute to the gathering of information as well as to the awareness on the need to request the status of authorised declarant when applicable. Such information by the customs authorities should be communicated in an appropriate manner to ensure that customs declarants are made aware of such need.

(39) The CBAM should be based on a declarative system where an authorised CBAM declarant, who may represent more than one importer, submits annually a declaration of the embedded emissions in the goods imported to the customs territory of the Union and surrenders a number of CBAM certificates corresponding to those declared emissions.

(40) An authorised CBAM declarant should be allowed to claim a reduction in the number of CBAM certificates to be surrendered corresponding to the carbon price already effectively paid for those emissions in other jurisdictions.

(41) The embedded declared emissions should be verified by a person accredited by a national accreditation body appointed in accordance with Article 4(1) of Regulation No 765/2008 of the European Parliament and of the Council[15] or pursuant to Commission Implementing Regulation (EU) 2018/2067[16].

(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 CBAM 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.

(43) CBAM certificates differ from EU ETS allowances for which daily auctioning is an essential feature. The need to set a clear price for CBAM certificates makes a daily publication excessively burdensome and confusing for operators, as daily prices risk becoming obsolete upon publication. Thus, the publication of CBAM prices on a weekly basis would accurately reflect the pricing trend of EU ETS allowances released into the market and pursue the same climate objective. The calculation of the price of CBAM certificates should therefore be set on the basis of a longer timeframe (on a weekly basis) than in the timeframe established by the EU ETS (on a daily basis). The Commission should be tasked to calculate and publish that average price.

[15] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).
[16] Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ L 334, 31.12.2018, p. 94).

(44) In order to give the authorised CBAM declarants flexibility in complying with their CBAM obligations and allow them to benefit from fluctuations in the price of EU ETS allowances, the CBAM certificates should be valid for a period of two years from the date of purchase. The authorised CBAM declarant should be allowed to re-sell a portion of the certificates bought in excess. The authorised CBAM declarant should build up during the year the amount of certificates required at the time of surrendering, with thresholds set at the end of each quarter.

(45) The physical characteristics of electricity as a product, in particular the impossibility to follow the actual flow of electrons, justifies a slightly different design for the CBAM. Default values should be used as a standard approach and it should be possible for authorised CBAM declarants to claim the calculation of their CBAM obligations based on actual emissions. Electricity trade is different from trade in other goods, notably because it is traded via interconnected electricity grids, using power exchanges and specific forms of trading. Market coupling is a densely regulated form of electricity trade which allows to aggregate bids and offers across the Union.

(46) To avoid risks of circumvention and improve the traceability of actual CO_2 emissions from import of electricity and its use in goods, the calculation of actual emissions should only be permitted through a number of strict conditions. In particular, it should be necessary to demonstrate a firm nomination of the allocated interconnection capacity and that there is a direct contractual relation between the purchaser and the producer of the renewable electricity, or between the purchaser and the producer of electricity having lower than default value emissions.

(47) Contracting Parties to the Treaty establishing the Energy Community[17] or Parties to Association Agreements including Deep and Comprehensive Free Trade Areas are committed to decarbonisation processes that should eventually result in the adoption of carbon pricing mechanisms similar or equivalent to the EU ETS or in their participation in the EU ETS.

(48) Integration of third countries into the Union electricity market is an important drive for those countries to accelerate their transition to energy systems with high shares of renewable energies. Market coupling for electricity, as set out in Commission Regulation (EU) 2015/1222[18], enables third countries to better integrate electricity from renewable energies into the electricity market, to exchange such electricity in an efficient manner within a wider area, balancing supply and demand with the larger Union market, and reduce the carbon intensity of their electricity generation. Integration of third countries into the Union electricity market also contributes to the security of electricity supplies in those countries and in the neighbouring Member States.

[17] Council Decision 2006/500/EC of 29 May 2006 on the conclusion by the European Community of the Energy Community Treaty (OJ L 198, 20.7.2006, p. 15).
[18] Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (OJ L 197, 25.7.2015, p. 24).

(49) Once third countries will be closely integrated into the Union electricity market via market coupling, technical solutions should be found to ensure the application of the CBAM to electricity exported from such countries into the customs territory of the Union. If technical solutions cannot be found, third countries that are market coupled should benefit from a time limited exemption from the CBAM until at the latest 2030 with regard solely to the export of electricity, provided that certain conditions are satisfied. However, those third countries should develop a roadmap and commit to implement a carbon pricing mechanism providing for an equivalent price as the EU ETS, and should commit to achieving carbon neutrality by 2050 as well as to align with Union legislation in the areas of environment, climate, competition and energy. That exemption should be withdrawn at any time if there are reasons to believe that the country in question does not fulfil its commitments or it has not adopted by 2030 an ETS equivalent to the EU ETS.

(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. Importers should have to report on a quarterly basis the embedded emissions in goods imported during that quarter of a calendar year, detailing direct and indirect emissions as well as any carbon price effectively paid abroad.

(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 certain tasks of this Regulation in carrying out their obligations.

(51a) Practices of circumvention of this Regulation should be monitored and addressed, including where economic operators could slightly modify their goods without altering their essential characteristics, or artificially split shipments, in order to avoid the obligations of this Regulation. Situations where goods would be sent to a country or region prior to their importation to the EU market, with the aim of avoiding the obligations of this Regulation, or where countries would export their less GHG emissions intensive products to the Union and keep more GHG emissions intensive products for other markets should also be kept under review.

(52) The Commission should evaluate the application of this Regulation before 1 January 2026 and report to the European Parliament and the Council. The Commission should, as part of that evaluation, collect the information necessary with a view to the extension of the scope of this Regulation to indirect emissions as soon as possible, as well as to other goods and services that may be at risk of carbon leakage. The Commission should also contain an assessment of the impact of the mechanism on carbon leakage, including in relation to exports. With regard to indirect emissions, the evaluation should take into account the exposure of EU producers to carbon costs passed on in electricity prices.

(52a) The Commission should also present a report to the European Parliament and the Council on the application of this Regulation before 1 January 2029, and every two years thereafter. These reports should contain an assessment of the impacts of the mechanism.

(53) In light of the above, a dialogue with third countries should continue and there should be space for cooperation and solutions that could inform the specific choices that will be made on the details of the design of the measure during the implementation, in particular during the transitional period.

(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. The EU should provide technical assistance to developing countries and Least Developed Countries for these purposes.

(55) As the CBAM aims to encourage cleaner production processes, the EU is committed to work with and support low and middle-income countries towards the de-carbonisation of their manufacturing industries as part of the external dimension of the Green deal and in line with its international obligations under the Paris Agreement. The Union should support these countries, especially Least Developed Countries (LDCs) according to WTO/World Bank criteria, with the necessary technical assistance in order to contribute to ensuring their adaptation to the new obligations established by this Regulation.

(56) The provisions of this Regulation are without prejudice to Regulation (EU) 2016/679 of the European Parliament and of the Council[19] and 2018/1725 of the European Parliament and of the Council[20].

[19] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).
[20] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

(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.

(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 2016[21]. 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.

(60) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[22].

(61) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties.

[21] 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).
[22] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

HAVE ADOPTED THIS REGULATION:

Chapter I

Subject matter, scope and definitions

Article 1

Subject matter

1. This Regulation establishes a carbon border adjustment mechanism (the 'CBAM') for addressing greenhouse gas emissions embedded in the goods listed in Annex I, upon their importation into the customs territory of the Union, in order to prevent the risk of carbon leakage.

2. The CBAM complements the system for greenhouse gas emission allowance trading within the Union established 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 of this Regulation.

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.

Article 2

Scope

1. This Regulation applies to goods listed in Annex I originating in a third country, where those goods, or processed products from those goods as resulting from the inward processing procedure referred to in Article 256 of Regulation (EU) No 952/2013 of the European Parliament and of the Council[23], are imported into the customs territory of the Union.

2. This Regulation also applies to goods listed in Annex I originating in a third country, where those goods, or processed products from those goods as resulting from the inward processing procedure referred to in Article 256 of Regulation (EU) No 952/2013 of the European Parliament and of the Council, are brought to an artificial island, a fixed or floating installation, or any other structure on the continental shelf or in the exclusive economic zone of a Member State that are adjacent to the customs territory of the Union. The Commission shall adopt implementing acts laying down detailed conditions for the application of the CBAM to such goods, in particular as regards notions equivalent to those of importation into the customs territory of the Union and of release into free circulation, as regards the procedures relating to the submission of the CBAM declaration in respect of such goods and the controls to be carried out by customs authorities. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

[23] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

2a. By way of derogation from paragraphs 1 and 2, this Regulation shall not apply to goods listed in Annex I and imported into the customs territory of the Union the intrinsic value of which does not exceed a total of EUR 150 per consignment.

