

ISDA response to the European Commission’s consultation on the calculation of carbon price paid in a third country under Article 9 of the CBAM

Executive Summary

The International Swaps and Derivatives Association (“ISDA”) welcomes the opportunity to provide feedback on the European Commission’s consultation on the calculation of the carbon price paid in a third country under Article 9 of the CBAM.

ISDA supports the European Commission’s proposal that evidence of the carbon price effectively paid should encompass all compliance options recognised under third-country pricing mechanisms, including the use of domestic carbon credits and international carbon credits, to meet CBAM obligations but also the effective carbon costs borne in practice, taking into account mitigating elements such as free allocation and subsidies.

We would also encourage consideration of mutual recognition mechanisms for carbon prices paid, particularly in the context of electricity trade.

For carbon credits to be recognised as a valid carbon cost, it is essential that they meet sufficiently robust minimum quality standards and transparency requirements as a baseline condition. They should encompass all international credits authorised and issued under Article 6.2 or 6.4 of the Paris Agreement, as well as domestic credits recognised under government-run national or subnational regulated carbon credit systems.

Encouraging increased publicly available project-level information and disclosure under CBAM would strengthen the credibility of the regime, align it with emerging market best practice, and provide a foundation on which the Commission can consider further questions about the role of credits under CBAM in due course.

Finally, we propose replacing the 10% cap on the use of international carbon credits with a reference to the quantitative limit established under the applicable third-country carbon pricing mechanism, thereby aligning the approach with the treatment already afforded to domestic credits and ensuring a level playing field.

Introduction

We believe that the further development of carbon markets will be integral to meeting the EU’s net zero emissions target by 2050. This will require both scaling up voluntary carbon markets (VCMs), where companies can buy Verified Carbon Credits (VCCs) to advance their decarbonisation and maximise the reach and impact of the EU’s Emissions Trading System (ETS), where companies pay a price to pollute.

A key goal for ISDA is to make trading in VCCs more efficient. More efficient trading increases the likelihood of additional investment in VCMs. ISDA has provided standardised

documentation¹ for the trading of VCCs and has published multiple papers analysing the legal nature of VCCs across multiple jurisdictions. The 2022 ISDA Verified Carbon Credit Transactions Definitions were a vital first step in creating a single contractual framework for the trading of these contracts.

A robust international VCM plays an important role in delivering a reliable, market-based approach for investment opportunities that reduce greenhouse gas emissions and remove carbon from the atmosphere. It will strengthen the functioning of the carbon derivatives markets and enable the continued development of liquidity in derivatives products so that market participants can appropriately manage their business risks. In turn, facilitating trading in carbon derivatives would contribute to market liquidity and uptake of carbon credits, which would support much needed financing for climate mitigation projects.

Feedback on the draft Implementing Regulation

1. Application of the 5% “flexibility” in emissions boundaries

While the recitals allow for “differences of up to 5%” between third-country carbon pricing systems and CBAM, the operative provisions do not clarify how this tolerance is to be calculated, at what level it should apply (e.g. installation, product, or reporting period), or whether it is intended to function as a safe harbour or a materiality threshold. This lack of clarity creates practical challenges for implementation.

2. Treatment of rebates or compensation that are not yet quantified

Article 8(3) is difficult to apply where an entitlement to compensation exists but the amount is not yet final. While the underlying policy objective is understandable, the current drafting creates uncertainty for verifiers, particularly in cases where compensation is contingent on certain conditions, only partially evidenced, or subject to subsequent adjustment.

3. FX conversion timing

The requirement to apply the yearly average exchange rate for the reporting period appears somewhat arbitrary. It does not adequately address situations where carbon prices are paid in a different year, in instalments, or are subject to later adjustments or rebates. This raises questions as to whether the converted amount accurately reflects the effective carbon price actually paid, potentially giving rise to foreign exchange risk. Further clarity would therefore be helpful on the computation methodology, as well as on the sources of foreign exchange rates applied, which should be fully transparent.

4. Publicly available project-level information

Public disclosure of key information on the carbon credits being used under CBAM - both domestic and international - is a fundamental principle that supports the credibility of any mechanism that recognises credits against regulatory liability. The credibility of a carbon credit is ultimately tied to its climate impact, which can only be scrutinised and determined

¹ [2022 ISDA Verified Carbon Credit Transactions Definitions \(Version 3 – November 2025\) – International Swaps and Derivatives Association](#)

through sufficient public information. Over time we would wish to see granular credit and project-level information disclosure, such as the location, methodology used, and vintage, within third country carbon trading schemes, to support the ability of market participants and regulators to verify the integrity of emissions reductions.

