Draft Implementing Regulation on carbon price paid in a third country under CBAM – Eurelectric Response

Eurelectric advances the following points in reaction to the draft Commission Implementing Regulation on the carbon price paid in a third country under CBAM.

1. CBAM reference price

We note that under Article 6.2, “Ref Price CBAM” means the yearly reference price of CBAM certificates, expressed in EUR per tonne of CO2e for the year of import. While we understand this may have been provided to compare yearly average values of EU CBAM prices at the same granularity as the carbon price in third countries, it does expose market participants to more uncertainty, as they do not know at the time of the trade the exact deductions they will be eligible for, due to the late and yearly publication of these values. Given electricity as a good is in scope for 100% of the volumes, this could distort market flows by discouraging cross-border trading and lowering traded volumes, which in turn has energy security implications.

We therefore suggest making “Ref Price CBAM” monthly – something that is also being proposed in discussions surrounding the ongoing co-legislative procedure on 2025/0419(COD) to amend Regulation 2023/956. This would be a big improvement, as it would limit exposure of today’s trades to future developments in carbon prices in both the EU and third countries significantly, without compromising the intent of the regulation. If a switch from yearly to monthly reference prices is made via 2025/0419(COD), the formulas in article 6 must be adjusted accordingly, so that both EU and third country carbon prices are assessed at a monthly granularity.

2. Clarification needed on treatment of fuel-based carbon taxes

While the December package of updates to the CBAM Regulation indicated that the UK’s Carbon Price Support (CPS) – a fuel-based carbon tax – would be accounted for in the calculation of liabilities, the fuel-based carbon tax algorithm in Annex I Section 3.3.3 of this draft Implementing Regulation requires an emission factor “for the fuel” consumed at the installation. This requirement is inherently impossible to apply to cross-border electricity imports, since electricity traded across borders cannot be attributed to a specific fuel source, and grid-wide fuel splits are not readily available in a form that is compatible with the installation-level reporting architecture of the regulation. The Commission should explicitly address this gap to ensure that CBAM deductions for electricity can be calculated in a consistent and workable manner, regardless of the type of carbon pricing instrument in use in the exporting country.

The UK ETS covers large generators and is in principle recognisable under Section 3.3.1 of Annex I. The CPS is a fuel duty supplement levied on fossil fuels used in power generation, functioning as a fuel-based carbon tax under Section 3.3.3. It interacts with the UK ETS to create a de facto carbon floor price for electricity generation. This architecture fits neither Section 3.3.3 nor Section 3.3.4 of Annex I cleanly, creating several specific problems:

- Section 3.3.3 requires default emission factors from national inventory submissions. For the CPS, the tax rate is set per unit of fuel, but the relationship between the CPS rate and CO2e content uses a specific UK regulatory conversion that may not be consistent with IPCC default factors as required by Annex I.

- Section 3.3.4 provides a weighted average approach for mixed compliance, but is designed for a single mechanism with multiple compliance routes, not two legally distinct mechanisms interacting to produce a floor price.

- Evidence requirements under Section 3.5 for fuel-based taxes require official records of tax paid on fuel quantities from fuel suppliers or tax authorities. For the CPS, which is collected upstream in the fuel supply chain, obtaining installation-level evidence may be practically difficult for generators.

We would also welcome clarification on how, in cases where both fuel-based carbon taxes and an ETS system exist – such as the UK, which has both the UK ETS (UKA) and the CPS – both will be included in the default annual value. It would be crucial to clarify what the default value will include and when it is published each year. Electricity traders are currently in a difficult position, where they on the one hand have no legal certainty, but on the other hand have a clear indication in the CBAM review report from December 2025, which specifically mentions in section 4.4.2 that: "In practice, the deduction of default carbon price values for electricity imported from the UK would lead to no CBAM financial liability as long as the combined UK ETS and CPS carbon price is higher than the carbon price under the EU ETS". Since companies are basing their trades on this declaration, it is vital that it is implemented in law as quickly as possible. At the same time, as long as legal uncertainty lingers, it will have a negative impact on electricity flows into the EU due to legal risk. This increases power prices in Europe, at a time where there is a strong political push to see lower prices.