3. By way of derogation from paragraphs 1 and 2, this Regulation shall not apply to goods originating in countries and territories listed in Annex II, Section A.

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.

5. Countries and territories shall be listed in Annex II, Section A, subject to the cumulative fulfilment of the following conditions:

(a) the EU ETS established pursuant to Directive 2003/87/EC applies to that country or territory or an agreement has been concluded between that third country or territory and the Union fully linking the EU ETS and the emission trading system of that third country or territory;

(b) the carbon price paid in the country in which the goods originate is effectively charged on the emissions embedded in those goods without any rebate beyond those also applied in the EU ETS.

6. (deleted)

7. If a third country or territory has an electricity market which is integrated with the Union internal market for electricity through market coupling, and there is no technical solution for the application of the CBAM to the importation of electricity into the Union, from that third country or territory, such importation of electricity from the country or territory shall be exempt from the application of the CBAM, provided all of the following conditions are assessed by the Commission as being satisfied in accordance with paragraph 8:

(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;

(b) the domestic legislation 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;

(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);

(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;

(e) the third country or territory has, when implementing the roadmap pursuant to point (c), demonstrated substantial progress towards the alignment of domestic legislation with Union law in the field of climate action on the basis of that roadmap, including towards carbon pricing at an equivalent level as the Union at least insofar as the generation of electricity is concerned. The implementation of an emissions trading system for electricity, with a price equivalent to the EU ETS, shall be finalised by 1 January 2030;

(f) the third country or territory has put in place an effective system to prevent indirect import of electricity in the Union from other third countries not meeting the requirements set out in points (a) to (e).

8. A third country or territory satisfying the conditions set out in paragraph 7, points (a) to (f), shall be listed in Annex II, Section B, and shall submit two reports on the fulfilment of the conditions pursuant to paragraph 7, points (a) to (f), one before 1 July 2025 and another before 1 July 2029. By 31 December 2025 and by 31 December 2029, the Commission shall assess, notably on the basis of the roadmap pursuant to paragraph 7, point (c), and the reports received from the third country or territory, whether that third country or territory continues to respect the conditions set out in paragraph 7.

9. A third country or territory listed in Annex II, Section B, shall be removed from that list:

(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;

(b) if the third country or territory has taken steps contrary to its decarbonisation objectives, such as providing public support for the establishment of new generation capacity that emits more than 550 grammes of CO_2 of fossil fuel origin per kilowatt-hour of electricity.

10. The Commission is empowered to adopt delegated acts in accordance with Article 28 to supplement this Regulation by setting out requirements and procedures for countries or territories that are deleted from the list in Annex II, Section B, to ensure the application of this Regulation to their territories with regard to electricity. If in such cases market coupling remains incompatible with the application of this Regulation, the Commission may decide to exclude the third countries or territories from Union market coupling and require explicit capacity allocation at the border between the Union and the third country, so that the CBAM can apply.

11. The Commission is empowered to adopt delegated acts in accordance with Article 28 to amend the lists of third countries or territories set out in Annex II, Sections A or B, by either adding or removing a third country or territory, depending on whether the conditions set out in paragraphs 5, 7 or 9 are fulfilled in respect of that third country or territory.

12. The Union may conclude agreements with third countries with a view to take account of carbon pricing mechanisms in such countries in the application of Article 9.

Article 3

Definitions

For the purposes of this Regulation, the following definitions apply:

(1) ‘goods’ mean goods listed in Annex 1;

(2) ‘greenhouse gases’ mean greenhouse gases as specified in Annex I in relation to each of the goods listed in that Annex;

(3) ‘emissions’ mean the release of greenhouse gases into the atmosphere from the production of goods;

(4) ‘importation’ means the release for free circulation provided for in Article 201 of Regulation (EU) No 952/2013;

(5) ‘EU ETS’ means the system for greenhouse gas emissions allowance trading within the Union in respect of activities listed in Annex I to Directive 2003/87/EC other than aviation activities;

(5a) ‘customs territory’ is the territory as defined in Article 4 of Regulation (EU) 952/2013;

(6) ‘third country’ means a country or territory outside the customs territory of the Union;

(7) ‘continental shelf’ means the continental shelf as defined in the United Nations Convention on the Law of the Sea;

(8) ‘exclusive economic zone’ means the exclusive economic zone as defined in the United Nations Convention on the Law of the Sea and which has been declared as exclusive economic zone by a Member State pursuant to that convention;

(9) ‘market coupling’ means allocation of transmission capacity via an Union system which simultaneously matches orders and allocates cross-zonal capacities as set out in Commission Regulation (EU) 2015/1222;

(10) ‘explicit capacity allocation’ means the allocation of cross-border transmission capacity separate from the trade of electricity;

(11) ‘competent authority’ means the authority, designated by each Member State in accordance with Article 11 of this Regulation;

(12) ‘customs authorities’ mean the customs administrations of Member States as defined in Article 5(1) of Regulation (EU) No 952/2013;

(13) ‘importer’ means either the person lodging a customs declaration for release for free circulation of goods in its own name and on its own behalf or, where the customs declaration is lodged by an indirect customs representative in accordance with Article 18 of Regulation (EU) No 952/2013, the person on whose behalf such a declaration is lodged;

(13a) ‘customs declarant’ means the declarant as defined in Article 5(15) of Regulation (EU) No 952/2013 lodging a customs declaration for release for free circulation of goods in its own name or the person in whose name such a declaration is lodged;

(13b) ‘authorised CBAM declarant’ is a person authorised by the competent authority in accordance with Article 17;

(14) ‘person’ means a natural person, a legal person and any association of persons which is not a legal person but which is recognised under Union or national law as having the capacity to perform legal acts;

(14a) ‘person established in a Member State’ means:

(a) in the case of a natural person, any person who has his or her residence in the Member State;

(b) in the case of a legal person or an association of persons, any person having its registered office, central headquarters or a permanent business establishment in the Member State;

(14b) ‘Economic Operators Registration and Identification number’ (EORI) number shall be the number as assigned by the customs authority during the registration for customs purposes in accordance with Article 9 of Regulation (EU) No 952/2013;

(15) ‘direct emissions’ mean emissions from the production processes of goods, including emissions from heating and cooling used for the production process regardless of the location of the production of the heating and cooling, and including electricity produced within the boundaries of the installation producing the goods;

(16) ‘embedded emissions’ mean direct emissions released during the production of goods, calculated pursuant to the methods set out in Annex III;

(17) ‘tonne of CO_2e’ means one metric tonne of carbon dioxide (‘CO_2’), or an amount of any other greenhouse gas listed in Annex I with an equivalent global warming potential;

(18) ‘CBAM certificate’ means a certificate in electronic format corresponding to one tonne of embedded emissions in goods;

(19) ‘surrender’ means offsetting of CBAM certificates against the declared embedded emissions in imported goods;

(20) ‘production processes’ mean the chemical and physical processes carried out to produce goods in an installation;

(21) ‘default value’ means a value that is calculated or drawn from secondary data representing embedded emissions in goods;

(22) ‘actual emissions’ mean the emissions calculated based on primary data from the production processes of goods;

(23) ‘carbon price’ means the monetary amount paid in a third country in the form of a tax or emission allowances under a greenhouse gas emissions trading system, calculated on greenhouse gases covered by such a measure and released during the production of goods;

(24) ‘installation’ means a stationary technical unit where a production process is carried out;

(25) ‘operator’ means any person who operates or controls an installation in a third country;

(26) ‘national accreditation body’ means a national accreditation body as appointed by each Member State in accordance with Article 4(1) of Regulation (EC) No 765/2008;

(27) ‘EU ETS allowance’ means an allowance referred to in Article 3(a) of Directive 2003/87/EC in respect of activities listed in Annex I of that Directive other than aviation activities;

(28) ‘indirect emissions’ mean emissions from the production of electricity which is consumed during the production processes of goods, excluding electricity produced within the boundaries of the installation producing the goods.

Chapter II

Obligations and rights of authorised CBAM declarants

Article 4

Importation of goods

Goods shall only be imported into the customs territory of the Union by an authorised CBAM declarant.

Article 5

Application for an authorisation

1. Any importer established in a Member State shall, prior to importing goods in the customs territory of the Union, apply for the status of authorised CBAM declarant. Where such importer is using indirect representation in accordance with Article 18 of Regulation (EU) No 952/2013 and where the indirect customs representative agrees to act as an authorised CBAM declarant, the application shall be submitted by such indirect customs representative.

1a. Where the importer is not established in a Member State, the application referred to in paragraph 1 shall be submitted by the indirect customs representative.

1b. Such application shall be submitted through the central registry established in accordance with Article 14.

