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ICC Global Principles for Effective Border Carbon Adjustments (BCAs)

The UN Framework Convention on Climate Change (UNFCCC) and the Paris Climate Agreement are the foundation for a sustainable, net-zero emissions future. They underscore the importance of international cooperation and coordinated solutions at all levels, driving the highest possible ambition and effective action.

The UN Climate Conference COP28 further demonstrated the potential of multilateralism and reinforced that cooperation is our only option to tackle the global climate crisis and put the “UAE Consensus” into action. In this effort, the global business community has a pivotal role to play. It stands resolutely behind the goals of the Paris Agreement, committed to limiting global warming to 1.5 °C and accelerating the agreement’s implementation.

However, business alone cannot put the world back on a 1.5-degree trajectory: governments must take coordinated action to address barriers to the deployment of climate solutions and make investments in a net-zero future more attractive by adopting policies frameworks that provide real incentives and support concrete action, innovation, and investment.

While many countries have adopted ambitious domestic climate policies, including national and regional carbon pricing instruments, varying levels of regulation of emission reductions in different countries, and the absence of a coordinated global approach to carbon pricing increase the risk of shifting of investment, production, and emissions to regions with less stringent policies. This ‘carbon leakage’ could undermine global emissions reductions efforts.

To address carbon leakage, the European Union became the first in the world to adopt a Carbon Border Adjustment Mechanism (CBAM) in 2021, as part of the EU Green Deal and the “Fit for 55” package, complementing the EU Emissions Trading System (EU ETS). The EU CBAM will come into force in January 2026, following a three-year transitional phase that started on October 1, 2023.[[1]](#footnote-2)

As more governments seek to address carbon leakage risks through BCAs, there is a real risk of unilateral measures creating a fragmented and distorted landscape for countries and their businesses.

In view of this emerging risk as well as considering early learnings from the transitional phase under the EU CBAM, the International Chamber of Commerce (ICC), building on its extensive work undertaken on the effective design and implementation of market-based instruments[[2]](#footnote-3), has engaged its business networks in 170 countries in cross-policy commissions consultations to identify the main critical elements for the effective design and implementation of carbon leakage measures.

ICC has drawn up the following principles and recommendations, drawing on lessons learned to date, to help governments leverage opportunities arising from BCAs, minimise negative impacts on businesses and consumers, and work towards a multilateral approach that advances climate goals, fosters fair competition, and promotes international commerce.

**General Principles**

* **Support Paris Agreement Goals as Primary Objective**: BCAs should seek to prevent carbon leakage by enabling and enhancing domestic climate ambition.[[3]](#footnote-4) These measures should lead to verifiably increased climate mitigation efforts and action and the achievement of a country’s Nationally Determined Contributions (NDCs) under the Paris Agreement.

It is important that BCAs not hinder global efforts on climate action but instead lead to increased collaboration and coordination. BCAs should therefore take into account and be compatible with national climate policies and pricing mechanisms, avoiding overlapping measures (i.e. double taxation) and advancing international cooperation on carbon pricing, including under Article 6 of the Paris Agreement.

* **Comply with WTO Rules**: BCAs must be compatible with international treaties and agreements, most notably with World Trade Organisation (WTO) rules and non-discrimination principles, considering, in particular, provisions of the General Agreement on Tariffs and Trade (GATT). A central tenet and a cornerstone of the multilateral trading system is the principle of non-discrimination in international trade. For trade in goods, there are two elements that are particularly relevant to look at in a BCA measure: the most-favoured-nation (MFN) treatment obligation, set out in Article I of the GATT, and the national treatment (NT) obligation, set out in Article III of the GATT.
* **Respect UNFCCC and Paris Agreement Principles**: Countries designing and implementing a BCA must recognise the varying capacities, capabilities and resources of developing and emerging economies to take action in mitigating GHG and to adjust to other WTO members’ trade regulations – in line with UNFCCC and Paris Agreement Principles of Equity and Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC)[[4]](#footnote-5) as well as WTO’s Special and Differential Treatment Principle.

Article 3.5 of the UNFCCC provides that “measures taken to combat climate change, including unilateral ones, should not constitute means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade”.

Countries should undertake an independent risk assessment ex-ante on the BCA on their principals trading partners and in particular on developing and emerging economies’ exports and competitiveness in relation to the objective to reduce GHG emissions.

* **Apply International Standardised Methodologies**: As more governments move to implement BCAs, there is a real risk that each may establish a different methodology and framework for emissions monitoring, reporting, and verification (MRV). This could create significant additional burdens on exporters, in the form of non-tariff barriers that increase the cost of trade. Thus, international cooperation on the use of globally recognised reporting standards and guidelines for measuring CO2 emissions that are compatible across, and equivalent between countries is a first order priority.

