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**COMMISSION IMPLEMENTING REGULATION (EU) .../...**

**of XXX**

**laying down the rules for the application of Regulation (EU) 2023/956 of the European Parliament and of the Council as regards reporting obligations for the purposes of the carbon border adjustment mechanism during the transitional period**

*This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.*

**COMMISSION IMPLEMENTING REGULATION (EU) .../...**

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**laying down the rules for the application of Regulation (EU) 2023/956 of the European Parliament and of the Council as regards reporting obligations for the purposes of the carbon border adjustment mechanism during the transitional period**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2023/965 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism<sup>1</sup>, and in particular Article 35(7) thereof,

Whereas:

- (1) Regulation (EU) 2023/965 lays down reporting obligations for the purposes of carbon border adjustment mechanism during the transitional period from 1 October 2023 until 31 December 2025.
- (2) During the transitional period importers or indirect customs representatives are to report on the quantity of imported goods, direct and indirect emissions embedded in them, and any carbon price effectively paid abroad for those emissions, including carbon prices paid for emissions embedded in relevant precursor materials.
- (3) The first report should be submitted by 31 January 2024 in respect of goods imported during the fourth quarter of 2023. The last report should be submitted by 31 January 2026 in respect of goods imported during the fourth quarter of 2025.
- (4) The Commission is to adopt implementing rules of those reporting requirements.
- (5) Data collected during the transitional period should provide the basis for the reports that the Commission is to present in accordance with Article 30(2) and (3) of Regulation (EU) 2023/956. Data collected during the transitional period should also help define a unique monitoring, reporting and verification methodology after the transitional period. The assessment of data collected will in particular inform the Commission work in view of adjusting the applicable reporting rules and finalising the applicable methodologies after the transitional period in further implementing acts pursuant to Regulation (EU) 2023/956.
- (6) The reporting requirements should be limited to what is necessary to minimise the burden on importers in the transitional period and facilitate the smooth roll-out of the CBAM declaration requirements after the transitional period.
- (7) In line with Annex IV of Regulation (EU) 2023/956, the detailed rules for calculating embedded emissions of imported goods should be based on the methodology applicable under the Emission Trading Scheme for installations located in the EU, as notably specified in the Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant

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<sup>1</sup> OJ L 130, 16.5.2023, p. 52.

to Directive 2003/87/EC. Therefore, the principal approach to determine the embedded emissions of goods listed in Annex I to Regulation (EU) 2023/956) should be to identify the relevant production processes for good categories, and to monitor the direct and indirect emissions of these production processes in order to attribute these emissions to the goods produced. Reporting during the transitional period should also take into account existing norms and procedures of relevant Union legislation. As regards the production of hydrogen and its derivatives, reporting should take into account the Directive (EU) 2018/2001 of the European Parliament and of the Council<sup>2</sup>.

- (8) Accordingly, Annex II defines the system boundaries of production processes and Annex III defines the rules for determining data to be provided to reporting declarants, including emissions data at installation level, attributed emissions of production processes and embedded emissions of good. Annex IV lists the content of the communication from operators of installations to reporting declarant. Annex V provides standard emission factors to use for when calculating direct embedded emissions (notably fuel emission factors, process emission factors). Annex V provides reference efficiency factors for electricity and heat production.
- (9) In view of the limited time available for third country operators to ensure compliance with the required monitoring and reporting obligations, and to best exploit synergies with monitoring and reporting systems, as well as to ensure efficient and accurate data reporting in the beginning of the transitional period, reporting of emissions during the transitional period should also consider existing monitoring and reporting rules in third countries, exploring the possibility to find synergies. Therefore, a temporary derogation to the calculation methods for reporting embedded emission should be allowed for a limited period, until end of 2024, when the operator is subject to a monitoring, reporting and verification systems associated to a mandatory pricing scheme, an emission reduction project or compulsory emission monitoring scheme.
- (10) For a limited period, until 31 July 2024, reporting declarants that would not have all the information from third country operators to determine the actual embedded emissions of the imported goods in accordance with the methodology set in Annex III should be able to use and reference another method for determining the direct embedded emissions.
- (11) As one of the objectives of the transitional period is to collect data for the purpose of further specifying the methodology for calculating embedded indirect emissions for the definitive period that will be specified in the implementing act mentioned in section 4.3, third subparagraph of Annex IV to Regulation (EU) 2023/956. Accordingly, reporting of indirect emissions during the transitional period should be open and designed to include methods which lead to similar coverage and accuracy of emissions data in third countries. should allow to select the most appropriate value among those listed in section 4.3, first subparagraph, to Regulation (EU) 2023/956. Reporting of indirect emissions should however not include reporting based on average emission factor the of Union grid as that value is already known by the Commission.
- (12) The indicative range of penalties that are to be imposed to a reporting declarant who has failed to submit the CBAM report according to the requirements of Article 35 should be based on the amount of undeclared embedded emissions. This indicative