2. By way of derogation from paragraph 1, where transmission capacity for the import of electricity is allocated via explicit capacity allocation, the person to which capacity has been allocated for import and which nominates this capacity for import shall, for the purposes of this Regulation, be regarded as an authorised CBAM declarant in the Member State where the person declares the import of electricity. Imports are to be measured per border for time periods not longer than one hour and no deduction of export or transit in the same hour is possible.

3. The application for an authorisation shall include the following information about the applicant:

(a) name, addresses and contact information;

(b) EORI number;

(c) main economic activity carried out in the Union;

(d) certification by the tax authority in the Member State where the applicant is established that the applicant is not subject to an outstanding recovery order for national tax debts;

(e) declaration on honour that the applicant was not involved in any serious infringements or repeated infringements of either customs legislation, taxation rules or market abuse rules during the five years preceding the year of the application, including that it has no record of serious criminal offences relating to its economic activity;

(f) information necessary to demonstrate the applicant's financial and operational capacity to fulfil its obligations under this Regulation and, if decided by the competent authority on the basis of a risk assessment, supporting documents confirming that information, such as the profit and loss account and the balance sheet for up to the three last financial years for which the accounts were closed;

(g) estimated monetary value and volume of imports of goods into the customs territory of the Union by type of goods, for the calendar year during which the application is submitted, and for the following calendar year;

(h) names and contact information of the persons on behalf of whom the applicant is acting, if applicable.

4. The applicant may at any time withdraw its application.

5. The authorised CBAM declarant shall inform the competent authority without delay of any changes to the information provided under paragraph 3 of this Article that has occurred after the decision granting the status of authorised CBAM declarant has been adopted pursuant to Article 17 and that may influence that decision or the content of the authorisation granted thereunder.

6. The Commission is empowered to adopt implementing acts concerning the standard format of the application and the procedures to submit applications through the central registry, the procedure to be followed by the competent authority and the deadlines to comply with when processing applications for authorisation in accordance with paragraph 1, and the rules for identification by the competent authority of the authorised CBAM declarants for the importation of electricity. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Article 6

CBAM declaration

1. By 31 May of each year, each authorised CBAM declarant shall submit to the competent authority a CBAM declaration, for the preceding calendar year. Such CBAM declaration shall be submitted through the central registry established in accordance with Article 14.

2. The CBAM declaration shall contain the following:

   (a) the total quantity of each type of goods imported during the preceding calendar year, expressed in megawatt- hours for electricity and in tonnes for other goods;

   (b) the total embedded emissions in those goods, expressed in tonnes of CO_2e emissions per megawatt-hour of electricity or, for other goods, in tonnes of CO_2e emissions per tonne of each type of goods, calculated in accordance with Article 7 and verified in accordance with Article 8;

(c) the total number of CBAM certificates to be surrendered, corresponding to the total embedded emissions referred to in paragraph 2, point (b) after the reduction due on the account of the carbon price paid in a country of origin in accordance with Article 9 and the adjustment necessary to reflect the extent to which EU ETS allowances are allocated free of charge in accordance with Article 31.

3. Where processed products resulting from the inward processing procedure as referred to in Article 256 of Regulation (EU) No 952/2013 are imported, the authorised CBAM declarant shall report in the CBAM declaration the emissions embedded in the goods that were placed under the inward processing procedure and resulted in the imported processed products, even if the processed products are not listed in Annex I to this Regulation. This provision shall also apply where the processed products resulting from the inward processing procedure are returned goods as referred to in Article 205 of Regulation (EU) No 952/2013.

4. Where the imported goods listed in Annex I are processed products resulting from the outward processing procedure as referred to in Article 259 of Regulation (EU) No 952/2013, the authorised CBAM declarant shall report in the CBAM declaration only the emissions of the processing operation undertaken outside the customs territory of the Union.

5. Where the imported goods are returned goods as referred to in Article 203 of Regulation (EU) No 952/2013, the authorised CBAM declarant shall report separately, in the CBAM declaration, ‘zero’ for the total embedded emissions corresponding to those goods.

6. The Commission is empowered to adopt implementing acts concerning the standard format, including detailed information per installation and country of origin and type of goods to be reported supporting the totals referred to in paragraph 2, in particular as regards embedded emissions and carbon price paid, and the procedure for submitting the CBAM declaration through the central registry, and the arrangements for surrendering the CBAM certificates mentioned in paragraph 2, point (c), in compliance with Article 22(1), in particular as regards the process and the selection by the authorised CBAM declarant of certificates to be surrendered. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Article 7

Calculation of embedded emissions

1. Embedded emissions in goods shall be calculated pursuant to the methods set out in Annex III.

2. Embedded emissions in goods other than electricity shall be determined based on the actual emissions in accordance with the methods set out in Annex III, points 2 and 3. When actual emissions cannot be adequately determined, the embedded emissions shall be determined by reference to default values in accordance with the methods set out in Annex III, point 4.1.

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 CBAM declarant justifies that the criteria to determine the embedded emissions based on the actual emissions listed in Annex III, point 5 are met.

4. The authorised CBAM 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).

5. The authorised CBAM 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.

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 data, and including further specification of goods that are to be considered as "simple goods" and "complex goods" for the purpose of Article III, point 1. Where objectively justified, those acts shall provide that default values can be adapted to particular areas, regions or countries to take into account specific objective factors that affect emissions, such as prevailing energy sources or industrial processes. Those 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 Commission Implementing Regulation (EU) 2018/2067.

7. The implementing acts referred to in paragraph 6 of this Article shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Article 8

Verification of embedded emissions

1. The authorised CBAM 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.

2. For embedded emissions in goods produced in registered installations in a third country in accordance with Article 10, the authorised CBAM 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.

3. 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, the definition of thresholds for deciding whether misstatements or non-conformities are material, and concerning the supporting documentation needed for the verification report, including its format. In so doing, the Commission shall seek coherence with the procedures set out in Commission Implementing Regulation (EU) No. 2018/2067. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Article 9

Carbon price paid in a country of origin

1. An authorised CBAM declarant may claim in its CBAM declaration a reduction in the number of CBAM certificates to be surrendered in order for the carbon price paid in the country of origin for the declared embedded emissions to be taken into account. The carbon price may only be taken into account to the extent it has been effectively paid, taking into account any rebate or any other form of compensation available in the country of origin that would have resulted in a reduction of that carbon price.

2. The authorised CBAM declarant shall keep records of the documentation required to demonstrate that the declared embedded emissions were subject to a carbon price in the country of origin of the goods that has been effectively paid as referred to in paragraph 1. The authorised CBAM declarant shall in particular keep evidence related to available rebates or any other form of compensation, in particular references to the relevant legislation of that country. This documentation shall be certified by a person independent from the authorised CBAM declarant and independent from the authorities of the country of origin. The authorised CBAM declarant shall also keep evidence of the actual payment of the carbon price.

3. The authorised CBAM declarant shall keep the 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.

4. The Commission is empowered to adopt implementing acts concerning detailed rules regarding the conversion of the yearly average carbon price effectively paid in accordance with paragraph 1 into a corresponding reduction of the number of CBAM certificates to be surrendered, including the conversion of the carbon price effectively paid in foreign currency into euro at the yearly average exchange rate, the evidence required of the actual payment of the carbon price, examples of relevant rebates or other forms of compensation referred to in paragraph 1, and the qualifications of the independent person referred to in paragraph 2 and conditions to ascertain independence. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Article 10

Registration of operators and installations in third countries

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 as referred to in Article 14a.

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

(a) the name, address and contact details of the operator;

(b) the location of each installation including the complete address and geographical coordinates expressed in longitude and latitude including 6 decimals;

(c) the main economic activity of the installation;

3. The Commission shall notify the operator of the registration in the central database. The registration shall be valid for a period of five years from the date of its notification to the operator of the installation.

4. The operator shall inform the Commission without delay of any changes in the information referred to in paragraph 2 arising after the registration and the Commission shall update the relevant information.

5. The operator shall:

(a) determine the embedded emissions calculated in accordance with the methods set out in Annex III, by type of goods produced at the installation referred to in paragraph 1;

(b) ensure that the embedded emissions referred to in point (a) are verified in accordance with the verification principles set out in Annex V by a verifier accredited pursuant to Article 18;

(c) keep a copy of the verification report as well as records of the information required to calculate the embedded emissions in goods in accordance with the requirements laid down in Annex IV for a period of four years after the verification has been performed.

6. The records referred to in paragraph 5, point (c), shall be sufficiently detailed to enable the verification of the embedded emissions in accordance with Article 8 and Annex V, and to enable any competent authority to review, in accordance with Article 19(1), the CBAM declaration made by an authorised CBAM declarant to whom the relevant information was disclosed in accordance with paragraph 7.

