POSITION PAPER

Feedback on CBAM implementation for electricity imports

Brussels, 17 November 2025

We support the overall objective of CBAM as a tool to put a fair price on the carbon emitted during the production of carbon-intensive goods imported into the EU, to prevent carbon leakage, and to encourage cleaner industrial production in non-EU countries.

In its current form, however, **CBAM creates significant regulatory and implementation risks that electricity importers cannot manage** — whether due to technical inapplicability, the late publication of secondary legislation, or, more broadly, a lack of guidance on how the rules apply to electricity imports.

We underline the need to clarify the CBAM regulation as soon as possible, rather than after the start of the definitive period. To support the ongoing work of the European Commission and national authorities, we outline below our main positions, potential amendments to the secondary legislation, as well as concrete suggestions for a **practical, fair, and clear application of CBAM to electricity imports**.

Summary of key positions

1. **CBAM declarations**
    a. Rely exclusively on "scheduled commercial exchanges" for both CBAM and Custom declarations
    b. Enable declaration of "source" and "sink" for the identification of transit flows
2. **Carbon price already paid**
    a. Provide clarity on the carbon prices effectively paid for neighbouring countries before January 2026
    b. Apply CBAM discount to all electricity traded via the power exchange in a country with an existing carbon pricing mechanism
    c. Account and explicitly recognise third-country carbon pricing mechanisms
3. **Default values**
    a. Change default value from CO2 emission factor (only fossil fuels) to average emission factor (all generation technologies)
    b. Align the granularity of the default values with electricity trading timeframes
4. **Actual values**
    a. Distinguish and specify the role of "importer" and "CBAM declarant"

b. Avoid imposing unnecessary and impractical contractual constraints on CBAM compliant PPA focusing on available verified data to ensure compliance

c. Consider the "no physical congestion" criterion as tautological

5. **CBAM certificates**

a. Provide ex-ante certainty on the price of CBAM certificates

b. Allow third party delegation of all CBAM compliance tasks

c. Enable full flexibility in certificate repurchasing

d. Enable intra-group transfer of unused certificates

6. **CBAM authorisation**

a. Enable recognition of CBAM declarant for all EU Member States also for electricity imports

Detailed messages

#1 CBAM declarations

a. Rely exclusively on "scheduled commercial exchanges" for both CBAM and Custom declarations

Data submitted by Market Participants (MPs) and confirmed by TSOs at hourly level ("scheduled commercial exchanges") are to be used as the basis for both CBAM and custom declarations instead of physical flows. Market participants who are CBAM declarants are limited to commercial flows.

To ensure consistency between CBAM and Customs declaration, **scheduled commercial exchanges should be the relevant data requested to electricity importers**. Using these TSO-confirmed schedules as the single basis for both CBAM and Customs declarations is the obvious consistent, auditable dataset available and aligns fully with existing trade capture, nomination, reconciliation and settlement processes.

b. Enable declaration of "source" and "sink" for the identification of transit flows

Each cross-border electricity flow has a commercial origin ("source") and destination ("sink") — which is declared by market participants and serves for the identification of transit flows.

This approach would enable a consistent application of Article 5, paragraph 4 of CBAM Regulation where transit flows (either EU -> non-EU -> EU or non-EU -> EU -> non-EU) can be reported and identified but should not be subject to CBAM.

Verification will confirm that declared import volumes - including transit - align with TSO hourly confirmed schedules, ensuring integrity of data used in CBAM declarations. Hence, in conclusion, using commercial "source" and "sink" information for transit identification is operationally sound and aligns with established nomination standards.

#2 Carbon price already paid

a. Provide clarity on the carbon prices effectively paid for neighbouring countries before January 2026

Even though importers will not have to pay the CBAM cost before 2027, the methodology for carbon price already paid needs to be known or at least forecastable in order to assess if it will be financially feasible to import electricity into the EU in 2026. This clarity is also essential for energy companies to build a foundation for participating in cross-border capacity auctions, which is a pre-requirement to import electricity, as a unique characteristic compared to other CBAM goods.