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<sup>2</sup> Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

range should be coherent with the penalties pursuant to Article 16(3) and (4) of Directive 2003/87/EC, while also taking into account that the obligation is limited to reporting data in the transitional period with no financial obligation. The criteria to be used by competent authorities for determining the actual amount of penalty should be based on the gravity and duration of the failure to report. The Commission should monitor the CBAM reports to provide for an indicative assessment of information needed and to ensure coherency of the applied penalties.

- (13) In order to ensure efficient implementation of reporting obligations, an electronic database should be established to collect the information reported during the transitional period. The CBAM Transitional Registry should be the basis for the establishment of the CBAM Registry pursuant to Article 14 of Regulation (EU) 2023/956.
- (14) In order to ensure an effective and uniform reporting system, technical arrangements for the functioning of the CBAM Transitional Registry should be laid down, such as arrangements for development, testing and deployment as well as for maintenance and for changes to be introduced in the electronic systems, data protection, updating of data, limitation of data processing, systems ownership, and security.
- (15) In order to ensure the continuity of data reporting at all times, it is important to provide for alternative solutions to be implemented in the event of a temporary failure of the electronic systems for data reporting.
- (16) The CBAM Transitional Registry should be the system for filing and management of the CBAM reports for reporting declarants, including checks, indicative assessments, and correction procedures. To ensure transparency and to minimise the administrative burden, the CBAM Transitional Registry should be interoperable with existing customs systems.
- (17) Reporting declarants should be able to access CBAM Registry services via the CBAM Trader Portal (CBAM TP) and the Commission, the competent authorities, and other authorities, should be able to access CBAM Transitional Registry services via the CBAM Competent Authorities Portal (CBAM CAP).
- (18) In order to ensure secure access to the CBAM Transitional Registry the Uniform User Management and Digital Signature (UUM&DS) system, as referred to in Article 16 in Commission Implementing Regulation (EU) 2023/1070 of 1 June 2023 on technical arrangements for developing, maintaining and employing electronic systems for the exchange and storage of information under Regulation (EU) No 952/2013 of the European Parliament and the Council, should manage the authentication and access verification process for reporting declarants.
- (19) For the purpose of identifying the reporting declarants and in order to establish a list of the reporting declarants with their EORI numbers the CBAM Transitional Registry should be interoperable with the Economic Operator Registration and Identification (EORI) system, as referred to in Article 30 in Commission Implementing Regulation (EU) 2023/1070 of 1 June 2023 on technical arrangements for developing, maintaining and employing electronic systems for the exchange and storage of information under Regulation (EU) No 952/2013 of the European Parliament and the Council.
- (20) For validation and reporting purposes the National Import System should provide the required information on goods listed in Annex 1 in Regulation (EU) 2023/956, referred to in Article 278 Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code and Commission

Implementing Decision (EU) 2019/2151 of 13 December 2019 establishing the work programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code.

- (21) Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (TARIC) and Commission Implementing Regulation (EU) 2023/1070 of 1 June 2023 on technical arrangements for developing, maintaining and employing electronic systems for the exchange and storage of information under Regulation (EU) No 952/2013 of the European Parliament and the Council (The Surveillance System) should be used for managing, validating and providing information on imported goods listed in Annex I of Regulation 2023/956 the goods listed in Annex I, which are subject to Regulation (EU) 2023/956.
- (22) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, and notably the right to protection of personal data. The personal data of economic operators and other persons processed by the electronic systems are restricted to the datasets as set out in Annex I.
- (23) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>3</sup> [and delivered an opinion on (...) <sup>4</sup>].
- (24) This Regulation should enter into force as a matter of urgency.
- (25) The measures provided for in this Regulation are in accordance with the opinion of the CBAM Committee,

HAS ADOPTED THIS REGULATION:

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<sup>3</sup> 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).

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# Chapter I

## Subject matter and definitions

### *Article 1* *Subject matter*

This Regulation lays down rules for reporting obligations laid down in Article 35 of Regulation (EU) 2023/956 in respect of goods listed in Annex I to that Regulation imported into the customs territory of the Union during the transitional period from 1 October 2023 to 31 December 2025 ('transitional period').

