



CBAM DRAFT IMPLEMENTING ACT ON CARBON PRICE PAID IN THIRD COUNTRIES RESPONSE TO PUBLIC CONSULTATION

Brussels, May 2026

European Aluminium welcomes the opportunity to respond to the public consultation on the draft implementing regulation on the carbon price paid in third countries. This regulation establishes key features of CBAM enforcement and is fundamental in shaping the impacts CBAM will have.

As highlighted in the latest European Aluminium position papers (please find [here](#) & [there](#)), CBAM still needs to implement key fixes to avoid detrimental consequences on the European aluminium value chain. If these fixes are not implemented, CBAM must stop for the aluminium sector to avoid losing a critical and strategic value chain in Europe.

To ensure that the carbon price paid by third countries recognised under the Carbon Border Adjustment Mechanism (CBAM) does not exacerbate the existing imbalance in carbon costs between European producers and those from third countries, it is crucial that this recognised price is assessed according to the same strict criteria as those faced by European producers under the EU Emissions Trading System (ETS).

1. Remove references to indirect cost compensation

The mention of indirect cost compensation under CBAM doesn't fit the purpose of this legislation, as this issue is very specific to the EU. Indirect carbon costs in the EU arise from the interaction between the EU ETS and the marginal pricing model governing the European electricity market, a unique combination globally. Under this system, the electricity price is determined by the marginal power plant in the merit order, which is usually a coal- or gas-fired installation. As these fossil-fueled generators are required to purchase EU ETS allowances, the associated carbon cost is passed through into wholesale electricity prices.

Consequently, electricity prices across Europe incorporate a CO₂ cost component, including in Member States or regions with a high share of low- or zero-carbon electricity generation. Industrial consumers, therefore, continue to bear indirect carbon costs irrespective of the carbon intensity of the electricity they consume, including when sourcing renewable or low-carbon electricity through long-term power purchase agreements (PPAs).

Furthermore, it is important to distinguish indirect carbon costs from indirect emissions. Indirect emissions refer to the emissions physically released during the generation of purchased electricity. While these emissions occur at the power generation facility, they are accounted for as Scope 2 emissions of the industrial product because they stem from the electricity consumed by the industrial process.

No other country or region faces this same issue of indirect carbon costs in the power price. Hence, indirect cost compensation is not relevant for outside Europe.

Considering this feature is confined to the EU due to its ETS and electricity pricing model, and in order to avoid confusion with other rebates that might exist in third countries, we strongly recommend removing any mention of indirect cost compensation and amending Article 8(1) as follows:

“(c) a refund in monetary value that partially or totally compensates the carbon price paid, **including** or any other rebate or forms of ~~indirect cost~~ compensation that is based on any relevant parameters establishing the effective carbon price to be paid on the emissions covered by ~~due to~~ a carbon price mechanism;”¹

2. Remove mentions of indirect emissions covered by emissions trading schemes

In different sections of the draft IR (e.g., Article 4 or Section 3.2 of Annex I), the legal text refers to the need to account for the price effectively paid for indirect emissions when determining the carbon price effectively paid abroad. However, no the vast majority (if not all) existing emission trading scheme do not cover indirect emissions. Some of them cover the power sector, but only in relation to direct emissions (Scope 1). **Indirect emissions shall not be considered under CBAM for aluminium** (Please read European Aluminium's three-page [here](#) for more information)

3. Avoid introducing carbon credit flexibilities under CBAM beyond EU ETS rules

International carbon credits under Article 6 of the Paris Agreement must not be considered under CBAM until they are under the EU ETS

The possibility for CBAM declarants to deduct international carbon credits from the calculation of the CBAM cost raises significant concerns. Because of the specificities of the aluminium market, CBAM will already lead to a loss of competitiveness for European aluminium producers if key fixes are not implemented (please see our position paper [here](#)). Including flexibility for third countries that are not available to European producers will worsen the impact of CBAM on European competitiveness and further unlevel the playing field.

Therefore, **we strongly support deleting Recital (13), the definition in Annex I, section 1, (8) and removing any recognition of international carbon credits**, as no equivalent measure is currently available under the EU ETS.

Mitigation activities recognition shall be aligned with ETS requirements

The definition of carbon credits in Annex I, Section 1, point 7 includes credits generated not only through carbon removals but also through emission reduction activities. By contrast, although the integration of domestic carbon removals into the

¹ As they cover similar issues, points (c) and (d) of Article 8(1) could be merged. The reference to indirect cost compensation should also be removed from Recital 14.

EU ETS is envisaged, the modalities and safeguards applicable within the EU framework have not yet been defined, and the Commission is expected to publish a dedicated report on this issue before July 2026.

While European Aluminium would support such flexibility for direct EU ETS compliance, recent Commission comments have rejected this possibility and instead referred to the potential creation of some “emission space” through an indirect compliance option.²

Additionally, recital (12) would allow declarants to claim reductions where carbon credits are recognised under a third country’s carbon pricing mechanism, irrespective of whether the mitigation activities take place domestically or internationally; this would effectively grant third countries greater flexibility than is currently available under the EU ETS. Article 30(5)(a) of the EU ETS Directive requires the Commission to assess the possible integration of negative emissions resulting from removals into the EU ETS. However, extensive caveats are expected to apply. The article refers to emissions that are “removed” and “permanently stored”, accounted for under “a clear scope and strict criteria”, and accompanied by “safeguards to ensure that such removals do not offset necessary emission reductions”. More recent Commission statements have also referred to different “modalities for prudent integration of permanent, domestic removals”, which are “CRCF quality ensured”³

Apply robust MRV requirements to the carbon price paid

Furthermore, European producers are subject to strict monitoring, reporting and verification (MRV) requirements, whereas the draft Implementing Regulation does not establish equivalent safeguards or verification standards for third-country carbon credits. This poses a clear risk of unequal treatment and could undermine the environmental integrity and level-playing-field objectives of the CBAM. Further, this risks low-quality carbon credits being recognised under the CBAM framework.