It is therefore crucial to have clarity on the carbon prices effectively paid which will be considered for CBAM deductions before CBAM takes full effect on 1st January 2026. This is particularly important for electricity, since there is no gradual phase-in of CBAM. If it is not possible to finalise such a list for all countries before the end of the year, a pragmatic approach could be to list the relevant carbon schemes for the countries that have electricity interconnections with the EU (e.g. in the CBAM FAQ document).

b. Apply CBAM discount to all electricity traded via the power exchange in a country with an existing carbon pricing mechanism

When electricity is traded on power exchange of a third country with a carbon pricing mechanism, the carbon costs are internalized in the price of electricity. Due to the anonymity of the trades, it is not possible to track the "carbon-paid" status of that electricity once it is sold on the exchange or OTC at wholesale level, nor the buyer will have documentation of paying the CO_2 price before eventually exporting it.

From an electricity buyer/importer's perspective, there are two scenarios:

a) **Fossil-fuel source (coal, natural gas or oil)** - the carbon price has therefore been already paid and CBAM discount should be applied (equal to the carbon price already paid in a third country).

b) **Fossil-free source** - CBAM should not apply as no emissions occurred in the first place, and therefore CBAM discount should also be applied.

c. Account and explicitly recognise third-country carbon pricing mechanisms

Where a carbon price has been paid through multiple instruments across different compliance mechanisms, rules should allow aggregation into a single effective price. One example is the UK, where both UK ETS (for all CBAM goods) as well as the Carbon Price Support scheme (for electricity imports - currently set at 18 GBP/tonne of CO2) applies.

Following the same rationale explained above, all electricity traded on the exchange or Over-The-Counter (OTC) at wholesale level should be also eligible for a CBAM discount equal to the Carbon Price Support scheme. Hence, for anonymous exchange and OTC trades, documentation of carbon price paid is not obtainable at buyer level. Applying carbon offsets at market level is therefore the only feasible approach for back office and auditors.

It is worth noting that if a third country's carbon pricing (e.g. UK ETS + Carbon Price Support) exceeds EU carbon pricing (EU ETS), CBAM levy on imported electricity should be zero, which must be reflected in the final methodology. Early clarity on recognised third-country carbon schemes and effective prices is essential for system configuration, accruals and financial planning ahead of the 2026 definitive period.

A formal confirmation that such carbon pricing mechanism is recognized and therefore can be offset must come before the start of the definitive period. Clear formulas, publication schedules and applicable periods are needed for correct system mapping.

#3 Default values

a. Change default value from CO_2 emission factor (only fossil fuels) to average emission factor (all generation technologies)

Default values should reflect or provide the best approximation of the actual carbon intensity of the electricity mix imported from a third country. Therefore, emission factor for electricity should be calculated taking into account all generation technologies (including low-carbon sources) and not just fossil fuels technologies (as currently foreseen with the CO2 emission factor).

The current methodology established by Regulation (EU) 2023/956 (Annex IV, page 49) applies a disproportionate carbon price which overestimates the actual emissions from third countries and does not fully take into account decarbonization efforts.

b. Align the granularity of the default values with electricity trading timeframes

After the implementation of the average emission factor, the carbon intensity of electricity imports of a third country should be measured as close as possible to real time and therefore match the time interval of electricity trading of the third country (60 minutes or 15 minutes).

Applying a fixed default value based on previous year(s) would provide a clear ex-ante value to CBAM declarants (to be updated and published by the European Commission every year), however

it will not correspond the actual carbon intensity of the electricity mix of a third country at the time of import, which fluctuates hourly.

Newer data will reflect that low-carbon generation is ongoingly a bigger part of the generation mix and, hence, older data does not provide an accurate picture of the current electricity mix. Thus, we shall strongly suggest aligning the granularity of the default values with electricity trading timeframes. Default values should be published in machine-readable formats to enable automation and reduce reliance on complex "actual value" documentation.