### *Article 2* *Definitions*

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

- (1) 'reporting declarant' means any of the following persons:
  - (a) the importer who lodges a customs declaration for release for free circulation of goods in its own name and on its own behalf;
  - (b) the importer, holding an authorisation to lodge a customs declaration referred to in Article 182(1) of Regulation No 952/2013 of the European Parliament and of the Council<sup>5</sup>, who declares the importation of goods;
  - (c) the indirect customs representative, where the customs declaration is lodged by the indirect customs representative appointed in accordance with Article 18 of Regulation (EU) No 952/2013, when the importer is established outside the Union or where the indirect customs representative has agreed to the reporting obligations in accordance with Article 32 of Regulation 2023/956.
- (2) 'rebate' means any amount that reduces the amount due or paid by a person liable for the payment of a carbon price, before its payment or after, in a monetary form or in any other form;
- (3) 'yearly average carbon price' means the carbon price of the latest available period for which the operator was subject to a carbon price.

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<sup>5</sup> 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).

## Chapter II

### Rights and obligations of reporting declarants related to reporting

#### Article 3

##### *Reporting obligations of reporting declarants*

1. Each reporting declarant shall provide the following information regarding the imported goods listed in Annex I to Regulation 2023/956 in the CBAM reports:
  - (a) the quantity of the goods imported, expressed in megawatt hours for electricity and in tonnes for other goods;
  - (b) the type of goods as identified by their CN code.,
2. Each reporting declarant shall provide the following information regarding the embedded emissions of the goods listed in Annex I to Regulation 2023/956, as listed in Annex I of this Regulation, in the CBAM reports:
  - (a) the country of origin of the imported goods;
  - (b) the installation where it was produced, identified by the following data:
    - (1) the applicable United Nations Code for Trade and Transport Location (UN/LOCODE) of the location;
    - (2) company name of the installation, the address of the installation and its English transcript;
    - (3) geographical coordinates of the main emission source of the installation.
  - (c) the production routes used, which shall reflect the technological option for the production of the goods, and information on specific parameters qualifying the indicated production route chosen, for determining the embedded direct emissions, as required in as defined in Annex II of this Regulation, and the descriptive parameters that have an effect on the embedded emissions of the goods as referred to in Annexes III;
  - (d) for steel goods, the identification number of the specific steel mill where a particular batch of raw materials came from, where known;
  - (e) the specific direct emissions of the goods, which shall be determined by converting the attributed embedded direct emissions of the production processes into emissions specific of the goods defined as CO<sub>2e</sub> per tonne in accordance with Annex III.
3. For indirect emissions, each reporting declarant shall in addition report the following information in the CBAM reports as listed in Annex I:
  - (a) electricity consumption;
  - (b) the indication whether the declarant reports actual emissions or default values;
  - (c) the corresponding emissions factor;
  - (d) the amount of specific indirect emissions, which shall be determined by converting the attributed embedded indirect emissions of the production

processes into indirect emissions specific of the goods defined as CO<sub>2</sub>e per tonne in accordance with Annex III.

4. For the purposes of reporting the reporting declarant may request the producer of the goods to use an electronic template provided by the Commission, containing the reporting elements laid down in Annex IV of this Regulation.

#### *Article 4*

##### *Calculation of embedded emissions*

1. For the purpose of Article 3(2), the level of embedded emissions shall be calculated using one of the following methods, which are based on the on the choice of monitoring approach in accordance with point B.2 in Annex III, which consists of either:
  - (a) determining emissions from source streams on the basis of activity data obtained by means of measurement systems and additional parameters from laboratory analyses or standard values;
  - (b) determining emissions from emission sources by means of continuous measurement of the concentration of the relevant greenhouse gas in the flue gas and of the flue-gas flow.
2. By way of derogation from paragraph 1, until 31 December 2024, the level of embedded emissions may be calculated using one of the following methods, if they lead to similar coverage and accuracy of emissions data compared to the methods listed in that paragraph:
  - (a) methods used under monitoring, reporting and verification systems (MRV);
  - (b) other methods, with any of the following applicable monitoring rules:
    - (1) a carbon pricing scheme where the installation is located;
    - (2) an emission monitoring scheme at the installation which can include verification by an accredited verifier; or
    - (3) compulsory emission monitoring schemes.
3. By way of derogation from paragraph 1 and 2 until 31 July 2024 for each import of goods for which the reporting declarant does not have all the information listed in Article 3(2), the reporting declarant may use other methods for determining the direct emissions. In such case the reporting declarant shall indicate and reference in its CBAM report the methodology followed to establish such values.