7. An operator may disclose the information on the verification of embedded emissions referred to in paragraph 5 to an authorised CBAM declarant. The authorised CBAM declarant shall be entitled to avail itself of that disclosed information to fulfil the obligation referred to in Article 8.

8. The operator may, at any time, ask to be deregistered from the database. The Commission shall, upon such request, and after notifying the national competent authorities, deregister the information on that operator and on its installation from the central database, provided such information is not necessary for the review of CBAM declarations submitted. The Commission may, after having given the operator the possibility to be heard and having consulted with relevant national competent authorities, also deregister the information if it finds the information is no longer being accurate. The Commission shall inform the competent authorities of Member States of such deregistrations.

Chapter III
Competent authorities

Article 11

Competent authorities

1. Each Member State shall designate the competent authority to carry out the obligations under this Regulation and inform the Commission thereof.

The Commission shall make available to the Member States a list of all competent authorities and publish that information in the *Official Journal of the European Union*.

2. Competent authorities shall exchange any information that is essential or relevant to the exercise of their functions and duties under this Regulation.

Article 12

Commission

In addition to the tasks that the Commission exercises under other provisions of this Regulation, the Commission shall assist the competent authorities in carrying out their obligations under this Regulation, and coordinate their activities by supporting the exchange of and issuing guidelines on the best practices in this domain, and by promoting an adequate exchange of information and cooperation between competent authorities, and between competent authorities and the Commission.

Article 13

Professional secrecy and disclosure of information

1. All information acquired by the competent authority or the Commission 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 the obligation of professional secrecy. Such information shall not be disclosed by the competent authority or the Commission without the express permission of the person or authority that provided it or by virtue of provisions laid down by Union or national law.

2. Competent authorities and the Commission may, however, share such information with competent authorities of other Member States, customs authorities, authorities in charge of administrative or criminal sanctions, the Commission and the European Public Prosecutors Office, for the purposes of ensuring compliance of persons with their obligations under this Regulation and the application of customs legislation. Such shared information shall itself be covered by professional secrecy and may not be disclosed to any other person or authority except by virtue of provisions laid down by Union or national law.

Article 14

Central registry

1. The Commission shall establish a central registry of authorised CBAM declarants in the form of a standardised electronic database containing the data regarding the CBAM certificates of those authorised CBAM declarants. The Commission shall make the information in that registry available automatically and in real time to customs authorities and competent authorities from Member States.

2. The registry referred to in paragraph 1 shall contain accounts with information about each authorised CBAM declarant, in particular:

   (a) the name and contact details of the authorised CBAM declarant;

   (b) the EORI number of the authorised CBAM declarant;

   (c) the CBAM account number;

(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 of CBAM certificates for each authorised CBAM declarant.

3. The information in the registry referred to in paragraph 2 shall be confidential.

Article 14a

Central database of operators and installations located in third countries

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 made accessible to the public.

Article 15

Independent transaction log

1. The Commission shall maintain an independent transaction log recording the purchase of CBAM certificates, their holding, surrender, re-purchase and cancellation.

2. The Commission shall carry out risk-based controls on transactions recorded in the independent transaction log to ensure that there are no irregularities in the purchase, holding, surrender, re-purchase and cancellation of CBAM certificates.

3. If irregularities are identified as a result of the controls carried out under paragraph 2, the Commission shall inform the competent authorities of the Member State or Member States concerned for further investigation in order to correct the identified irregularities.

Article 16

Accounts in the central registry

1. The Commission shall assign to each authorised CBAM declarant a unique CBAM account number.

2. Each authorised CBAM declarant shall be granted access to its account in the central registry.

3. The Commission shall set up the account as soon as the authorisation referred to in Article 17(1) is granted and notify the authorised CBAM declarant thereof.

4. If the authorised CBAM declarant has ceased its economic activity or its authorisation has been revoked, the Commission shall close the account of that authorised CBAM declarant, provided that the authorised CBAM declarant has complied with all its obligations under this Regulation.

Article 17

Authorisation

0. Where an application for the status of authorised CBAM declarant is submitted in accordance with Article 5(1), the competent authority in the Member State where the applicant is established shall grant the status of authorised CBAM declarant where the criteria set out in paragraph 1 are complied with. The status of authorised CBAM declarant shall be recognised in all Member States.

1. The criteria for granting the status of authorised CBAM declarant shall be the following:

   (a) the applicant has not been involved in a serious infringement or repeated infringements of customs legislation, taxation rules, market abuse rules or CBAM rules, in particular it has no record of serious criminal offences relating to its economic activity during the five years preceding the application;

   (b) the applicant demonstrates its financial and operational capacity to fulfil its obligations under this Regulation.

   (c) the applicant is established in a Member State; and

   (d) the applicant has been assigned an EORI number in accordance with Article 9 of Regulation (EU) No 952/2013.

2. Where the competent authority finds that the conditions listed in paragraph 1 are not fulfilled, or where the applicant has failed to provide information listed in Article 5(3), the granting of the status of authorised CBAM declarant shall be refused. Such decision shall provide the reasons for the refusal and include information on the possibility to appeal.

3. (deleted)

4. A decision of the competent authority granting the status of authorised CBAM declarant shall be registered in the central registry and shall contain the following information:

   (a) the name and the address of the authorised CBAM declarant;

   (b) the EORI number of the authorised CBAM declarant;

   (c) the CBAM account number assigned to it in accordance with Article 16(1).

5. (deleted)

6. For the purpose of complying with the criteria set out in paragraph 1(b), the competent authority shall require the provision of a guarantee, if the applicant was not established throughout the two financial years preceding the year when the application in accordance with Article 5(1) was submitted. The competent authority shall fix the amount of such guarantee at the amount calculated as the value of the CBAM certificates that the authorised CBAM declarant would have to surrender in accordance with Article 22 in respect of the imports of goods reported in accordance with Article 5(3)(g). The guarantee shall be provided as a bank guarantee, payable at first demand, by a financial institution operating in the Union or as another form of guarantee which provides equivalent assurance.

7. Where the competent authority establishes that the guarantee provided does not ensure, or is no longer sufficient to ensure the CBAM obligations of the authorised CBAM declarant, it shall require the authorised CBAM declarant to either provide an additional guarantee or replace the initial guarantee with a new guarantee, according to the authorised CBAM declarant's choice.

8. The competent authority shall release the guarantee immediately after 31 May of the second year in which the authorised CBAM declarant has surrendered CBAM certificates in accordance with Article 22.

9. The competent authority shall revoke the status of authorised CBAM declarant where the authorised CBAM declarant so requests. The competent authority shall also revoke the status of authorised CBAM declarant where the authorised CBAM declarant no longer meets the criteria set out in paragraphs 1 or 7 of this Article, or has been involved in a serious or repeated infringement of the obligation to surrender CBAM certificates referred to in Article 22(1) or of the obligation to ensure a sufficient number of CBAM certificates on its account in the central registry at the end of each quarter referred to in Article 22(2). Before revoking the status of authorised CBAM declarant, the competent authority shall give the authorised CBAM declarant the possibility to be heard. Any decision of revocation shall contain the justification as well as information about the right to appeal.

10. The competent authority shall register in the central registry information on the applicants whose application for the granting of the status of authorised CBAM declarant has been refused in accordance with paragraph 2 of this Article, and the persons whose status of authorised CBAM declarants has been revoked in accordance with paragraph 9 of this Article.

11. The Commission shall adopt, by means of implementing acts, the detailed provisions for the application of the criteria referred to in paragraph 1, including the criterion of not having been involved in a serious infringement or repeated infringements under paragraph 1(a), and for the application of the guarantee referred to in paragraphs 6 to 8; for the application of the criteria of a serious or repeated infringement referred to in paragraph 9; and for the consequences of the revocation of the status of authorised CBAM declarant. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Article 18

Accreditation of verifiers

1. Any person accredited in accordance with Commission Implementing Regulation (EU) 2018/2067 shall be regarded as an accredited verifier under this Regulation.

2. In addition to paragraph 1, a national accreditation body may on request accredit a person established in the Union as a verifier under this Regulation where it considers, on the basis of the documentation submitted, that such person has a capacity to apply the verification principles referred to in Annex V to perform the obligations of control of the embedded emissions established in Articles 8 and 10.

3. The Commission is empowered to adopt delegated acts in accordance with Article 28 in order to supplement this Regulation by specifying conditions for the granting of the accreditation referred to in paragraph 2, for the control and oversight of accredited verifiers, for the withdrawal of accreditation and for mutual recognition and peer evaluation of the accreditation bodies.

Article 19

Review of CBAM declarations

1. The competent authority of the Member State where the authorised CBAM declarant is established may review a 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 CBAM declarant.