Such efforts should build on existing frameworks and practices, such as the GHG Protocol, ISO 14064 and national Monitoring, Reporting, and Verification (MRV) systems, and should be conducted within, or at least with the close support of, international or regional standard-setting organisations.

* **Determine Sector and Product Scope Based on Real Leakage Risks:** The primary and sole objective and rational for a BCA should be to address carbon leakage risks. While evidence on the magnitude of leakage is still mixed, studies suggest that emissions-intensive sectors and/or products that are heavily exposed to international trade[[5]](#footnote-6) may face significant leakage risks. From this perspective, BCAs should target only sectors most at risk of carbon leakage due to their GHG emissions intensity and trade exposure. Conducing robust and independent ex-ante assessments to identify these high risk industries is crucial for targeting the appropriate sectors and products. Also, continuous reviews and cost-benefit analyses are essential to ensure that BCAs remain relevant and effective in addressing real carbon leakage risks.

Finally, careful consideration must be given with regards to the inclusion of both simple and complex goods, as well as specific products and situations (i.e. second hand goods), which may require a different approach or special regime.

A coordinated approach among countries developing and implementing BCAs with regards to these core aspects is vital to avoid creating major complexities for companies operating globally.

* **Apply Reasonable De Minimis-threshold**: A minimum threshold should be set to exempt smaller and new businesses that fall below a certain trading volume and irregular low value/weight consignments, including samples, from BCA reporting requirements. The climate impact of such low-weight or low-value shipments is negligible compared to the bureaucratic burden and the resulting impacts on international transactions.

De minimis limits should be based on the annual import quantity in weight or kilowatt hours and the exemption methodology for intra-trade statistics.

* **Ensure Interoperability & Recognise Equivalences**: Interoperability between BCA systems is essential to streamline accounting and reporting processes for companies operating across multiple jurisdictions and minimise duplicative efforts. It is also important to recognise and account for equivalent measures taken by countries, in particular developing countries, to incentivise GHG emissions reductions, as these can reduce the risk of leakage.

We recommend the creation of aglobaldatabase and a system of equivalence for GHG accounting and reporting methodologies (until a globally recognised methodology is developed) as well as for global carbon pricing (and non-pricing) policy instruments. This system should involve independent, trusted third parties to serve as clearing houses and provide the necessary verification of the carbon pricing system in the originating country.

Such a system would decrease significantly the administrative burden on exporters and importers. Existing efforts, such as the World Bank’s State and Trends of Carbon Pricing and Carbon Pricing Dashboard, the OECD’s Inclusive Forum on Carbon Mitigation Approaches (IFCMA), and the International Carbon Action Partnership (ICAP) work on cap-and-trade systems, can serve as an important base in this regard.

* **Account for Pricing and Non-Pricing Efforts:** In line with the principles of the Paris Agreement and its nationally-driven approach, countries should determine the most effective, politically and economically feasible policies to achieve their climate targets when developing their NDCs, including market-based instruments. When establishing a BCA, emission-reduction efforts and policies designed to tackle climate change, such as preserving and expanding critical ecosystems, forests, soils, marine ecosystems as carbon sinks, in particular in developing and emerging economies, should be taken into account even if these efforts are not related to carbon pricing.

Also, many countries do not levy explicit carbon taxes but use various schemes and implicit taxation mechanisms that effectively place an implicit price on carbon.

It is critical to have an inclusive discussion to identify a workable solution to some of the fundamental questions to address these issues, such as:

* + Which policies should be recognised as climate policies, and what criteria should be used to determine this?
	+ How can price equivalence among different policies be established?
	+ What is a workable mechanism to prevent businesses in countries with implicit pricing systems from facing double charges under a BCA?
* **Allow Default Values Beyond First Phase:** BCAs reporting obligations can lead to highly complex and burdensome data collections. Inaccuracies in emissions data can lead to miscalculated carbon cost. While BCAs should predominantly require and encourage the reporting of actual emissions data in calculations (as in the case of the EU CBAM), ICC recommends establishing a fair process for cases where importers have made genuine efforts but are unable to obtain accurate data, in particular from complex global supply chains. One solution could be allowing importers to use default values beyond the transition period in certain instances, without penalising such an approach.

It is also important that default calculation methods are equivalent across BCA countries, and values are communicated transparently and regularly revised to reflect the evolving production and emission trends in the concerned sectors. In the short term, this can be achieved through close collaboration among designated government bodies and agencies. In the medium term, a global oversight body, as discussed below, could play a key role here.