#### *Article 5*

##### *Use of default values*

1. Default values for the transitional period made available and published by the Commission may be used for input materials or subprocesses contributing to less than 20% of the total emissions of the good, where the reporting declarant reports actual emissions for complex goods.

#### *Article 6*

##### *Data collection and reporting regarding inward processing*

1. The reporting declarant shall submit in the CBAM report, in the quarter following the discharge from customs in accordance with Article 257 of UCC, the following information, as listed in Annex V, for goods placed under inward processing

subsequently released for free circulation either as the same good or as processed products:

- (a) the quantities of goods listed in Annex I to Regulation (EU) 2023/956 that have been released for free circulation following inward processing during that period;
  - (b) embedded emissions corresponding to these quantities of goods listed in Annex I to Regulation (EU) 2023/956 that have been released for free circulation following inward processing during that period;
  - (c) the country of origin of the goods referred to in point (a), where known;
  - (d) the installations where the goods referred to in point (a) were produced, where known;
  - (e) the quantities of goods listed in Annex II to this Regulation placed under inward processing that resulted in processed products that has been released for free circulation during that period;
  - (f) embedded emissions corresponding to the goods listed in Annex II to this Regulation that have been used to produce the quantities of processed products referred to in point (e).
2. The embedded emissions referred to in paragraph 1 point (b) and (f) shall be calculated in accordance with Articles 3, 4 and 5.

#### *Article 7*

##### *Reporting of information regarding carbon price*

1. The reporting declarant shall provide in the CBAM report the following information regarding the carbon price paid in a country of origin for the embedded emissions, if applicable:
  - (a) form of carbon price;
  - (b) the country of origin;
  - (c) any rebate or other form of compensation available in the country that would have resulted in a reduction of that carbon price;
  - (d) indication of the provision of a legal act providing for the carbon price, rebate, or other forms of relevant compensation, including a copy of the provision;
  - (e) type of product indicated by CN code;
  - (f) quantity of embedded emissions covered by the carbon price;
  - (g) quantity of embedded emissions covered by any rebate or other form of compensation, including free allocations, if applicable;
  - (h) the monetary amount
2. Amounts in the CBAM Transitional Registry will be converted into Euro based on the previous year average exchange rates from the European Central Bank.

#### *Article 8*

##### *Submission of CBAM reports*

1. For each quarter from 1 October 2023 until 31 December 2025 the reporting declarant shall submit the CBAM report to the CBAM Transitional Registry no later than one month after the end of that quarter.

2. In the CBAM Transitional Registry the reporting declarant shall indicate one of the following options:
  - (a) the CBAM report is submitted by an importer in its own name and on its own behalf;
  - (b) the CBAM report is submitted by an indirect customs representative on behalf of an importer.
3. Where an indirect customs representative does not agree to carry out reporting obligations of the importer under this Regulation, the indirect customs representative shall inform the importer of the obligation to comply with this Regulation. The information shall include the information provided by the Customs Authorities.
4. The CBAM report shall have the structure as laid down in Annex I, and shall include the EORI numbers of the importer and the indirect representative.
5. The CBAM report shall be allocated a Report ID, when submitted in the CBAM Transitional Registry.

#### *Article 9*

#### *Modification and correction of CBAM reports*

1. A reporting declarant may modify a submitted CBAM report until two months after the end of the relevant reporting quarter.
2. By way of derogation from paragraph 1, a reporting declarant may modify the CBAM reports for the first two reporting periods until the submission deadline for the third CBAM report.
3. Upon request of the reporting declarant, the competent authority or the Commission shall, allow the reporting declarant to resubmit a CBAM report or to correct it, where the CBAM report submitted is incorrect or incomplete. The resubmission of the corrected CBAM report or the correction, as applicable, shall be made no later than a month after the approval to modify or resubmission.
4. Reporting declarants shall inform their competent authorities without delay of any changes to the information they have provided arising after the competent authority has taken a decision based on the information provided by the Commission, which may influence the decision.
5. A CBAM report pending dispute may not be modified. It can be replaced to take into account the outcome of the pending dispute.