1a. Without prejudice to paragraph 1, the Commission shall periodically set out specific risk factors and attention points for competent authorities, based on an analysis of risks in relation to the CBAM implementation at the EU level, taking into account information contained in the central registry, data communicated by customs authorities, and other relevant information sources, including the controls and checks referred to in Articles 15(2) and 25(3). The Commission shall also facilitate the exchange of information with competent authorities about fraudulent activities and the application of penalties to authorised CBAM declarants.

2. Where an authorised CBAM declarant fails to submit a CBAM declaration in accordance with Article 6, the Commission shall assess the CBAM obligations of that authorised CBAM declarant on the basis of the information at its disposal, and calculate the total number of CBAM certificates due, at the latest by 31 December of the year following that when the CBAM declaration should have been submitted. The Commission shall communicate this information to the Member State where the authorised CBAM declarant is established.

3. Where the competent authority has established that the declared number of CBAM certificates to be surrendered is incorrect, or that no CBAM declaration has been submitted in accordance with Article 6, it shall determine the number of CBAM certificates due by the authorised CBAM declarant. The competent authority shall notify the authorised CBAM declarant of the number determined and request that the authorised CBAM declarant surrenders the additional CBAM certificates within one month. Such decision shall contain the justification as well as information about the right to appeal.

4. (deleted)

5. Where the competent authority has established that the number of CBAM certificates surrendered is in excess of the number due, the competent authority shall, without delay, inform the Commission. The CBAM certificates surrendered in excess shall be re-purchased in accordance with the procedures provided for in Article 23.

Chapter IV
CBAM certificates

Article 20

Sale of CBAM certificates

0. Member States shall sell CBAM certificates to authorised CBAM declarants established in their Member State. For that purpose, CBAM certificates shall be sold on a central common platform that shall be established by the Commission following a joint procurement procedure between the Commission and the Member States, and that shall be managed by the Commission. The Commission shall adopt delegated acts in accordance with Article 28 to further define the timing, administration and other aspects of the sale and re-purchase of CBAM certificates, seeking coherence with the procedures of Commission Regulation (EU) No. 1031/2010.

1. CBAM certificates shall be sold to authorised CBAM declarants at the price calculated in accordance with Article 21.

2. The Commission shall ensure that each CBAM certificate is assigned a unique identification number upon its creation and shall register the unique unit identification number and the price and date of sale of the certificate in the central registry in the account of the authorised CBAM declarant purchasing it.

Article 21

Price of CBAM certificates

1. The Commission shall calculate the price of CBAM certificates as the average of the closing prices of EU ETS allowances on the common auction platform in accordance with the procedures laid down in Commission Regulation (EU) No 1031/2010[24] for each calendar week. For those calendar weeks in which there are no auctions scheduled on the common auction platform, the price of CBAM certificates shall be the average of the closing prices of EU ETS allowances of the last week in which auctions on the common auction platform took place.

2. That average price shall be published by the Commission on the first working day of the following calendar week and shall be applied from the following working day to the first working day of the following calendar week.

3. The Commission is empowered to adopt implementing acts to further define the methodology to calculate the average price of CBAM certificates and practical arrangements for the publication of the price. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

[24] Commission Regulation (EU) No 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC (OJ L 302, 18.11.2010, p. 1).

Article 22

Surrender of CBAM certificates

1. By 31 May of each year, the authorised CBAM declarant shall surrender to the Commission a number of CBAM certificates that corresponds to the embedded emissions declared in accordance with Article 6(2), point (c), and verified in accordance with Article 8 for the calendar year preceding the surrender. For that purpose, the authorised CBAM declarant shall ensure that the required number of CBAM certificates is available on its account in the central registry. The Commission shall cancel those CBAM certificates.

2. The authorised CBAM declarant shall ensure that the number of CBAM certificates on its account in the central 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.

3. Where the Commission finds that the number of CBAM certificates in the account of an authorised CBAM declarant is not in compliance with the obligations pursuant to paragraph 2, it shall notify, through the central registry, the authorised CBAM declarant of the need to ensure a sufficient number of CBAM certificates in its account within one month. The Commission shall also inform the competent authority of the Member State where the authorised CBAM declarant is established.

4. (deleted)

Article 23

Re-purchase of CBAM certificates

1. On request by an authorised CBAM declarant, excess CBAM certificates remaining on the account of the declarant in the central registry after the certificates have been surrendered in accordance with Article 22 shall be re-purchased by the Member State where the authorised CBAM declarant is established. For that purpose, the Commission shall purchase such certificates through the common central platform referred to in Article 20 on behalf of the Member State where the authorised CBAM declarant is established. The re-purchase request shall be submitted by 30 June of each year during which CBAM certificates were surrendered.

2. The number of certificates subject to re-purchase as referred to in paragraph 1 shall be limited to one third of the total number of CBAM certificates purchased by the authorised CBAM declarant during the previous calendar year.

3. The re-purchase price for each CBAM certificate shall be the price paid by the authorised CBAM declarant for that certificate at the time of purchase.

Article 24

Cancellation of CBAM certificates

By 30 June of each year, the Commission shall cancel any CBAM certificates that were purchased during the year before the previous calendar year and that remained in the account of an authorised CBAM declarant in the central registry. Those CBAM certificates shall be canceled without any compensation.

Chapter V
Customs authorities

Article 25

Rules applicable to the importation of goods

1. The customs authorities shall not allow the importation of goods by any other person than an authorised CBAM declarant.

2. The customs authorities shall periodically and automatically, by means of the surveillance mechanism established pursuant to Article 56(5) of Regulation (EU) No 952/2013, communicate to the Commission information on the goods declared for importation, which shall include the EORI number and the CBAM account number of the authorised CBAM declarant, the eight-digit CN code of the goods, the quantity, the country of origin, the date of declaration and the customs procedure.

2a. The Commission shall communicate the information referred to in paragraph 2 to the competent authority of the Member State where the authorised CBAM declarant is established.

3. (deleted)

4. The customs authorities may communicate, in accordance with Article 12(1) of Regulation (EU) No 952/2013, confidential information acquired by the customs authorities in the course of performing their duties, or provided to the customs authorities on a confidential basis, to the competent authority of the Member State that has granted the status of the authorised CBAM declarant.

5. The Commission is empowered to adopt implementing acts defining the information, the timing and the means for communicating the information pursuant to paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Chapter VI
Enforcement

Article 26

Penalties

1. An authorised CBAM declarant who fails to surrender, by 31 May of each year, a number of CBAM certificates corresponding to the emissions embedded in goods imported during the preceding year shall be held liable for the payment of a penalty. Such penalty shall be identical to the excess emissions penalty set out in Article 16(3) of Directive 2003/87/EC and increased pursuant to Article 16(4) of that Directive, applicable in the year of importation of the goods, and shall apply for each CBAM certificate that the authorised CBAM declarant has not surrendered.

2. Where a person other than an authorised CBAM declarant introduces goods into the customs territory of the Union without complying with the obligations of this Regulation, that person shall be held liable for the payment of a penalty. Such penalty shall, depending on the duration, gravity and scope of such non-compliance, amount to three to five times the penalty referred to in paragraph 1, applicable in the year of introduction of the goods, for each CBAM certificate that the person has not surrendered.

3. Payment of the penalty shall not release the authorised CBAM declarant from the obligation to surrender the outstanding number of CBAM certificates determined in accordance with Article 19(3).

4. If the competent authority determines, including on the basis of the reviews of CBAM declarations referred to in Article 19, that an authorised CBAM declarant has failed to comply with the obligation to surrender CBAM certificates as specified in paragraph 1, or that a person has introduced goods into the customs territory of the Union without surrendering CBAM certificates pursuant to this Regulation as specified in paragraph 2, the competent authority shall impose the penalty pursuant to paragraph 1 or 2, as applicable. To that end, the competent authority shall notify the authorised CBAM declarant or, where paragraph 2 applies, the person:

(a) that the competent authority has concluded that the authorised CBAM declarant or the person failed to comply with the obligation to surrender CBAM certificates for a given year;

(b) of the reasons for its conclusion;

(c) of the amount of the penalty imposed on the authorised CBAM declarant or on the person;

(d) of the date from which the penalty is due;

e) of the action that the authorised CBAM declarant or the person referred to in paragraph 2 is to take to pay the penalty; and

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

5. Where the penalty has not been paid within the prescribed period, the competent authority shall secure payment of that amount by all means available to them under the law of the Member State concerned.

Article 27

Circumvention

1. The Commission shall take action in accordance with this Article, based on relevant and objective data, to address practices of circumvention of this Regulation.

