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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 not only has a pivotal role to play but also carries a clear responsibility to help put the world back on the 1.5-degree pathway. Business stands resolutely behind the goals of the Paris Agreement and achieving net zero emissions by 2050.

However, the global business community faces roadblocks beyond its control. Coordinated action by all governments is essential to addressing barriers to the deployment of climate solutions and making investments in a net-zero future more attractive by adopting policies frameworks that provide real incentives and support concrete action, innovation, and investment.

Many countries have adopted ambitious domestic climate policies, including national and regional carbon pricing instruments. However, 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 (EU) 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 regulation on CBAM entered into force on 17 May 2023 and provides for a three-year transitional period that started on October 1, 2023.[[1]](#footnote-2)

As several major economies move to implement similar border carbon adjustment (BCA) measures, there is a significant risk of unilateral measures creating a fragmented and distorted landscape for countries and their businesses. Recent research[[2]](#footnote-3) also indicates that a BCA, such as the EU CBAM, is likely to disproportionately impact developing countries by reducing their trade levels and causing Gross Domestic Product losses.

In view of these emerging risks as well as considering early learnings from the transitional period under the EU CBAM, the International Chamber of Commerce (ICC), building on its ICC Carbon Pricing Principles (2021)[[3]](#footnote-4); ICC Critical design features for effective carbon pricing (2022) and ICC Principles and proposals for effective carbon pricing (2023)[[4]](#footnote-5), has engaged its business networks in 170 countries to identify the main critical elements for the effective design and implementation of BCAs.

The following principles and recommendations draw on lessons learned to date and aim to help governments leverage the opportunities arising from BCAs, minimise negative impacts on businesses and consumers, and work towards global harmonisation of methodologies and rules through a multilateral approach that advances climate goals, fosters fair competition, and promotes international commerce.

1. **International Cooperation**

* **Support Paris Agreement Goals as Primary Objective**: BCAs should seek to prevent carbon leakage to enable and enhance domestic climate ambition.[[5]](#footnote-6) 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 be introduced either in conjunction with, or as a complement to, an existing national or regional carbon pricing mechanism and should be coherent with other national climate policies, avoiding overlapping measures such as double taxation, while advancing international cooperation on carbon pricing, including under Article 6 of the Paris Agreement.

* **WTO Compliance**: BCAs must be compatible with international treaties and agreements, most notably with World Trade Organization (WTO) rules and non-discrimination principles, considering, in particular, provisions of the General Agreement on Tariffs and Trade (GATT). A key pillar of the multilateral trading system is the principle of non-discrimination in international trade. For trade in goods, two elements are particularly relevant in assessing such measures: 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.

BCAs should not cause discriminatory barriers to trade or be a form of disguised trade protectionism. Their legitimate aim must be to prevent carbon leakage by ensuring that companies in the same market pay a similar price for emissions, whether their products have been produced domestically or abroad.  
  
Extensive and timely bilateral and multilateral diplomatic engagement with key trading partners and other WTO members in an open, transparent and inclusive manner and prior to the crafting and implementation of BCA measures is essential to form a shared understanding of the fundamental aspects of the BCA and avoid escalatory retaliation that could lead to economically harmful green trade wars. It is critical that WTO members discuss the trade related aspects of BCAs and consider methods to develop a multilateral approach that meets climate goals without violating trade rules. Business engagement on technical design issues is critical to ensure that the measures can be successfully implemented.

* **Respect UNFCCC and Paris Agreement Principles**: Countries designing and implementing a BCA must recognise the varying capabilities of developing and emerging economies to mitigate (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) as well as WTO’s Special and Differential Treatment Principle.

Article 3.5 of the UNFCCC also 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”. This principle echoes the GATT and was reaffirmed in the COP28 Global Stocktake outcome and remains paramount to limiting the spread of restrictive trade measures under the guise of climate policy. It is further critical that a BCA respects the nationally determined nature[[6]](#footnote-7) and the principle of cooperation between countries that are at the core of the Paris Agreement and are expressed across different articles, such as Article 4 on NDCs, Article 6 on cooperative market and non-market approaches, and Article 9 on financial support.

* **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 industrialisation, creating opportunities for sustainable growth for all.

Thus, LDCs and SIDS should be exempted from BCA obligations through an LDC waiver or alternatively, an equivalent measure to the Duty-Free Quota-Free scheme. Targeted additional support, such as capacity-building, technical assistance would help vulnerable countries and their businesses reduce and minimise negative impacts on development and adhere to the principle of Common But Differentiated Responsibilities. 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.

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

1. **Practical Design Principles**

* **Develop and 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 measurement, 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 in developing and adopting globally recognised guidelines for GHG emissions measurement and reporting standards will be crucial.