## Chapter III

### Administration regarding CBAM reporting

#### *Article 10*

##### *CBAM Transitional Registry*

1. The CBAM Transitional Registry is a standardised and secured electronic database containing common data elements for reporting in the transitional period, and to provide for access, case handling and confidentiality ('CBAM Transitional Registry').
2. The CBAM Transitional Registry shall enable communication, checks and information exchange between the Commission, the competent authorities, customs authorities of the Member States and reporting declarants in accordance with Chapter V.

#### *Article 11*

##### *Checks of CBAM reports and use of information by the Commission*

1. The Commission may check CBAM reports to assess compliance with the reporting obligations of reporting declarants within the period ending three months after the last CBAM report should have been submitted.
2. The Commission shall use the CBAM Transitional Registry and the information present in that Registry to perform the tasks laid down in this Regulation and in Regulation (EU) 2023/956.

#### *Article 12*

##### *Indicative assessment by the Commission*

1. For indicative purposes the Commissions shall communicate a list of reporting declarants established in the Member State, of which the Commission has reasons to believe they have failed to comply with the obligation to submit a CBAM report
2. Where the Commission considers that a CBAM report does not contain all the information required in Articles 3 to 7 or considers a report incomplete or incorrect in accordance with Article 13, the Commission shall communicate the indicative assessment regarding that CBAM report to the competent authority in the Member State where the reporting declarant is established through the CBAM Transitional Registry.

#### *Article 13*

##### *Incomplete or incorrect CBAM reports*

1. A CBAM report is incomplete where the reporting declarant has failed to fill-in the fields marked as mandatory in Annex I or Annex V.
2. A CBAM report is incorrect in any of the following cases:
  - (a) the data or information in the submitted report do not comply with the requirements laid down in Articles 3 to 7 and Annex III;
  - (b) the declared specific embedded emissions deviate from the default values in Article 5 without any justification;
  - (c) the reporting declarant has submitted wrongful data and information.

#### *Article 14*

##### *Assessment of CBAM reports and use of information by the competent authorities*

1. The competent authorities of the Member State of establishment of the reporting declarant shall review and assess the data, information and list of reporting declarants communicated by the Commission as referred to in Article 14 paragraph 1.
2. Competent authorities shall use the CBAM Transitional Registry and the information present in that Registry, to perform their tasks laid down in this Regulation and Regulation (EU) 2023/956.
3. After 31 December 2025 the competent authorities may initiate the correction procedure regarding any of the following:
  - (a) incomplete or incorrect CBAM reports;
  - (b) failure to submit a CBAM report.
4. Where the competent authority initiates the correction procedure, the reporting declarant shall be notified that the report is under review, and that additional information is required. The request for additional information by the competent authority shall include the information required in Articles 3 to 8. The reporting declarant shall submit the additional information and data using the templates Annex I of this Regulation.
5. Where the competent authority concludes that the reporting declarant has not taken the necessary steps to correct the CBAM report, the CBAM report shall be considered incomplete.
6. The competent authority shall grant the authorisation to access the CBAM Transitional Registry and manage the registration at national level taking into consideration EORI number in accordance with technical arrangement in Article 20.

#### *Article 15*

##### *Confidentiality*

1. All decisions of the competent authorities and information acquired by the competent authority 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 without the express permission of the person or authority that provided it. Such information, in particular personal data, may, be disclosed without permission where this Regulation provides for it and where the competent authority is obliged or authorised to disclose it pursuant to applicable law.
2. Competent authorities may communicate confidential information referred to in paragraph 1 to customs authorities of the Union.
3. Any disclosure or communication of information as referred to in paragraphs 1 and 2 shall be made in compliance with applicable data protection provisions.

# Chapter IV

## Enforcement

### *Article 16* *Penalties*

1. A penalty shall be imposed in one of the following cases;
  - (a) the reporting declarant has not taken the necessary steps to comply with the obligation to submit a CBAM report, or
  - (b) the reporting declarant has not taken the necessary steps to correct the CBAM report to comply with the obligations provided in Article 3-7 in this Regulation.
2. The amount of the penalty, for each tonne of unreported embedded emissions shall be between EUR 10 and EUR 50. The penalty shall increase in accordance with the European index of consumer prices. The competent authorities shall determine the exact amount based on the criteria in paragraph 3.
3. When determining the actual amount of a penalty, competent authorities shall consider the following factors:
  - (a) the extent of unreported information;
  - (b) the unreported quantities of imported goods and the unreported emissions relating to those goods;
  - (c) the readiness of the reporting declarant to comply with request for information or correct the CBAM report;
  - (c) (d) the intentional or negligent behaviour of the reporting declarant;
  - (e) the past behaviour of the reporting declarant as regards compliance with the reporting obligation;
  - (f) the level of cooperation of the reporting declarant to bring the infringement to an end;
  - (g) whether the reporting declarant has voluntarily taken measures to ensure that similar infringement cannot be committed in the future;
4. Higher penalties shall be applied when the duration of the failure to report exceeds 6 months.

