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From: THOMAS Gerassimos (TAXUD)
Sent: vendredi 4 juin 2021 17:55
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: CEMBUREAU, The European Cement Association / Follow up from our discussion on CBAM

Follow Up Flag: Follow up
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Thank you for this contribution. Happy to arrange a follow up meeting. My office will be in touch.
Best regards
Gerassimos

From: [REDACTED] >
Sent: Wednesday, May 19, 2021 8:21 AM
To: THOMAS Gerassimos (TAXUD) <Gerassimos.THOMAS@ec.europa.eu>
Cc: [REDACTED]
Subject: CEMBUREAU, The European Cement Association / Follow up from our discussion on CBAM

Dear Mr. Thomas,

We refer to the interesting exchange we had with you in relation to the development of a cross border mechanism by the Commission services. During that discussion, we addressed the WTO compatibility of a continuation of free allowances until 2030 in combination with a CBAM. In concertation with four other energy-intensive sectors, we have now sought legal advice on the topic which we thought we should bring to your attention. The attached legal opinion by Prof Dr Baetens concludes that a co-existence of free allowances and a CBAM is not *per se* incompatible with WTO rules provided that an appropriate methodology is used to calculate the exact scope of CBAM measures so as not to overlap with the coverage of ETS allowances. In other words, as long as the level of free allowances for EU producers is taken into account for the determination of the level of a CBAM, there can be a co-existence without a risk of double protection. The legal opinion further argues that an export rebate could pass WTO scrutiny based on the destination principle.

As you suggested during our meeting, we are also bringing this legal opinion to the attention of the Cabinets of Commissioners dealing with the matter.

We will be happy to engage further with you on the topic.

Best regards,

[REDACTED]

[REDACTED]

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