2. Circumvention shall be defined as a change in the pattern of trade in relation to imported goods, which stems from a practice, process or work for which there is insufficient due cause or economic justification other than avoiding an obligation under this Regulation. Such practice, process or work includes:

(a) slightly modifying the goods concerned to make them fall under CN codes which are not listed in Annex I, provided that the modification does not alter their essential characteristics;

(b) artificially splitting shipments into consignments the intrinsic value of which does not exceed a total of EUR 150 in order to avoid the obligations of this Regulation.

3. The Commission shall continually monitor any significant change in the pattern of trade of goods and slightly modified products at Union level.

4. A Member State or any party affected or benefitted by circumvention as described in paragraph 2 may notify the Commission of the situation, in particular 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 listed in Annex I and an increase of volume of imports of slightly modified products, which are not listed in Annex I. That notification shall state the reasons on which it is based and should include, where possible, relevant data and statistics regarding the goods and products referred to in paragraph 2.

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 2(a) are occurring in one or more Member States according to an established pattern, it is empowered to adopt delegated acts in accordance with Article 28 to amend Annex I by adding the relevant slightly modified products referred to in paragraph 2(a) for anti-circumvention purposes.

Chapter VII

Exercise of delegation and committee procedure

Article 28

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 2(10), 2(11), 18(3), 20(0) and 27(5) shall be conferred on the Commission for a period of five years from 1 January 2025. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five year period. The delegation of power shall be tacitly extended for further periods of identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each such period.

3. The delegation of power referred to in Articles 2(10), 2(11), 18(3), 20(0) and 27(5) may be revoked at any time by the European Parliament or by the Council.

4. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated act already in force.

5. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement on Better Law-Making of 13 April 2016.

6. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

7. A delegated act adopted pursuant to Articles 2(10), 2(11), 18(3), 20(0) and 27(5) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 29

Exercise of implementing powers by the Commission

1. The Commission shall be assisted by the CBAM Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Chapter VIII

Reporting and review

Article 30

Review and reporting by the Commission

1. The Commission shall collect the information necessary with a view to the extension of the scope of this Regulation, to indirect emissions as soon as possible, and to goods further down the value chain, and goods other than those listed in Annex I.

2. Before 1 January 2026, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation. The report shall in particular address the issue of the further extension of the scope of embedded emissions to indirect emissions, goods further down the value chain, and other goods at risk of carbon leakage than those already covered by this Regulation. The report shall contain an assessment of the impact of the mechanism on carbon leakage, including in relation to exports. The report shall contain an assessment of the possibilities to further extend the scope to embedded emissions of transportation services and services that may be subject to a risk of carbon leakage. The report shall also contain an assessment of the governance system, including administrative costs, of circumvention practices, of the application of Article 2(2a) of this Regulation, and of the impact of the mechanism on the sectors covered and on downstream sectors using their goods as inputs, on international trade, including resource shuffling, and on least developed countries. It shall also contain an assessment of the possibility to develop methods of calculating embedded emissions based on environmental footprint methods.

3. The report referred to in paragraph 2 shall, if appropriate, be accompanied by a legislative proposal, in particular with a view to extending the scope of this Regulation, to indirect emissions as soon as possible, and to goods further down the value chain.

4. Before 1 January 2028, and every two years thereafter, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation. The report shall contain an assessment of the impact of the mechanism on carbon leakage, including in relation to exports, on the sectors covered, and if appropriate on downstream sectors using their goods as inputs, on the internal market, economic and territorial impact throughout the EU, inflation and the price of commodities, on international trade, including resource shuffling, and on least developed countries. The report shall also contain an assessment of the governance system and of the scope of the Regulation. The report shall also contain an assessment of circumvention practices, of the application of Article 2(2a) of this Regulation, results of investigations and penalties applied. The report shall also contain aggregated information on the emission intensity per country of origin for the different products listed in Annex I. Those reports shall, if appropriate, be accompanied by a legislative proposal.

Chapter IX

Coordination with free allocation of allowances under the EU ETS

Article 31

Free allocation of allowances under the EU ETS and obligation to surrender CBAM certificates

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.

2. The Commission is empowered to adopt implementing acts laying down detailed rules for the calculation of the adjustment referred to in paragraph 1. Such detailed rules shall be elaborated by reference to the principles applied in the EU ETS for the free allocation of allowances to installations producing, within the Union, the goods listed in Annex I, taking account of the different benchmarks used in the EU ETS for the free allocation with a view to combining them into corresponding values for the concerned goods, and taking into account relevant input materials. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Chapter X
Transitional provisions

Article 32

Transitional period

During the transitional period from 1 January 2023 until 31 December 2025, the obligations of the importer under this Regulation shall be limited to the reporting obligations set out in Articles 33 to 35. Where such importer is established in a Member State and uses indirect representation in accordance with Article 18 of Regulation (EU) No 952/2013, and where the indirect customs representative so agrees, the reporting obligations shall apply to such indirect customs representative. Where the importer is not established in a Member State, the reporting obligations shall apply to the indirect customs representative.

Importation of goods

1. (deleted)

2. The customs authorities shall inform the customs declarant of the reporting obligation referred to in Article 35, at the latest at the moment of the release of goods for free circulation.

3. The customs authorities shall, by means of the surveillance mechanism established pursuant to Article 56(5) of Regulation (EU) No 952/2013, communicate to the Commission information on imported goods, including processed products resulting from the outward processing procedure. Such information shall include the EORI number of the customs declarant, and of the importer, the eight-digit CN code, the quantity, the country of origin, the customs declarant, the date of declaration and the customs procedure.

4. The Commission shall communicate the information referred to in paragraph 3 to the competent authorities of the Member States where the customs declarant, and where applicable the importer, are established.

Article 34

Reporting obligation for certain customs procedures

1. Where processed products resulting from the inward processing procedure as referred to in Article 256 of Regulation (EU) No 952/2013 are imported, the reporting obligation referred to in Article 35 (1) shall include the information on the goods that were placed under the inward processing procedure and resulted in the imported processed products, even if the processed products are not listed in Annex I to this Regulation. This provision shall also apply where the processed products resulting from the inward processing procedure are returned goods as referred to in Article 205 of Regulation (EU) No 952/2013.

2. The reporting obligation referred to in Article 35(1) shall not apply to the import of:

   (a) processed products resulting from the outward processing procedure as referred to in Article 259 of Regulation (EU) No 952/2013;

   (b) goods qualifying as returned goods in accordance with Article 203 of Regulation (EU) No 952/2013.

Article 35

Reporting obligation

1. Each importer having imported goods during a given quarter of a calendar year shall, for that quarter, submit a report ('CBAM report') containing information on the goods imported during that quarter, to the Commission, no later than one month after the end of each quarter.

2. The CBAM report shall include the following information:

   (a) the total quantity of each type of goods, expressed in megawatt hours for electricity and in tonnes for other goods, specified per installation producing the goods in the country of origin;

   (b) the actual total embedded emissions, expressed in tonnes of CO_2e emissions per megawatt-hour of electricity or for other goods in tonnes of CO_2e emissions per tonne of each type of goods, calculated in accordance with the method set out in Annex III;

   (c) the total indirect emissions, expressed in accordance with a method set out in an implementing act referred to in paragraph 6;

   (d) the carbon price due in a country of origin for the embedded emissions in the imported goods, taking into account relevant rebates or other forms of compensation.

4. The Commission shall periodically communicate to the competent authorities a list of importers established in their Member State, in respect of which it has reasons to believe that they have failed to comply with the obligation to submit a CBAM report as specified in paragraph 1, and the corresponding justifications.

5. If the competent authority determines, including based on information provided by the Commission pursuant to the previous paragraph, that an importer has failed to comply with the obligation to submit a CBAM report referred to in paragraph 1, it shall impose an effective, proportionate and dissuasive penalty on the importer. To that end, the competent authority shall notify the importer:

(a) that the competent authority has concluded that the importer failed to comply with the obligation of submitting a report for a given quarter;

(b) of the reasons for its conclusion;

(c) of the amount of the penalty imposed on the importer;

(d) of the date from which the penalty is due;

(e) of the action that the importer is to take to pay the penalty ; and

(f) of the right of the importer or to appeal under national rules.

6. The Commission is empowered to adopt implementing acts concerning the information to be reported, including detailed information per country of origin and type of goods supporting the totals referred to in paragraph 2, examples of relevant rebates or other forms of compensation referred to in paragraph 2(d), the indicative range of penalties to be applied pursuant to paragraph 5 and the criteria to take into account for determining the actual amount, including the gravity and duration of the failure to report, and detailed rules regarding the conversion of the yearly average carbon price due in foreign currency referred to in paragraph 2(d) into euro at the yearly average exchange rate. The Commission is also 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 their respective application to individual goods as well as laying down methods to ensure the reliability of data, including the level of detail. The Commission is further empowered to adopt implementing acts on the reporting requirements for indirect emissions in imported goods. These should include the quantity of electricity used for the production of the goods listed in Annex I, as well as the country of origin, generation source and CO_2 emission factor related to this electricity.

7. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2) and shall apply during the transitional period referred to in Article 32. They shall build upon existing legislation for installations covered by Directive 2003/87/EC.

Chapter XI
Final provisions

Article 36

Entry into force

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

2. It shall apply from 1 January 2023.

3. By way of derogation from paragraph 2:

   (a) Articles 5 and 17 shall apply from 1 January 2025;

   (b) Articles 2(2), 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.

   (c) Articles 33, 34 and 35(1), (2), (3), (4), (6) and (7) shall apply until 31 December 2025.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

ANNEX I

List of goods and greenhouse gases

1. For the purpose of the identification of goods, this Regulation shall apply to goods listed in the following sectors currently falling under the combined nomenclature ('CN') codes listed below, and shall be those of Council Regulation (EEC) No 2658/87 ([25]).

2. For the purposes of this Regulation, the greenhouse gases relating to goods falling in the sectors listed below, shall be those listed below for each type of goods.

[25] Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

Cement

CN code	Greenhouse gas
2523 10 00 – Cement clinkers	Carbon dioxide
2523 21 00 – White Portland cement, whether or not artificially coloured	Carbon dioxide
2523 29 00 – Other Portland cement	Carbon dioxide
2523 30 – Aluminous cement	Carbon dioxide
2523 90 00 – Other hydraulic cements	Carbon dioxide

Electricity

CN code	Greenhouse gas
2716 00 00 – Electrical energy	Carbon dioxide

Fertilisers

CN code	Greenhouse gas
2808 00 00 – Nitric acid; sulphonitric acids	Carbon dioxide and nitrous oxide
2814 – Ammonia, anhydrous or in aqueous solution	Carbon dioxide
2834 21 00 - Nitrates of potassium	Carbon dioxide and nitrous oxide
3102 – Mineral or chemical fertilisers, nitrogenous	Carbon dioxide and nitrous oxide
3105 – Mineral or chemical fertilisers containing two or three of the fertilising elements nitrogen, phosphorus and potassium; other fertilisers; goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg - Except: 3105 60 00 – Mineral or chemical	Carbon dioxide and nitrous oxide

fertilisers containing the two fertilising elements phosphorus and potassium	

Iron and Steel

CN code	Greenhouse gas
72 – Iron and steel Except: 7202 – Ferro-alloys 7204 – Ferrous waste and scrap; remelting scrap ingots and steel	Carbon dioxide
7301- Sheet piling of iron or steel, whether or not drilled, punched or made from assembled elements; welded angles, shapes and sections, of iron or steel	Carbon dioxide
7302 – Railway or tramway track construction material of iron or steel, the following: rails, check-rails and rack rails, switch blades, crossing frogs, point rods and other crossing pieces, sleepers (cross-ties), fish- plates, chairs, chair wedges, sole plates (base plates), rail clips, bedplates, ties and other material specialised for jointing or fixing rails	Carbon dioxide
7303 00 – Tubes, pipes and hollow profiles, of cast iron	Carbon dioxide
7304 – Tubes, pipes and hollow profiles, seamless, of iron (other than cast iron) or steel	Carbon dioxide
7305 – Other tubes and pipes (for example, welded, riveted or similarly closed), having circular cross-sections, the external diameter of which exceeds 406,4 mm, of iron or steel	Carbon dioxide
7306 – Other tubes, pipes and hollow profiles (for	Carbon dioxide

example, open seam or welded, riveted or similarly closed), of iron or steel	
7307 – Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel	Carbon dioxide
7308 – Structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, lock- gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel	Carbon dioxide
7309 – Reservoirs, tanks, vats and similar containers for any material (other than compressed or liquefied gas), of iron or steel, of a capacity exceeding 300 l, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide
7310 – Tanks, casks, drums, cans, boxes and similar containers, for any material (other than compressed or liquefied gas), of iron or steel, of a capacity not exceeding 300 l, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide
7311 – Containers for compressed or liquefied gas, of iron or steel	Carbon dioxide
7326 – Other articles of iron or steel	Carbon dioxide

Aluminium

CN code	Greenhouse gas

7601 – Unwrought aluminium	Carbon dioxide and perfluorocarbons
7603 – Aluminium powders and flakes	Carbon dioxide and perfluorocarbons
7604 – Aluminium bars, rods and profiles	Carbon dioxide and perfluorocarbons
7605 – Aluminium wire	Carbon dioxide and perfluorocarbons
7606 – Aluminium plates, sheets and strip, of a thickness exceeding 0,2 mm	Carbon dioxide and perfluorocarbons
7607 – Aluminium foil (whether or not printed or backed with paper, paper-board, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0,2 mm	Carbon dioxide and perfluorocarbons
7608 – Aluminium tubes and pipes	Carbon dioxide and perfluorocarbons
7609 00 00 – Aluminium tube or pipe fittings (for example, couplings, elbows, sleeves)	Carbon dioxide and perfluorocarbons
7610 – Aluminium structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns); aluminium plates, rods, profiles, tubes and the like, prepared for use in structures	Carbon dioxide and perfluorocarbons
7611 – Aluminium reservoirs, tanks, vats and similar containers, for any material (other than compressed or liquefied gas), of a capacity exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide and perfluorocarbons
7612 – Aluminium casks, drums, cans, boxes and similar containers (including rigid or collapsible tubular containers), for any material (other than	Carbon dioxide and perfluorocarbons

compressed or liquefied gas), of a capacity not exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	
7613 – Collapsible tubular containers	Carbon dioxide and perfluorocarbons
7614 – Stranded wire, cables, plaited bands and the like, of aluminium, not electrically insulated	Carbon dioxide and perfluorocarbons
7616 – Other articles of aluminium	Carbon dioxide and perfluorocarbons

ANNEX II

Countries and territories outside the scope of this Regulation for the purpose of Article 2

1. 1. SECTION A- COUNTRIES AND TERRITORIES OUTSIDE THE SCOPE OF THIS REGULATION

This Regulation shall not apply to goods originating in the following countries:

- Iceland
- Liechtenstein
- Norway
- Switzerland

This Regulation shall not apply to goods originating in the following territories:

- Büsingen
- Heligoland
- Livigno
- Ceuta
- Melilla

2. 2. SECTION B - COUNTRIES AND TERRITORIES OUTSIDE THE SCOPE OF THIS REGULATION WITH REGARD TO THE IMPORTATION OF ELECTRICITY INTO THE CUSTOMS TERRITORY OF THE UNION

[Currently empty]

ANNEX III

Methods for calculating embedded emissions for the purpose of Article 7

1. DEFINITIONS

For the purposes of this Annex and of Annexes IV and V, the following definitions apply:

(a) 'simple goods' means goods produced in a production process requiring exclusively input materials and fuels having zero embedded emissions;

(b) 'complex goods' means goods other than simple goods;

(c) 'specific embedded emissions' means the embedded emissions of one tonne of goods, expressed as tonnes of CO_2e emissions per tonne of goods;

(d) 'CO_2 emission factor' means the weighted average of the CO_2 intensity of electricity produced from fossil fuels within a geographic area. The CO_2 emission factor is the result of the division of the CO_2 emission data of the energy sector by the gross electricity generation based on fossil fuels. It is expressed in tonnes of CO_2 per megawatt-hour;

(e) 'power purchase agreement' means a contract under which a person agrees to purchase electricity directly from an electricity producer;

(f) 't ransmission s ystem o perator' means an operator as defined in Article 2(35) of Directive (EU) 2019/944 of the European Parliament and of the Council [26].

[26] Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (OJ L 158, 14.6.2019, p. 125).

2. DETERMINATION OF ACTUAL DIRECT SPECIFIC EMBEDDED EMISSIONS FOR SIMPLE GOODS

For determining the specific actual embedded emissions of simple goods produced in a given installation, only direct emissions shall be accounted for. For this purpose, the following equation is to be applied:

$$SEE_g = \frac{AttrEm_g}{AL_g}$$

Where SEE_g are the specific embedded emissions of goods *g*, in terms of CO_2e per tonne, $AttrEm_g$ are the attributed emissions of goods *g*, and AL_g is the activity level of the goods, being the quantity of the goods produced in the reporting period in that installation.

'Attributed emissions' mean the part of the installation's direct emissions during the reporting period that are caused by the production process resulting in goods *g* when applying the system boundaries of the production process defined by the implementing acts adopted pursuant to Article 7(6). The attributed emissions shall be calculated using the following equation:

$$AttrEm_g = DirEm$$

Where DirEm are the direct emissions, resulting from the production process, expressed in tonnes of CO_2e, within the system boundaries referred to in the implementing act adopted pursuant to Article 7(6).