# Chapter V

## Technical elements regarding the CBAM Transitional Registry

### *Section 1*

#### **Introduction**

### *Article 17*

#### *Central system in scope*

1. The CBAM Transitional Registry shall be interoperable with:
  - (b) the Uniform User Management and Digital Signature (UUM&DS) system for the purposes of CBAM System for the Commission, Member States and reporting declarants users registration and access management, as referred to in Article 16 in Commission Implementing Regulation (EU) 2023/1070 of 1 June 2023 on technical arrangements for developing, maintaining and employing electronic systems for the exchange and storage of information under Regulation (EU) No 952/2013 of the European Parliament and the Council;
  - (c) the Economic Operator Registration and Identification (EORI) for the purpose of validating and retrieving the EO Identity Information, as specified in Annex VI, as referred to in Article 30 in Commission Implementing Regulation (EU) 2023/1070 of 1 June 2023 on technical arrangements for developing, maintaining, and employing electronic systems for the exchange and storage of information under Regulation (EU) No 952/2013 of the European Parliament and the Council;
  - (d) the Surveillance system for the purpose of retrieving information on Customs Imports Declarations for goods listed in Annex I of Regulation (EU) 2023/956 for validating the CBAM reports and compliance, as developed through the UCC Surveillance 3 (SURV3) as referred to in Article 99 in Commission Implementing Regulation (EU) 2023/1070 of 1 June 2023 on technical arrangements for developing, maintaining and employing electronic systems for the exchange and storage of information under Regulation (EU) No 952/2013 of the European Parliament and the Council.
  - (e) The TARIC System as referred to in Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff.
2. The Transitional Registry shall be interoperable with the following decentralised systems as developed or upgraded through the UCC National Import Systems for the purpose of retrieving information on Customs Imports Declarations for goods listed in Annex I in the Regulation 2023/956 as specified in Annex VII of this Regulation, for validating the CBAM reports and compliance of the reporting declarants when this information is not available in the SURV3 system, as referred to in Article 278 Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code and Commission Implementing Decision (EU) 2019/2151 of 13 December 2019 establishing the work programme

relating to the development and deployment of the electronic systems provided for in the Union Customs Code.

#### *Article 18*

##### *Contact points for the electronic systems*

The Commission and Member States shall designate contact points for each of the electronic systems referred to in Article 17 of this Regulation, for the purposes of exchanging information to ensure a coordinated development, operation, and maintenance of those electronic systems.

They shall communicate the details of those contact points to each other and inform each other immediately of any changes to those details.

#### *Section 2*

### **CBAM Transitional Registry**

#### *Article 19*

##### *Structure of the CBAM Transitional Registry*

The CBAM Registry shall consist of the following common components ('common components'):

- (a) the CBAM Trader Portal (CBAM TP);
- (b) the CBAM Competent Authorities Portal (CBAM CAP) with 2 segregated spaces:
  - (1) For the National Competent Authorities (CBAM CAP/N) and;
  - (2) for the Commission (CBAM CAP/C).
- (c) the CBAM User Access Management;
- (d) the CBAM Registry back end services (CBAM BE);
- (e) the public CBAM page on the Europa website.

#### *Article 20*

##### *Terms of collaboration in the CBAM Transitional Registry*

1. The Commission shall propose the Terms of Collaboration, Service Level Agreement, and security Plan, for agreement with the competent authorities. The Commission shall operate the CBAM Transitional Registry in compliance with the terms agreed.
2. The CBAM Transitional Registry shall be used with respect to the CBAM reports and to the Import Declarations Records to which these reports relate.

#### *Article 21*

##### *The CBAM User access Management*

1. The authentication and access verification of the importers and indirect representatives of goods listed in Annex I in Regulation (EU) 2023/956, for the purposes of access to the components of the CBAM Registry shall be done using the UUM&DS system as referred to in Article 17(1), point a.