Such effort 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. Governments should also take into account ongoing international and regional initiatives, such as carbon clubs and sector specific efforts, and work towards the maximum harmonisation of methodologies and MRV requirements. At the same time, they must consider sector specific complexities and circumstances. As a temporary measure, it is recommended to accept existing accounting standards, with third-party assurance confirming compliance with required methodologies.

An effective GHG calculation methodology also ensures the equal treatment of a wide range of activities and technologies that reduce or remove emissions, including market-tested solutions.

* **Determine Sector, Product and Emissions Scope Based on Real Leakage Risks:** The primary objectives and rationale for a BCA should be to address carbon leakage risks and encourage higher climate ambition globally. 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[[7]](#footnote-8) may face significant leakage risks. From this perspective, BCAs should target only major emissions intensive sectors and products most at risk of carbon leakage due to their GHG emissions intensity and trade exposure.

Additionally, to set an effective scope and ensure that BCAs remain effective in addressing significant carbon leakage risks, governments should:

* + Conduct robust and independent ex-ante assessments to identify high-risk industries to target the appropriate sectors and products. These assessments should also evaluate the feasibility of implementation and the overall effectiveness of a BCA. Continuous reviews, stakeholder consultations, and cost-benefit analyses will also be essential.
  + Focus BCAs on direct emissions from production processes of goods within the scope of the BCA. In addition, governments should consider whether the BCA should also capture indirect emissions, such as those related to the production of purchased electricity consumed during production. In making this determination, factors such as the level of effective pricing applied to indirect emissions domestically, the impact on sectors and industries reliant on imported raw materials and goods, and the significance of indirect emissions for achieving Paris Agreement goals should be taken into account.
  + Identify suitable and effective approaches to address the complexities and specific circumstances of certain sectors.
  + Carefully consider the inclusion of both simple and complex goods, as well as specific products (e.g., second-hand goods), which may require special treatment or regimes.
  + Align BCAs scopes with existing regional, national, and local carbon pricing mechanisms to effectively address leakage risks.
  + Maintain technology neutrality by applying BCAs consistently across emissions-intensive industries based on emissions intensity, regardless of production methods.

Ultimately, a coordinated approach among countries developing and implementing BCAs on these core aspects is vital to avoid creating major complexities for companies operating globally.

* **Apply Reasonable Threshold**: A BCA should be designed to ensure maximum cost-effectiveness and consider the competitive impact on affected businesses, especially those with limited resources and capacities. A minimum threshold for BCA products and commodities 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. Appropriate anti-circumvention measures must be in place to prevent bad actors from fragmenting shipments to take advantage of the weight-based thresholds.

* **Ensure Interoperability**: Interoperability between BCA systems is essential to streamline accounting and reporting processes for companies operating across multiple jurisdictions and minimise duplicative efforts. Focusing on these elements ahead of implementation would assuage concerns with the administrative feasibility given the lack of global data on embedded emissions associated with energy-intensive manufacturing.
* **Recognise equivalence:** We recommend the creation of a system of equivalence for GHG accounting and reporting methodologies (until a globally recognised methodology is developed) as well as for global carbon pricing 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 Consider Non-Pricing Efforts:** In line with the principles of the Paris Agreement, countries should determine the most effective, politically and economically feasible policies to achieve their climate targets when developing their NDCs, with a focus on market-based instruments. Countries use various schemes, including cross-border emission trading under Article 6 of the Paris Agreement and implicit taxation mechanisms that effectively place a price on carbon.

For countries which cannot for economic reasons introduce a carbon price, policies designed to tackle climate change, such as preserving and expanding critical ecosystems, forests, soils, marine ecosystems as carbon sinks should be considered as equivalent to pricing efforts until such time they are in a position to do so.

The future international technical body for policy alignment on BCAs, proposed further below, should be mandated to develop an effective and implementable solution in this regard. Some of the fundamental questions to address these issues include:

* + Which policies should be recognised as climate policies, and what criteria should be used to determine this?
  + How can price equivalence among different systems be established?
  + Is there a workable mechanism to prevent businesses in countries with implicit pricing systems from facing double charges under a BCA?
  + How should voluntary carbon credits from ETS systems that allow a percentage of voluntary credits be treated?
  + How can Article 6 emission reduction credits, Article 6.2 Internationally Transferred Mitigation Outcomes ("ITMOs") and Article 6.4 ERs be accounted for, in particular for countries that do not have the capacities to establish a domestic pricing scheme?
* **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 transitional period in certain instances, without penalising such an approach.

It is also important that default calculation methods are consistent across BCA countries, with values communicated transparently and regularly updated to reflect evolving production and emission trends in the relevant sectors. In the short term, this can be achieved through close collaboration among designated government bodies and agencies. In the medium term, a global coordinating 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 ensure robust protections for CBI and intellectual property are in place as well as relevant international agreements to enable secure data exchanges.
* **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 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, at least for a temporary period. Alternatively, a phased approach could help these small businesses navigate reporting and compliance requirements. This approach should include allowing them to use non-punitive default values until they are able to comply with the requirements. Additionally, it is crucial to provide sufficient capacity-building, technical assistance, and financial support to facilitate their compliance and integration into existing BCAs.