* **Protect Confidential Business Information and Intellectual Property**: Under the EU CBAM, collecting data across different tiers of the supply chain presents significant challenges. Many suppliers outside the EU are reluctant to provide confidential business information (CBI) and may even risk violating domestic data protection laws. It is critical to have in place robust protections for CBI and intellectual property are in place as well as relevant international agreements to enable secure data exchanges prior to the start of the transitional period. Governments should also establish a mechanism to obtain the required information directly from operators (without importers accessing the information).
* **Provide Targeted Exemptions and Support for Most Vulnerable Countries**: In line with the principles of the Paris Agreement and UNFCCC, it is key to recognise countries’ different starting points, particularly the special circumstances of Least Developed Countries (LDCs) and Small Island Developing States (SIDS), to ensure we can deliver on our collective commitments in a just and inclusive manner. The climate action agenda must be integrated into development plans to allow countries to tackle the climate crisis without stifling development and industrialization, creating opportunities for sustainable growth.

Exemptions for LDCs and SIDS could include credits, compensations, as well as targeted additional support, such as capacity building, technical assistance. These measures would help vulnerable countries and their businesses reduce and minimise negative impacts on development and adhere to the principle of Common But Differentiated Responsibilities -RC concerns.

However, such measures may raise legal and circumvention risks. Therefore, it is important to engage with concerned countries to jointly agree on the definition and application of exemptions or preferential treatments, including identifying criteria for applying such special measures.

* **Support New & Small Enterprises**: Special considerations should be provided for new businesses and micro-, small and medium-sized enterprises (MSMEs), as they are disproportionately impacted by the high administrative and compliance costs linked to BCA reporting. Due to limited capacities and resources, these businesses may have to use the punitive default method of calculating embedded emissions or stop importing directly altogether, opting instead to purchase needed inputs from specialised importers, which will increase their costs.

To address these challenges, small businesses below a certain trading volume should be exempted from the BCA reporting obligation. A staged approach can be applied to help build needed capacities and capabilities for reporting and compliance. This approach should include allowing them to use default values indefinitely or for a longer adaptation period without penalties. Also, it is crucial to provide sufficient capacity building, technical assistance, and financial support to avoid compliance and administrative penalties.

* **Foster Public-Private Collaboration:** Enabling a higher level of cooperation between public authorities and business is critical to ensure the BCA is designed in a way that can be effectively implemented. While environmental agencies should take the lead as competent authorities, customs authorities also play a role and should ensure the close collaboration with the private sector to reduce administrative complexities and avoid duplicative efforts and reporting.
* **Reflect Purpose-directed Use of Proceeds**: A BCA proposal should include clear provisions on the use of proceeds. A significant portion of the revenue should be used for the purpose of climate efforts, especially in developing countries and in particular for climate adaptation. The share of proceeds could also be allocated to support developing countries and their exporting industries to comply with the BCA regime, including through a dedicated fund.
* **Ensure Sufficient Transition and Reporting Periods**: Meaningful and timely engagement, consultations, and full transparency of the BCA regime’s implementation and operation with foreign governments, trading partners and businesses are imperative to reduce administrative complexity on businesses. Effective stakeholder engagement through technical trainings and briefings, workable transition and reporting periods, and timely distribution of guidance documents are key to give companies the necessary time and tools to understand BCA requirements, establish efficient processes for compliance, and avoid incorrect reports and payments. A self-assessment tool can help companies determine the extent to which they are subject to BCA obligations.
* **Complement by Supportive Policies**: A BCA must be designed and implemented as part of a framework of cross-agency regulations and initiatives. Flanking policies will be needed to support its strengths and bridge gaps that cannot be addressed or are better addressed through measures outside the BCA itself. For example, solutions are needed to ensure the competitiveness of exports from a BCA country and address risks related to resource reshuffling, such as the deviation of emission intense products to other markets while exporting only low emissions products to the BCA country.
* **Establish an International Body for Policy Coherence:** Carbon leakage is most effectively addressed through multilateral global cooperation rather than unilateral approaches. An independent international body should be established to coordinate the development and implementation of different national systems, with a view to ensuring maximum interoperability and alignment.

This body should also provide an independent mechanism for appealing decisions and judgments taken under national BCA regimes regarding foreign producers or goods. It should also provide a mechanism to prevent and resolve conflicts between parties affected by BCAs. Without such international coordination and cooperation, there is a risk of trade distortions and inconsistencies that could negatively impact international trade relationships.