3. The Commission shall provide the authentication services allowing the users of the CBAM Transitional Registry to securely access the Registry.
4. The Commission will use UUM&DS to grant the authorisation to access the CBAM Transitional Registry to its staff and to provide the delegations to the competent authorities to issue their authorisations.
5. The competent authorities will use UUM&DS to grant the authorisation to access the CBAM Transitional Registry to their staff, to the reporting declarants established in their Member State.
6. A competent authority may opt to use an identity and access management system set up in their Member State pursuant to Article 26 of this Regulation (national eIDAS system) to provide the necessary credential for their economic operators and their officials to access the CBAM Transitional Registry.

*Article 22*  
*CBAM Trader Portal*

1. The CBAM Trader Portal shall be the unique entry point to the CBAM Transitional Registry for the reporting declarants. The portal shall be accessible from the Internet.
2. The CBAM trader portal shall interoperate with the CBAM Registry Back End services.
3. The CBAM trader portal shall be used by the reporting declarant:
  - (a) The submission of the CBAM reports via a web interface or a System-to-System interface, and;
  - (b) Receiving notifications related to their CBAM compliance obligations.
4. The CBAM Trader Portal shall offer facilities for the reporting declarants to store the information about third countries installations for their later re-use.
5. The access to the CBAM Trade Portal is exclusively managed by the CBAM Access Management referred to in Article 26 of this Regulation.

*Article 23*  
*CBAM Competent Authorities Portal (CBAM CAP)*  
*for the CBAM National Competent Authorities (CBAM CAP/N)*

1. The CBAM Competent Authorities Portal for the National Competent Authorities shall be the unique entry point to the CBAM Transitional Registry for the competent authorities. The portal shall be accessible from the Internet.
2. The CBAM Competent Authorities Portal for the National Competent authorities shall interoperate with the CBAM Registry Back End services via the internal network of the Commission.
3. The CBAM Competent Authorities Portal for the National Competent Authorities shall be used by the competent authorities to perform the tasks laid down in this Regulation and in Regulation (EU) 2023/956.
4. The access to the CBAM Competent Authorities Portal for the National Competent Authorities is exclusively managed by the CBAM Access Management referred to in Article 26 of this Regulation.

*Article 24*  
*CBAM Competent Authorities Portal (CBAM CAP)*  
*for the Commission (CBAM CAP/C)*

1. The CBAM Competent Authorities Portal for the Commission shall be the unique entry point to the CBAM Transitional Registry for the Commission. The portal shall be accessible on the Commission internal network and the Internet.
2. The CBAM Competent Authorities Portal for the Commission shall interoperate with the CBAM Registry Back End services over the internal network of the Commission.
3. The CBAM Competent Authorities Portal for the Commission shall be used by the Commission to perform the tasks laid down in this Regulation and in Regulation (EU) 2023/956.
4. The access to the CBAM Competent Authorities Portal for the National Competent Authorities is exclusively managed by the CBAM Access Management referred to in Article 26 in this Regulation.

*Article 25*  
*The CBAM Registry Back End Services (CBAM BE)*

1. The CBAM Registry Back End Services shall serve all requests placed by:
  - (a) the reporting declarants via the CBAM Trader Portal,
  - (b) the National Competent Authorities via the CBAM Competent Authority Portal/N,
  - (c) the Commission via the CBAM Competent Authority Portal/C.
2. The CBAM Registry Back End Services will store centrally and manage all the information entrusted to the CBAM Transitional Registry. It will guarantee their persistence, integrity, and coherence.
4. The CBAM Registry Back End Services will be managed by the Commission.
5. The access to the CBAM Registry Back End Services is exclusively managed by the CBAM Access Management referred to in Article 26 of this Regulation.

*Article 26*  
*Access management system*

The Commission shall set up the access management system to validate the access requests submitted by reporting declarants and other persons within the UUM&DS system as referred in Article 17(1), point a by interoperating with the Member States' identity and access management systems and EU corporate system EU Login.

*Article 27*  
*Administration management system*

The Commission shall set up the administration management system to manage the authentication and authorisation, the identification data of reporting declarants and other persons for the purposes of allowing access to the electronic systems.

## Article 28

### *Member States' identity and access management systems*

The Member States shall set up an identity and access management system to ensure:

- (a) a secure registration and storage of identification data of reporting declarants and other persons;
- (b) a secure exchange of signed and encrypted identification data of reporting declarants and other persons.