We recommend that the Commission encourage crediting programmes to make technical information on underlying projects publicly available in a registry (whilst not making this a mandatory requirement at this stage, as this would end up penalising those entities operating under third party programmes that do not yet do this). This is consistent with the broader direction of travel of global carbon markets, with transparency of project-level information increasingly recognised as a core tenet of well-functioning carbon markets. Initiatives such as the G20 Common Credit Data Model developed under the G20 Climate Data Steering Committee (CDSC) have identified the key data fields needed. Making project-level technical information publicly available is important to enable scrutiny of credit quality.

5. Public disclosure of credits used to meet CBAM obligations

Disclosure of how individual entities use credits towards their compliance obligations is essential to the credibility of the mechanism. However, entities should not be required to disclose information beyond what is mandated under the relevant third country programme as this could create unnecessary administrative burdens through duplicative reporting. In this context, the EU could engage constructively with third-country governments to encourage enhanced transparency in carbon trading programmes.

We would thus recommend that the Commission encourage entities to publicly disclose the specific credits used towards their CBAM obligations. Increased disclosure of project-level information is already being required across other carbon credit reporting and compliance frameworks, including the ISSB's ISFRS S2 and the EU's Corporate Sustainability Reporting Directive (CSRD) ESRS. These frameworks set out information that entities should disclose regarding their use of carbon credits, including type, scheme, vintage, and quality indicators.

As a first step, the Commission could encourage operators to disclose, in their carbon price reports, key project-level information about the credits, where available. Relevant data fields could include the issuing registry and serial number range, the standard or methodology under which the credit was issued, the vintage year, the host country and the project or activity type. For international credits issued under Article 6.2 or Article 6.4, this information will typically be readily available. For domestic credits, information availability will vary by compliance scheme; encouraging disclosure now, with a view to making it a requirement as project-level information becomes more widely available across domestic schemes, allows the disclosure regimes to mature in line with the global carbon market. Public disclosure of credit use at the entity level would, over time, also create reputational incentives for operators to use higher-quality credits, helping to drive improvement in credit quality across the schemes whose credits are used to meet CBAM obligations.

6. 10% limit on use of international carbon credits

Section 3.3.4 of Annex I imposes a 10% cap on international carbon credits with zero price assigned to any excess, while imposing no equivalent restriction on domestic credits. This asymmetry is not justified on quality grounds, as quality is already addressed through the Article 6(2) and 6(4) registration requirement in Section 3.5.4(d). This is a question of quantity, not quality. The appropriate quantitative limit for both credit types should be the limit set by the third-country carbon price mechanism itself, whose confirmed compliance determinations CBAM otherwise accepts without independent EU override, consistently with Recital 12, which explicitly states the reduction should be possible irrespective of whether the mitigation activities linked to the carbon credit takes place domestically or outside the domestic jurisdiction. A cap applied exclusively to international credits contradicts that principle and undermines Article 9(1) of Regulation (EU) 2023/956, which exists to ensure a carbon price is not paid twice on the same emissions. We therefore propose replacing the 10% cap in Section 3.3.4 with a reference to the quantitative limit established under the applicable third-country carbon price mechanism, mirroring the treatment already afforded to domestic credits.

Electricity Imports

In light of the anticipated UK–EU ETS linkage, ISDA would encourage consideration of mutual recognition mechanisms for carbon prices paid, particularly in the context of electricity trade. Such an approach could reduce administrative burdens, support efficient cross-border flows, and better reflect the high level of integration between UK and EU power markets.

- The application of the carbon price paid framework to electricity imports raises specific structural challenges, given the non-traceable nature of power flows and the way electricity markets operate.

a) Misalignment with electricity market structure

The requirement to attribute the carbon price paid at installation level is not aligned with:

- pooled wholesale electricity markets; and
- highly interconnected grid systems.

b) Role of renewable certificates

The regulation would benefit from explicit clarification regarding the role of renewable certificates (e.g. GoOs, RECs/iRECs). In particular:

- zero- or low-carbon electricity should be able to demonstrate no or minimal CBAM liability where appropriate; and
- recognised attribute tracking systems should be eligible to support such demonstration.

This is essential to ensure that the framework supports renewable deployment and avoids unintended disincentives for low-carbon electricity imports.

c) Use of default carbon prices

Given current data and verification constraints, default carbon prices are likely to play a central role for electricity imports. It is therefore critical that:

- default values are representative and not systematically conservative; and
- the underlying methodology is transparent and predictable.

Otherwise, there is a risk of systematically overestimating carbon costs and distorting cross-border electricity trade.

About ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 78 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org. Follow us on [LinkedIn](#) and [YouTube](#).