3. Timing of publication of values

We require clarity on when key values (such as yearly FX averages, CBAM price and third-country values) will be published, both for transparency and because of the potential impact on market volatility.

4. FX rate

The documentation re-confirms that operators shall convert into euro the carbon price effectively paid using the yearly average exchange rate for the reporting period. The use of yearly average foreign exchange (FX) rates prevents importers from understanding their CBAM cost exposure at the time of trading. This creates uncertainty and introduces currency risk, making it more difficult to price, and mark-to-market Cross-Border electricity trades. While not determined specifically in this documentation, the same reasoning applies to the use of yearly average third-country carbon prices. As a result, trades that appear profitable ex ante may become loss-making, especially with market volatility. While this point is not strictly within the scope of the consultation, it is critical to sustaining market activity and should therefore be clarified in the Implementing Regulation.

5. Default emission factors and transparency

Default emission factors should accurately reflect the representative grid mix and be published in a timely and predictable manner. Early visibility is important for market participants to assess CBAM exposure and make informed trading decisions. While this point is not strictly within the scope of the consultation, it is critical to sustaining market activity and should therefore be clarified in the Implementing Regulation.

6. The netting of imports and exports

We would welcome confirmation on whether netting is permitted for power trading specifically. The CBAM framework focuses on imports into the EU but does not explicitly address net positions. In the absence of netting, CBAM charges may apply to gross volumes of electricity that were not consumed within the European Union (net imports). Allowing netting, at least at border level and ideally across borders, would better reflect physical and economic reality. This approach appears to be in line with the recent Commission CBAM Q&A (point 6.11). While this point is not strictly within the scope of the consultation, it is critical to sustaining market activity and should therefore be clarified in the Implementing Regulation.

7. International credits

Domestic emissions reductions should remain the primary objective – both within the EU and in third countries. In this context, the introduction of a cap on the use of international credits (up to 10%) is a positive step.

That said, the use of carbon credits raises important considerations. Reliance on cheap external credits may weaken incentives for emissions reductions at source, while concerns persist regarding core considerations such as environmental integrity, transparency and consistency of credits across jurisdictions. Recognition of carbon credits under CBAM should be avoided to not disincentivise domestic emissions reduction, both in the EU and the third country in question.

8. Finding a workable solution for CBAM following EU-UK ETS linking

Given the current unstable geopolitical situation and the EU priority to achieve greater energy independence, clean electricity trading between EU-UK becomes of crucial importance to enhance energy resilience across Europe. We welcome the upcoming EU-UK ETS linking agreement that would provide an exemption from CBAM application.

Until such an ETS linking agreement is reached, applying CBAM to imported electricity creates major complexities and policy uncertainties that, 6 months into the full CBAM application to 100% of traded volumes, are still not clarified. The lack of clarity and visibility of the rules is affecting efficiency of trading, raising new market risks and uncertainties. Therefore, following the conclusion of the ETS linking agreement, a transitional phase which includes an early lifting of CBAM obligations for the United Kingdom on imported electricity should be considered. This reflects both the close integration of UK and EU electricity markets and the difficulty of applying CBAM due to electricity's technical characteristics.

Maintaining CBAM obligations in the absence of such clarity risks creating unnecessary complexity, distorting cross-border flows, and undermining interconnector economics and EU energy security.

9. Minimising administrative burden

As a general note, a simple and easy-to-implement CBAM framework is essential to ensure it can be applied effectively in practice. Given the complexity of calculating effective carbon prices – particularly when accounting for free allocation, other potential subsidies and international credits – overly burdensome verification requirements risk making compliance unworkable for operators. Clear rules, standardised approaches and practical guidance would help minimise administrative burden, improve predictability and ensure the mechanism delivers a fair and credible outcome.

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