#4 Actual values

a. Distinguish and specify the role of "importer" and "CBAM declarant"

We flag that the role of "importer" and "CBAM declarant" do not always coincide, and there could be an intermediate step carried out by a commercial entity acting as the importer. The final paperwork would have still to be handled by the CBAM declarant. We suggest the following amendments to capture this case:

Proposed amendments to Commission implementing regulation Article 7(7)

Article 8

Use of actual values for electricity and indirect emissions

4. For the purpose of demonstrating the fulfilment of the criteria referred to in paragraph 1 of this Article, the operator shall also, in an addendum to the operator's emissions report created separately for each authorised CBAM declarant, or importer, who imported electricity from the installation of that operator and who wants to use actual values for that electricity, indicate, for each of those authorised CBAM declarants, or importers, that the criteria laid down in point 5, first subparagraph, points (a) and (d), of Annex IV to Regulation (EU) 2023/956, as well as, where relevant, in point 5, first subparagraph, point (b) of that Annex in relation to the lack of physical network congestion are met. In the addendum for each authorised CBAM declarant, or importer, the operator shall also indicate the quantity of electricity imported by that authorised CBAM declarant for which the criteria laid down in point 5 of Annex IV to Regulation (EU) 2023/956 are met, and shall provide the relevant elements of evidence listed in points D.2.4 of Annex II to this Regulation supporting that indication to the verifier.

b. Avoid imposing unnecessary and impractical contractual constraints focusing on available verified data to ensure compliance

A CBAM compliant PPA is supported by **contractual continuity** between producer, possible intermediaries, and CBAM declarant. The CBAM declarant must be able to demonstrate the full

chain of contractual relations from generation to the point of import and provide the relevant data proving that the volume of electricity produced by the relevant power plant(s) covered by the PPA equals or exceeds the volumes of the scheduled cross-border commercial exchanges in the same hour.

The producer will therefore provide, directly or indirectly through intermediaries, **exclusive metering data** of its power plant(s) within its balancing perimeter to the CBAM declarant. The metering data from renewable sources, in the form of individual or aggregated generation from multiple plants under a single PPA, need to be **equal/bigger**, on an hourly (or lower granularity) basis, to/than the MWh ("scheduled commercial exchanges") declared at a border.

Therefore, the contractual architecture of the PPA contract is not relevant for CBAM compliance once a CBAM declarant can provide verified data fulfilling the conditions above. In this sense, it is necessary to avoid imposing prescriptive contractual structures on market participants. The focus should rather be on access and availability of relevant quality data, indifferent to how the data is procured, managed or made available, as long as validated by verifiers.

Proposed amendments to Annexes of Commission implementing regulation Article 7(7)

D.2.4 Elements of evidence for using actual embedded emissions for electricity imported into the Union

1. For criterion (a) as laid down in Point 5 of Annex IV to Regulation (EU) 2023/956:
   a) Contractual evidence demonstrating the existence of a power purchase agreement (PPA) concluded directly between the authorised CBAM declarant, or importer, and a producer of electricity located in a third country for the ~~physical~~ delivery of electricity. The PPA shall be applicable at the time of electricity import for which actual emissions are claimed and shall cover at least the amount of electricity for which actual emissions are claimed. Where the PPA was concluded through an intermediary, the ~~contractual~~ evidence shall demonstrate contractual continuity ~~that only one single contract was concluded~~ between the three ~~contracting~~ parties

Concerning the delivery of electricity, we consider the wording "physical" tautological as the physical injection into the grid is guaranteed by the verified data from a smart metering system.

Concerning the contractual architecture, being too prescriptive may create unforeseeable legal situations or restrictions. Any additional restrictions on the types of eligible PPAs contracts under CBAM would give fewer options to demonstrate low-carbon content of electricity, hence reducing

flexibility for importers and producers in sourcing electricity and creating additional barriers for cross-border trading.

Proposed amendments to Annexes of Commission implementing regulation Article 7(7)

D.2.4 Elements of evidence for using actual embedded emissions for electricity imported into the Union

4. For criterion (d) as laid down in Point 5 of Annex IV to Regulation (EU) 2023/956:
   a) Written documentation, either from the person who nominated the relevant capacity at the interconnector or from the relevant transmission system operator, or any other party in possession of verifiable relevant data, demonstrating that a given quantity of electricity has been nominated in the country of origin, the country of destination and, if relevant, each country of transit, and demonstrating the period of time to which the nomination of capacity refers.
   b) Verifiable ~~D~~data from a smart metering system demonstrating that the production of a corresponding amount of electricity by the installation occurred within the same measurement period as the nomination of the capacity. This period shall not exceed one hour.

