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CBAM UPDATE

EU CBAM: Draft Rules on Carbon Price Paid in a Third Country Released - Implications for Indian Exporters



THE CBAM SERIES

BY

ECONOMIC LAWS PRACTICE

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Background

The European Commission, on 13 May 2026, has released a draft Implementing Regulation laying down rules for the application of Regulation (EU) 2023/956 as regards the conversion of the carbon price paid in a third country into a corresponding reduction in the number of CBAM certificates to be surrendered, the evidence of payment of that carbon price, the qualifications of the independent person and conditions to ascertain its independence and qualifications (**Draft Regulations**).

The Draft Regulation, once adopted, shall apply retrospectively from **1 January 2026**. Under the CBAM Implementing Regulation (EU) 2023/956, it was envisaged that the number of CBAM certificates required to be surrendered by an EU importer could be reduced to reflect the carbon price paid in a third country on the same emissions. The Draft Regulations now represent a step towards operationalising this concept.

Its core function is not to recognise all climate-related costs incurred outside the EU, but to prescribe when and how a foreign carbon price may be credited against CBAM liability.

The draft covers six operational issues:

- determination of the carbon price effectively paid for the embedded emissions of each good;
- use of yearly default carbon prices for precursors¹ and indirect emissions;
- conversion of foreign-currency carbon prices into euro using yearly average exchange rates;
- calculation of the reduction in CBAM certificates;
- evidence required to demonstrate effective payment and the treatment of rebates; and
- qualification, accreditation and independence requirements for the certifier.

What qualifies as a carbon price effectively paid?

As per the Regulation, reporting declarants (i.e. importers of CBAM covered products) need to provide information on a quarterly basis covering:

The Regulation also sets out the information that must be provided when claiming a deduction on the number of CBAM certificates surrendered when a carbon price is paid in the country of origin. This information includes the form of carbon price; any rebate or other form of compensation available in the country that would have resulted in a reduction of that carbon price, the specific amount paid, etc.

Calculation Methodology

The starting point remains the primary CBAM Regulation. A carbon price must have the following three facets:

- a monetary amount paid in a third country;
- under a carbon emissions reduction scheme, either as a tax, levy or fee, or as emission allowances under a greenhouse gas emissions trading system; and

¹ Precursors are input materials.

- calculated on greenhouse gases covered by the measure and released during production of goods.

The draft recitals reinforce this narrow approach and indicate that only carbon prices paid on **specific embedded emissions** under a third-country carbon price mechanism should reduce CBAM certificates. The relevant scheme must be binding in nature and must impose compliance obligations on operators in the covered sectors without discrimination.

The draft recognises three principal categories of potentially qualifying carbon pricing:

- **Point-source carbon tax:** a direct tax, levy or fee on greenhouse gas emissions from a specific, identifiable source.
- **Fuel-based carbon tax:** a tax, levy or fee on the carbon content of fossil fuel supply where the emissions are released during production of goods.
- **Emissions trading systems:** including allowance-based systems and baseline-and-credit systems as defined in the draft under which entities below baseline may receive tradable credits and entities above baseline must purchase credits or allowances.

Recognition of Article 6 credits²: The draft also permits recognition of **carbon credits in certain limited circumstances, i.e. where Article 6 credits used to meet domestic compliance obligations**. Where a third-country carbon price mechanism allows compliance through carbon credits, the CBAM declarant may claim a reduction based on the price effectively paid for the specific credits used to meet that obligation. If international carbon credits are used, they must be Paris Agreement Article 6.2 or Article 6.4 credits and may be recognised only up to **10% of the reported and confirmed emissions** covered by the third-country carbon price mechanism. Credits above that threshold are assigned a zero price for CBAM purposes.

This aspect is presently not applicable to Indian producers, as the current design of Indian Carbon Credit Trading Scheme (**CCTS**) does not presently permit the use of Article 6 credits for domestic compliance.

How is a carbon price paid in a third country calculated?

The Draft Regulation uses a step-based method to identify and calculate the carbon price paid in a third country rather than simply dividing the total carbon price paid by an operator with the total production quantity. The steps include the following:

- An operator must first identify the applicable carbon price mechanism and determine the carbon price per tonne of emissions covered by that mechanism.
- Where both direct and indirect emissions are covered, the price must be established separately for direct and indirect emissions.
- Next, the emissions covered by the carbon price mechanism must be matched to the CBAM reporting period and attributed to each good at CN-code level.
- Thereafter, item that reduces the carbon price actually borne must be accounted for. This includes free allowances, below-baseline emissions in a baseline-and-credit system, exemptions, reduced rates,

² Article 6 credits are carbon credits generated under the Paris Agreement's Article 6 mechanisms. In simple terms, they are internationally recognised carbon credits from emission-reduction or removal projects that countries may transfer or use under the Paris Agreement framework.

refunds, and monetary compensation. However, subsidies financed from carbon-pricing revenues are not treated as compensation

- For complex goods³, the carbon price paid on eligible precursors may also be included. Where supplier-certified data is unavailable, the operator may use the default carbon price published by the Commission for that precursor.
- Finally, the resulting carbon price is converted into euro using the Commission-published yearly average exchange rate and aggregated across all applicable carbon price mechanisms to arrive at the effective carbon price per tonne of good.

Who certifies the carbon price? Who is an independent person?

The carbon price report must be certified by an **independent person**. The draft defines this as the person certifying the operator's carbon price report under Article 9(2) of the primary CBAM Regulation.