4. Prevent cumulative flexibility in carbon price paid recognition

Several provisions concerning the assessment of equivalence with the EU ETS raise concerns about the accuracy and robustness of carbon price calculations under CBAM.

Recital (7) allows for differences of up to 5% between the emissions covered by a third-country carbon pricing mechanism and those covered under CBAM, while Recital (30), Article 1(9) and (10), and Article (16) introduce an additional 5% materiality threshold for verifiers when assessing whether an error is significant.

Taken together, these flexibilities could result in a discrepancy of up to 10% between the reduction granted under CBAM and the carbon price actually paid. Such cumulative margins risk undermining the mechanism's precision and environmental integrity. In the meantime, European producers are facing high carbon costs and stringent verification procedures.

We therefore call on the Commission to introduce limits on the use of error margins and flexibilities by ensuring that they cannot be applied cumulatively. The possibility of a 5% difference between emissions covered by the carbon price mechanism and those covered under CBAM should be strictly limited to carbon pricing mechanisms that effectively

² Commission’s presentation during the High-Level Stakeholder Roundtable on EU ETS Review, 12 May 2026 ([here](#)).

³ Commission’s presentation during the High-Level Stakeholder Roundtable on EU ETS Review, 12 May 2026 ([here](#)).

include additional greenhouse gases or a wider range of emission sources. The declarant shall provide evidence of the carbon price paid for those emissions.

5. Clarify the methodology and timeline for default carbon prices

Default carbon prices for third countries are relevant for the implementation of this regulation, as authorised CBAM declarants may claim a reduction in the number of CBAM certificates to be surrendered based exactly on these yearly default carbon prices. Under Article 9(4) of the CBAM Regulation, the Commission should make these default carbon prices available in the CBAM registry as of 2027.

However, there are two main issues in this regard. First, the methodology for accounting for these default carbon prices is neither sufficiently clear nor detailed in the draft IR (e.g., in Recital (4), Article 4, or throughout the Annexes). In order to mitigate the risk of avoiding CBAM costs via using default values (i.e. creating a loophole in the system), default carbon price values should be low in order to incentivise the reporting of the actual effective carbon price paid.

Moreover, this issue goes beyond this implementing regulation; there is still no clarity on when these default carbon prices will become available. The timeline foreseen by the CBAM Regulation, i.e., 2027, is insufficiently precise and, in any case, not timely enough, given that the CBAM definitive phase has already begun in 2026.

We therefore encourage the Commission to commit to a clearer timeline for the timely publication of the default carbon prices, as well as to clarify how they should be used in determining the carbon price paid abroad.

6. Acknowledge inequivalent design within carbon price mechanisms

The draft Implementing Regulation should more clearly acknowledge that carbon pricing mechanisms across jurisdictions differ significantly in design and cannot be automatically considered equivalent to the EU ETS. The EU ETS is a unique system, characterised by a stringent cap-and-trade architecture, harmonised monitoring, reporting and verification requirements, and a robust compliance framework.

In this context, the provision under Recital (10) and Article 1(9), which considers baseline-and-credit emissions trading systems as equivalent to allowance-based emissions trading systems, raises important concerns. Baseline-and-credit systems operate under fundamentally different principles and may not ensure the same environmental integrity, carbon constraint, or price signal as the EU ETS. European Aluminium, therefore, considers it essential that the Implementing Regulation recognises these structural differences and avoids establishing broad equivalence without a thorough assessment of the effectiveness, enforceability, and comparability of third-country carbon pricing mechanisms. Furthermore, the “cap design” (i.e. whether absolute or intensity-based) of the third countries’ ETSs shall be taken into account to determine the carbon price effectively paid, as cap design can greatly impact the carbon cost incurred by industry.

7. Avoid unfair deductions to the EU CBAM cost

Recital (9) provides that CBAM declarants may claim a carbon price paid for emissions arising from the carbon content of fuels consumed by an installation, even where the price was not directly paid by the installation operator. This would open a significant loophole in CBAM, incentivise circumvention through taxation labels, and lead to a more complex verification process. We therefore strongly recommend deleting recital (9).

8. Rebates recognised under third countries' ETS

Recital (15) states that “revenues from a carbon pricing mechanism that are reinvested in the decarbonization of an operator’s installation should not be regarded as compensation for the carbon price paid.” Article 8(2) further specifies that “subsidies financed by the revenues generated by the carbon pricing mechanism” may not be treated as a rebate. This creates a risk that a higher “effective carbon price paid” may be reported than was actually borne, thereby creating a clear opportunity for circumvention.

Indeed, many state subsidies that would otherwise be recognised as rebates could, through the derogation provided in Article 8(2), be reported as revenues generated by the carbon pricing mechanism and reinvested in decarbonisation, with limited possibility to verify whether this is genuinely the case. The third-country operator would then be able to report a higher effective carbon price paid and reduce its CBAM liability at the EU border.

Therefore, European Aluminium calls for the deletion of Recital (15) and Article 8(2) to prevent the creation of a loophole that could weaken the effectiveness of the CBAM or to, at the very least, establish stricter requirements for the application of this derogation by third-country operators and ensure that only genuine and verifiable instances of revenues generated by a carbon pricing mechanism and being reinvested in decarbonisation are subject to the derogation.