3. DETERMINATION OF ACTUAL DIRECT EMBEDDED EMISSIONS FOR COMPLEX GOODS

For determining the specific actual embedded emissions of complex goods produced in a given installation, only direct emissions will accounted for. In this case, the following equation is to be applied:

$$SEE_g = \frac{AttrEm_g + EE_{InpMat}}{AL_g}$$

Where $AttrEm_g$ are the attributed emissions of goods *g*, AL_g the activity level of the goods, being the quantity of goods produced in the reporting period in that installation, and EE_{InpMat} are the embedded emissions of the input materials (precursors) consumed in the production process. Only input materials listed as relevant to the system boundaries of the production process as specified in the implementing act adopted pursuant to Article 7(6) are to be considered. The relevant EE_{InpMat} are calculated as follows:

$$EE_{ImpMat} = \sum_{i=1}^{n} M_i \cdot SEE_i$$

Where M_i is the mass of input material *i* used in the production process, and SEE_i are the specific embedded emissions for the input material *i*. For SEE_i, the operator of the installation shall use the value of actual direct embedded emissions resulting from the installation where the input material was produced, provided that that installation's data can be adequately measured.

4. DETERMINATION OF DEFAULT VALUES REFERRED IN ARTICLES 7(2) AND (3)

For the purpose of determining default values, only actual values shall be used for the determination of embedded emissions. In the absence of actual data, literature values may be used. The Commission shall publish guidance for the approach taken to correct for waste gases or greenhouse gases used as process input, before collecting the data required to determine the relevant default values for each type of goods listed in Annex I. Default values shall be determined based on the best available data. They shall be revised periodically through the implementing acts adopted pursuant to Article 7(6) based on the most up-to-date and reliable information, including on the basis of information provided by a third country or group of third countries.

4.1. Default values referred to in Article 7(2)

When actual emissions cannot be adequately determined by the authorised CBAM declarant, default values shall be used. Those values shall be set at the average emission intensity of each exporting country and for each of the goods listed in Annex I other than electricity, increased by a proportionately designed mark-up. This mark-up shall be determined in the implementing acts adopted pursuant to Article 7(6) of this Regulation and shall be set at an appropriate level to ensure the environmental integrity of the mechanism, building on the most up-to-date and reliable information, including on the basis of information gathered during the transition period.

When reliable data for the exporting country cannot be applied for a type of goods, the default values shall be based on the average emission intensity of the X per cent worst performing EU ETS installations for that type of goods. The value of X shall be determined in the implementing acts adopted pursuant to Article 7(6) of this Regulation and shall be set at an appropriate level to ensure the environmental integrity of the mechanism, building on the most up-to-date and reliable information, including on the basis of information gathered during the transition period.

4.2. Default values for imported electricity referred to in Article 7(3)

Default values for imported electricity shall be determined for a third country, group of third countries or region within a third country based on either specific default values, in accordance with point 4.2.1, or, if those values are not available, on alternative default values, in accordance with point 4.2.2.

Where the electricity is produced in a third country, group of third countries or region within a third country, and transits through third countries, groups of third countries or regions within a third country, or Member States with the purpose of being imported into the Union, the default values to be used are the ones from the third country, group of third countries or region within a third country where the electricity was produced.

4.2.1. Specific default values for a third country, group of third countries or region within a third country

Specific default values shall be set at the CO_2 emission factor in the third country, group of third countries or region within a third country, based on the best data available to the Commission.

4.2.2. Alternative default values

Where a specific default value is not available for a third country, a group of third countries, or a region within a third country, the alternative default value for electricity shall be set at the CO_2 emission factor in the EU.

Where it can be demonstrated, on the basis of reliable data, that the CO_2 emission factor in a third country, group of third countries, or a region within a third country, is lower than the specific default value determined by the Commission or lower than the CO_2 emission factor in the EU, an alternative default value based on that CO_2 emission factor may be used for that country, group of countries, or region within a third country.

5. CONDITIONS FOR APPLYING ACTUAL EMBEDDED EMISSIONS IN IMPORTED ELECTRICITY

An authorised CBAM declarant may apply actual embedded emissions instead of default values for the calculation referred to in Article 7(3) if the following cumulative criteria are met:

(a) the amount of electricity for which the use of actual embedded emissions is claimed is covered by a power purchase agreement between the authorised CBAM declarant and a producer of electricity located in a third country;

(b) the installation producing electricity is either directly connected to the EU transmission system or it can be demonstrated that at the time of export, there was no physical network congestion at any point in the network between the installation and the EU transmission system;

(c) the amount of electricity for which the use of actual embedded emissions is claimed has been firmly nominated to the allocated interconnection capacity by all responsible transmission system operators in the country of origin, the country of destination and, if relevant, each third country of transit, and the nominated capacity and the production of electricity by the installation refer to the same period of time which shall not be longer than one hour;

(d) meeting the above criteria is certified by an accredited verifier. The verifier shall receive at least monthly interim reports demonstrating how the above criteria are fulfilled.

6. ADAPTATION OF DEFAULT VALUES REFERRED TO IN ARTICLE 7(2) BASED ON REGION-SPECIFIC FEATURE

Default values can be adapted to particular areas, regions of countries where specific characteristics prevail in terms of objective emission factors. When data adapted to those specific local characteristics are available and more targeted default values can be defined, the latter may be used.

Where declarants for goods originating in a third country, a group of third countries, or a region within a third country, can demonstrate, on the basis of reliable data, that alternative region-specific adaptations of default values are lower than the default values defined by the Commission, the former can be used.

ANNEX IV

Book-keeping requirements for data used for the calculation of embedded emissions for the purpose of Article 7(4)

MINIMUM DATA TO BE KEPT BY AN AUTHORISED CBAM DECLARANT FOR IMPORTED GOODS:

1. Data identifying the authorised CBAM declarant:

   (a) name;

   (b) CBAM account number;

2. Data on imported goods:

   (a) type and quantity of each type of goods;

   (b) country of origin;

   (c) actual emissions or default values.

2. MINIMUM DATA TO BE KEPT BY AN AUTHORISED CBAM DECLARANT FOR EMBEDDED EMISSIONS IN IMPORTED GOODS THAT ARE DETERMINED BASED ON ACTUAL EMISSIONS:

For each type of imported goods where embedded emissions are determined based on actual emissions, the following additional data shall be kept:

(a) identification of the installation where the goods were produced;

(b) contact information of the operator of the installation where the goods were produced;

(c) the verification report as set out in Annex V;

(d) the specific embedded emissions of the goods.

ANNEX V

Verification principles and content of verification reports for the purpose of Article 8

PRINCIPLES OF VERIFICATION

The following principles shall apply:

(a) verifiers shall carry out verifications with an attitude of professional scepticism;

(b) the total embedded emissions to be declared in the CBAM declaration shall be considered as verified only if the verifier finds with reasonable assurance that the verification report is free of material misstatements and of material non-conformities regarding the calculation of embedded emissions in accordance with the rules of Annex III;

(c) installation visits by the verifier shall be mandatory except where specific criteria for waiving the installation visit are met;

(d) for deciding whether misstatements or non-conformities are material, the verifier shall use thresholds given by the implementing acts adopted in accordance with Article 8. For parameters for which no such thresholds are defined, the verifier shall use expert judgement as to whether misstatements or non-conformities, individually or when aggregated with other misstatements or non-conformities, justified by their size and nature, have to be considered material.

2. CONTENT OF A VERIFICATION REPORT

The verifier shall prepare a verification report establishing the embedded emissions of the goods and specifying all issues relevant to the work carried out and including, at least, the following information:

(a) identification of the installations where the goods were produced;

(b) contact information of the operator of the installations where the goods were produced;

(c) the applicable reporting period;

(d) name and contact information of the verifier;

(e) accreditation number of the verifier, and name of the accreditation body;

(f) the date of the installations visits, if applicable, or the reasons for not carrying out an installation visit;

(g) quantities of each type of declared goods produced in the reporting period;

(h) quantification of direct emissions of the installation during the reporting period;

(i) a description on how the installation's emissions are attributed to different types of goods;

(j) quantitative information on the goods, emissions and energy flows not associated with those goods;

(k) in case of complex goods:

i. quantities of each input materials (precursors) used;

ii. the specific embedded emissions associated with each of the input materials (precursors) used;

iii. if actual emissions are used, the identification of the installations where the input material (precursor) has been produced and the actual emissions from the production of that material.

(l) the verifier's statement confirming that he or she finds with reasonable assurance that the report is free of material misstatements and of material non-conformities regarding the calculation rules of Annex III;

(m) information on material misstatements found and corrected;

(n) information of material non-conformities with calculation rules set out in Annex III found and corrected.