The independent person must be accredited for the specific CBAM activity group covering **certification of the carbon price effectively paid**. The draft requires compliance with EN ISO/IEC 17029:2019 and accreditation by a national accreditation body.

Independence is substantive. The independent person, and any part of the same legal entity, must be independent from not just the operator it is certifying but also from the competent authority of EU Member States, EU Commission, and the third country authority responsible for regulating carbon price mechanism (for instance the Bureau of Energy Efficiency in India)

The certification must provide reasonable assurance that the carbon price report is complete, free from material misstatement, and that the carbon price on verified embedded emissions was effectively paid.

Default emissions, actual emissions and precursors

The Draft Regulation draws an important distinction between actual and default routes. It also specifies how the carbon price paid for precursors must be dealt.

Category	Route available under the draft
Actual embedded emissions	Where embedded emissions are determined based on actual values, the authorised CBAM declarant may claim a deduction based on the carbon price effectively paid, supported by evidence certified by an independent person. The declarant may also choose to use the relevant default carbon price, where available.
Default embedded emissions	Where embedded emissions are determined based on default values, the deduction may be claimed only on the basis of the relevant default carbon price made available by the Commission.

³ 'Complex goods' means goods other than those goods which are made from input materials and fuels having zero embedded emissions. For instance, cement clinker is a simple good and cement from such clinker is a complex good.

Precursors produced outside the installation	<p>Where a precursor is produced outside the installation, the operator may use the certified carbon price report for the precursor supplier.</p> <p>If that report is unavailable, the operator may use the relevant Commission-published default carbon price.</p>
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How does the third country carbon price reduce CBAM liability?

The carbon price paid in a third country does not generate a cash refund. It reduces the number of CBAM certificates that the authorised CBAM declarant must surrender, to avoid double payment of a carbon price on the same embedded emissions.

The reduction is calculated by comparing the effective carbon price paid for the good with the yearly reference price of CBAM certificates for the year of import and then applying that ratio to the quantity of goods declared.

In practical terms, the higher the recognised third-country carbon price, the greater the reduction in certificates to be surrendered. Let us consider the following example:

Company A imports **1,000 MT of steel pipes** from Indian producer B. The steel has **actual direct embedded emissions of 3.6 tCO₂e per MT**. Based on these emissions and after taking into account free allowances, Company A is initially required to surrender **2,400 CBAM certificates**.

However, this obligation can be **reduced to account for the carbon price already paid in India** by producer B.

Assume that:

- Producer B's certified effective carbon price attributed to steel pipes is **EUR 9 per tonne**; and
- The **average CBAM certificate price is EUR 75**.

The reduction in CBAM certificates is calculated by taking the ratio of the foreign carbon price to the CBAM price and multiplying it by the total quantity imported:

$$(9 \div 75) \times 1,000 = 120$$

Accordingly, **120 CBAM certificates can be deducted**.

As a result, Company A's final obligation is reduced from **2,400 to 2,280 certificates**.

Possible Treatment of India's CCTS under the draft rules

For India, the Carbon Credit Trading Scheme seems to be the most relevant potential candidate for CBAM recognition because it is closer to a binding baseline-and-credit or emissions trading framework than general energy or environmental levies. However, recognition under the draft rules is not automatic. In this context, the following aspects of the CCTS may be relevant for consideration when assessing whether payments or compliance costs incurred under the scheme could qualify for recognition or reductions under the CBAM framework:

- **Timing mismatch:** CCTS works on an Indian financial-year cycle, while CBAM uses annual reporting by calendar year. Annex I requires data from two consecutive CPM emission⁴ reporting periods to be

⁴ CPM emission means emissions reported and confirmed under a carbon price mechanism.

attributed to the CBAM reporting period using at least monthly reporting. Indian exporters will need a certified financial-year to calendar-year bridge.

- **Price discovery after year-end:** under CCTS, the actual compliance cost depends on the number of certificates required and the price at which certificates are purchased. These may be known only after the financial year closes. CBAM recognises only a carbon price effectively paid, not estimates, provisions or forecast prices.
- **Coverage of emissions:** CCTS covers both direct and indirect emissions. Accordingly, an exporter must split the carbon price between direct and indirect emissions. This is important because for both iron and steel, and aluminium sector, CBAM does not include the cost of indirect emissions.
- **Product-level attribution:** a plant-level CCTS cost must be attributed to specific CBAM goods at CN code level.

Evidence and certification: the operator will need registry records, purchase price records, surrender evidence, emissions confirmation, rebate analysis and independent certification

Conclusion

The draft makes the EU position clear that CBAM will only recognise genuine carbon pricing and not climate-labelled expenditure. For Indian exporters, the central question is whether an Indian measure is a binding carbon price mechanism that prices specific embedded emissions and can be evidenced, attributed, netted and certified.

CCTS is the most important Indian instrument to assess. It may be more defensible than general taxes or environmental charges, but it also presents its own issues.

The feedback period on the draft is open until **10 June 2026**. Indian industry participation should be significantly stronger. During the earlier call for evidence, only **one Indian entity** participated, compared with **ten Chinese entities**, out of **145 unique feedback submissions**. Given the commercial importance of CBAM for Indian exports, stakeholders should use the consultation to engage with the European Commission and ensure their issues are resolved.

We trust you will find this an interesting read. For any queries or comments on this update, please feel free to contact us at insights@elp-in.com or write to our authors:

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