Concerning the data provision, as mentioned above, the focus should be on the quality and reliability of the data, not its source as long as the CBAM declarant can provide the required and verified documentation.

c. Consider the "no physical congestion" criterion as tautological

CBAM declarants should not be required to demonstrate the absence of physical network congestion. Physical congestion cannot be predicted or forecasted, nor congestion data are currently made available to market participants, or they would be provided only ex-ante.

Instead, the absence of physical network congestion as defined in Commission Regulation (EU) 2015/1222 can be demonstrated by the CBAM declarant by matching evidence between the metering data of the producer and the "scheduled commercial exchange" in a given hour within the same market area.

#5 CBAM certificates

a. Provide ex-ante certainty on the price of CBAM certificates

We understand that the first 'real' average price is for Q1-2026 and thus the first real CBAM certificates price will be available only in April 2026.

For electricity imports, commercial decisions depend on price certainty. If the carbon price to be applied is unknown at the time of import, importers cannot accurately assess the cost of their transactions. Earlier and predictable price reference rules with regard to the applicable CBAM charge are therefore essential for efficient cross-border electricity trading.

An appropriate solution to achieve price certainty would be to apply the **EU ETS weekly average already starting from 2026** as it would – beside reducing uncertainty for pricing – also underpin invoicing, settlement and accruals. Alternatively, the average EU ETS price of the previous quarter (e.g. quarterly average of Q4-25 for CBAM certificates price for Q1-26), however the latter would result in a mismatch between CBAM certificates pricing and carbon price paid in a third country.

b. Allow third party delegation of all CBAM compliance tasks

We welcome the addition of a "CBAM Service Provider" in the omnibus, enabling a third party to submit CBAM declarations. We suggest extending this role to include the *option* to delegate CBAM certificates purchasing, surrendering, repurchasing and / or reporting, while ensuring the responsibility remains with the CBAM declarant for regulatory oversight. This reduces compliance complexities and provides a simplified approach for all obligations for CBAM declarants within a corporate group – hence, reducing the risk of under- or over-purchasing of certificates. Allowing group-level delegation, certificate selection for repurchase and intra-group transfers would also align CBAM administration with established EU ETS practices and reduce operational inefficiencies.

c. Enable full flexibility in certificate repurchasing

The CBAM declarant should be able to elect which certificates are sold back to the Commission. While the move to limit repurchasing to up to 50% of the embedded emissions in account is a step towards achieving equivalence, this requirement still creates an imbalance in fairness compared to the EU industry, who can optimise their EU ETS purchasing according to price developments.

d. Enable intra-group transfer of unused certificates

Currently, all certificates are cancelled two years after acquisition, with no compensation. We propose an additional clause be implemented in order to allow the transfer of any unused certificates within a corporate group to another internal obligated entity. This reduces the

administrative burden on larger corporations in managing their certificate purchasing, enabling efficient use of CBAM certificates and ensuring fair costs are incurred by CBAM declarants.

#6 CBAM authorisation

a. Enable recognition of CBAM declarant for all EU Member States also for electricity imports

Article 8 of Implementing Regulation (EU) 2025/486 requires that any person to whom explicit capacity has been allocated for the import of electricity under Article 5(4) of Regulation (EU) 2023/956, and who nominates that capacity for import, must provide the competent authority of the Member State where the customs declaration was lodged with the relevant documentation and information within one month of that declaration.

Similarly, Article 5(4) of Regulation (EU) 2023/956 establishes that, in cases of explicit capacity allocation, the person who nominates that capacity is deemed to be the authorised CBAM declarant in the Member State where the electricity import is declared. It also specifies that the competent authority of that Member State shall register this person in the CBAM registry.

However, neither provision clarifies what occurs when the same importer nominates explicit capacity and declares electricity imports in multiple Member States.

We consider that the principle set out in Article 17 of Regulation (EU) 2023/956 should apply—namely, that "the status of authorised CBAM declarant shall be recognised in all Member States." Applying this principle would ensure consistent treatment across the Union and align with the objectives of the CBAM simplification omnibus.

In addition, enabling the EU-wide recognition of registrations made by indirect customs representatives would significantly facilitate compliance for importers that have centralised their reporting through an indirect customs representative.

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