Even if MSMEs were exempted from BCA requirements, they would still likely to be impacted by BCAs when acting as suppliers to larger companies. MSMEs that lack the resources to comply with these regulations risk being excluded from global supply chains. It is therefore crucial for corporations to collaborate with their suppliers to ensure a balanced approach to managing costs and risks of compliance.

* **Engage with Business and Build Public Private Partnerships:** Enabling a higher level of cooperation between public authorities and business is critical to ensure BCAs are designed in a way that it can be effectively implemented and to minimise complexity, administrative and compliance costs for businesses. Continued consultation and dialogue with the private sector and other stakeholders are therefore essential when designing, implementing and strengthening policy frameworks.
* **Reflect Purpose-directed Use of Proceeds**: A BCA proposal should include clear provisions on the use of the 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[[8]](#footnote-9). 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 as well as to supporting cooperative approaches under Article 6 of the Paris Agreement. A sufficient part of the venues arising from BCAs should also be allocated to competent authorities and bodies at national and EU level in order for them to effectively implement CBAM obligations.
* **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. Creating a self-assessment tool can help companies determine the extent to which they are subject to BCA obligations.
* **Establish Complementary 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 circumvention, resource reshuffling, such as the deviation of emission-intense products to other markets while exporting only low emissions products to the BCA country. Additionally, facilitating green investments will be crucial to offset the added costs on capital-intensive projects needed for the green transition stemming from the BCA. As a BCA aims to level the playing field by imposing carbon costs on imported goods, it inevitably increases the overall project costs, particularly in sectors heavily reliant on carbon-intensive materials such as steel, cement, and aluminum.
* **Establish an International Technical Body for Policy Coordination:** Carbon leakage is most effectively addressed through multilateral global cooperation rather than unilateral approaches. We recommend establishing an international technical body, that could be anchored within the WTO or UNFCCC. The body should coordinate the development and implementation of different national systems, with a view to ensuring maximum interoperability and alignment and should engage with all relevant stakeholders, including business.

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.

1. **Effective Operationalisation Principles**

* **Lead agency and Inter-Agency collaboration**:While one agency should be appointed as lead agency, astrong mechanism for collaboration between the environmental and customs authorities, national competent authorities and the private sector will be important to ensure cohesive and accurate data reporting and data control and to effectively support in-country implementation of BCAs. These agencies should be sufficiently staffed with experts from relevant fields of environment, climate, customs, trade and taxation.
* **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 Process 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 and effectively in practice.
* **Ensure Timely and Effective Communication:** The significant need for engagement, communication and training to prepare all stakeholders, including foreign governments 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[[9]](#footnote-10). 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. A dedicated website containing a full set of documents, including regulations, guidance, templates, and other materials in both English and relevant national language(s) is also necessary.

**Call For Action**

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 Parties to the UNFCCC and Paris Agreement and WTO Members to establish a dedicated multilateral forum to coordinate 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 take into account ongoing international efforts in this area and 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.

Recognising that the creation of the dedicated multilateral forum and global technical body for BCAs, may take time, we strongly recommend that governments quickly launch a preparatory global dialogue under the aegis of the G20 and with the engagement of the WTO and UNFCCC 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 should prioritise the harmonisation of key technical aspects . 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. African Climate Foundation and LSE [Implications for African Countries of a Carbon Border Adjustment Mechanism in the EU - The African Climate Foundation](https://africanclimatefoundation.org/research-article/implications-for-african-countries-of-a-carbon-border-adjustment-mechanism-in-the-eu/) (2024); CSE [Carbon Border Adjustment Mechanism (CBAM): The Global South's response to a changing trade regime in the era of climate change (cseindia.org)](https://www.cseindia.org/carbon-border-adjustment-mechanism-cbam--12271); World Bank Group [Relative CBAM Exposure Index (worldbank.org)](https://www.worldbank.org/en/data/interactive/2023/06/15/relative-cbam-exposure-index) (2024). [↑](#footnote-ref-3)
3. See ICC Carbon Principles (2021) [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) [↑](#footnote-ref-4)
4. See: 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-5)
5. See ICC Carbon Pricing Principles Principle 1. [↑](#footnote-ref-6)
6. 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-7)
7. 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-8)
8. Principle 8 of ICC Carbon Pricing Principles from 2019 emphasises the need to couple carbon pricing with climate mitigation and adaptation efforts. Revenue use from carbon pricing should be set up in a way that drives further action on climate mitigation and adaptation and supports the energy transitions. See [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) [↑](#footnote-ref-9)
9. 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-10)