**Key Operational and Design Recommendations**

* **Appoint Environmental Agency as Lead Agency**:To effectively execute and support the in-country implementation of a BCA, an environmental agency should be designated as the lead agency. This agency should be sufficiently staffed with experts in relevant fields and work closely with customs authorities, who play a critical role in controlling data flows.
* **Practice Data Frugality:** Reporting forms should be simple and focus on essential data fields. There should be an immediate application of default values if necessary data cannot be provided. Also, exempted goods should be easily filtered out. Pre-completed forms with already available customs data for imported BCA goods would also facilitate the process. Businesses and authorities would then only have to check, correct, and complete any missing information.
* **Start with a Pilot and/or Reasonable Transitional phase:** There should be sufficient time and support, such as trainings and information materials, for companies to prepare and implement processes to comply with a BCA. A hasty implementation without adequate awareness and support for companies creates unnecessarily high administrative burdens and costs for companies. A pilot phase can help test the collection and reporting tools, for example the reporting platform, to avoid technical complications and ensure the BCA can be operationalised smoothly and successfully. Pilots also provide the opportunity to finetune any processes and tools to ensure they are working correctly or effectively in practice.
* **Ensure Timely and Effective Communication:** The significant need for engagement, communication and training to prepare all stakeholders, including foreign governments, main training partners and their businesses for the implementation of the BCA should not be underestimated and needs to be taken into account in the design of the timeline for the BCA[[6]](#footnote-7). The capacity-building to raise awareness of the BCA and its implementation, for example on calculation methodologies, should not be limited to stakeholders within the BCA country but also target third countries, namely trading partners, who will be critical in providing reporting data.

In conclusion, and in view of the urgency of the issues at stake and the opportunity to enhance the cooperation and inclusiveness of BCAs, **ICC calls on the international community to establish a dedicated multilateral forum on BCAs** – with the objective to clarify understandings of strengths and challenges, enhance the inclusiveness of BCA measures and improving their conformity with WTO rules and fundamental principles of the UNFCCC and Paris Agreement. The Forum should ultimately work towards common global principles for BCA design and implementation, based on ICC recommendations.

Cross country collaboration and cooperation on principles and best practices can help improve BCAs’ design and implementation, thereby reducing administrative costs and minimising political and legal risks as well as trade frictions.

While the creation of a dedicated multilateral forum and independent global body for BCAs, as suggested earlier, will take time, it is important to launch a global dialogue – under the aegis of the G20 and with the engagement of the WTO and UNFCCC – at the upcoming G20 meeting in Rio de Janeiro in November 2024 to start an open exchange of views on opportunities and challenges for BCAs, build mutual understanding on what an effective BCA means, and finally lay important groundwork for the future multilateral forum.

Discussions should focus on how UNFCCC and WTO principles can be effectively applied in a BCA, and they should seek harmonisation of key technical aspects as a priority. The involvement of and input from the private sector will be essential in such an effort. ICC, as principle business voice to the WTO, UNFCCC and G20 stands ready to engage.

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1. See European Commission: [Carbon Border Adjustment Mechanism - European Commission (europa.eu)](https://taxation-customs.ec.europa.eu/carbon-border-adjustment-mechanism_en), (last accessed 05/09/24). [↑](#footnote-ref-2)
2. See: ICC Carbon Principles (2021); Critical design features for effective carbon pricing (2022); ICC Principles and proposals for effective carbon pricing (2023) here [2021-cop26-icc-carbon-pricing-principles.pdf (iccwbo.org)](https://iccwbo.org/wp-content/uploads/sites/3/2021/11/2021-cop26-icc-carbon-pricing-principles.pdf);

[ICC recommendations on the implementation of CBAM](https://iccwbo.org/news-publications/policies-reports/icc-recommendations-to-the-european-commission-on-the-implementation-of-the-carbon-border-adjustment-mechanism/) (2023) and [Open letter on CBAM](https://iccwbo.org/news-publications/statement-letters/open-letter-on-the-carbon-border-adjustment-mechanism-cbam/) (2024). [↑](#footnote-ref-3)
3. See ICC Carbon Pricing Principles Principle 1. [↑](#footnote-ref-4)
4. Article 4.2 and 4.3 of the Paris Agreement respectively state that it is up to each party to prepare, communicate and maintain successive NDCs that it intends to achieve and that successive contributions should reflect each party’s ‘common but differentiated responsibilities and respective capabilities, in the light of different national circumstances’. [↑](#footnote-ref-5)
5. See ICC Proposal For Effective Carbon Pricing: Leakage and Linking Considerations, page 13-14 [2023-ICC-proposals-for-effective-carbon-pricing-leakage-and-linkage-considerations.pdf (iccwbo.org)](https://iccwbo.org/wp-content/uploads/sites/3/2023/12/2023-ICC-proposals-for-effective-carbon-pricing-leakage-and-linkage-considerations.pdf) [↑](#footnote-ref-6)
6. In May 2023, the EU regulation establishing the EU CBAM was published in the Official Journal of the EU, but overall only limited guidance and information had been made available at that stage, making it difficult for companies to prepare ahead of the start of the reporting obligations on 1 October 2023. [↑](#footnote-ref-7)