## Section 3

### **Functioning of the electronic systems and training in the use thereof**

## Article 29

### *Development, testing, deployment, and management of the electronic systems*

1. The CBAM Transitional Registry common components shall be developed, tested, deployed, and managed by the Commission, and may be tested by the Member States. The components of electronic systems developed at national level, linked to enforcement and sanctions shall be developed, tested, deployed, and managed by the Member States, that created such component.
2. The Commission shall design and maintain the common specifications of the interfaces with National Systems in close cooperation with the Member States.

## Article 30

### *Maintenance and changes to the electronic systems*

1. The Commission shall perform the maintenance of the common components and the Member States shall perform the maintenance of their national components.
2. The Commission shall ensure uninterrupted operation of the electronic systems.
3. The Commission may change the common components of the electronic systems to correct malfunctions, to add new functionalities or to alter existing ones.
4. The Commission shall inform the Member States of changes and updates to the common components.
5. The Commission shall make the information on the changes and updates to the electronic systems set out in paragraphs 4 and 5 publicly available.

## Article 31

### *Temporary failure of the electronic systems*

1. In the event of a temporary failure of the CBAM Central System, reporting declarants and other persons shall submit the information required to fulfil the formalities concerned by the means determined by the Commission, including by means other than electronic data-processing techniques.
2. The Commission shall inform Member States and reporting declarants about any unavailability of the electronic systems resulting from a temporary failure.
3. The Commission will prepare the CBAM business continuity plan to be agreed between the Member States and the Commission. In case of temporary failure of the CBAM system the Commission will evaluate the conditions to activate it.

## *Article 32*

### *Training support on the use and functioning of the common components*

The Commission shall support the Member States on the use and functioning of the common components of the electronic systems by providing the appropriate training material.

## *Section 4*

### **Data protection, data management and the ownership and security of the electronic systems**

## *Article 33*

### *Personal data protection*

1. The personal data registered in the electronic systems shall be processed for the purposes of implementing the Regulation (EU) 2023/956 having regard to the specific objectives of each of the electronic systems as set out in in this Regulation.
2. The Member States' national supervisory authorities in the field of personal data protection and the European Data Protection Supervisor shall cooperate, in accordance with Article 62 of Regulation (EU) 2018/1725, to ensure coordinated supervision of the processing of personal data registered in the CBAM Transitional Registry.

## *Article 34*

### *Limitation of data access and data processing*

1. The data registered in the CBAM Transitional Registry system by a reporting declarant may be accessed or otherwise processed by that reporting declarant. It may also be accessed and otherwise processed by the Commission and Member States competent authorities.
2. Where incidents and problems in the operational processes are identified in the provision of the services of the systems where the Commission act as a processor, the Commission may have access to the data in these processes only for the purpose of resolving a registered incident or problem. The Commission shall ensure the confidentiality of such data.

## *Article 35*

### *System ownership*

The Commission shall be the system owner of the CBAM Transitional Registry.

## *Article 36*

### *System security*

1. The Commission shall ensure the security of the CBAM Transitional Registry.
2. For those purposes, the Commission and Member States shall take the necessary measures to:
  - (a) prevent any unauthorised person from having access to installations used for the processing of data;

- (b) prevent the entry of data and any consultation, modification, or deletion of data by unauthorised persons;
  - (c) detect any of the activities referred to in points (a) and (b).
3. The Commission and the Member States shall inform each other of any activities that might result in a breach or a suspected breach of the security of the CBAM Transitional Registry.
4. The Commission and the Member States shall establish security plans concerning the CBAM Transitional Registry.

#### *Article 37*

##### *Controller for the CBAM Transitional Registry*

For the CBAM Transitional Registry and in relation to the processing of personal data, the Commission shall act as controller as defined in Article 3, point 8 of Regulation (EU) 2018/1725.

#### *Article 38*

##### *Data retention period*

1. The data retention period for the CBAM Transitional Registry is 5 years from the reception of the CBAM report.
2. The data retention period shall be applicable for all data covered by the electronic systems.
3. Notwithstanding paragraph 1, where an appeal has been lodged or where court proceedings have begun involving data stored in the electronic systems, those data shall be retained until the appeal procedure or court proceedings are terminated.

#### *Article 39*

##### *Assessment of the electronic systems*

The Commission and the Member States shall conduct assessments of the components they are responsible for and shall, in particular, analyse the security and integrity of those components and the confidentiality of the data processed within those components.

The Commission and the Member States shall inform each other of the results of those assessments.

#### *Article 40*

##### *Entry into force*

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

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

Done at Brussels,

*For the Commission  
The President*

DRAFT