WEETRA

2026

CBAM Article 9
Institutional Framework

Carbon price paid in a third country — evidence, attribution and gross-net burden

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WEETRA institutional reference series
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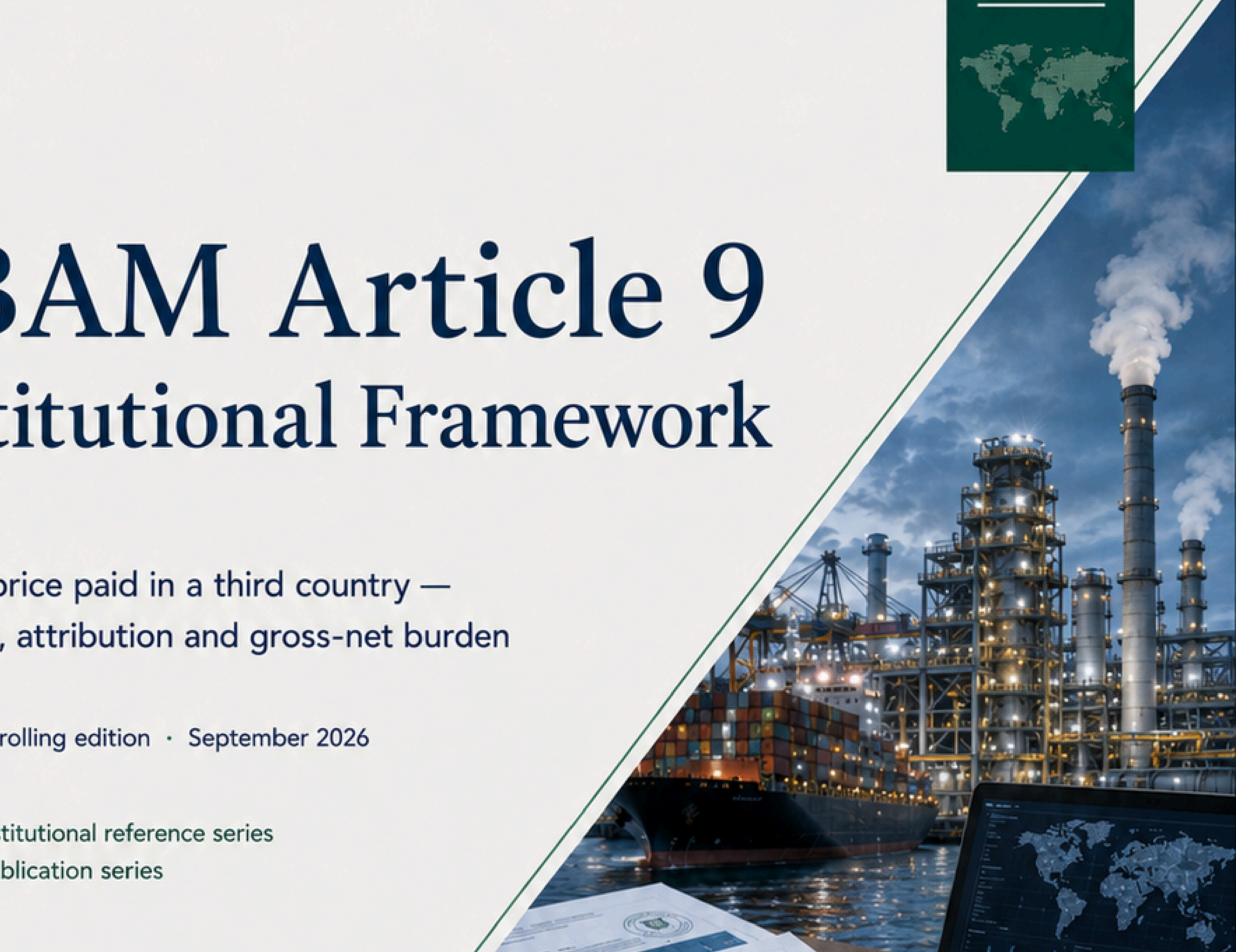

SOURCE HIERARCHY

EVIDENCE TRACEABILITY

PAYMENT PROOF

ATTRIBUTION LOGIC

LEGAL ARCHITECTURE

GLOBAL STANDARDS.
TRUSTED EVIDENCE.
REGULATORY COHERENCE.

Article 9 is an evidence-chain problem before it is a calculation problem

Article 9 is often discussed as a financial deduction mechanism. Operationally, however, it is an evidentiary chain. A declarant may only reduce the number of CBAM certificates by reference to a carbon price actually borne under the applicable third-country system and supported through the evidence architecture required by the amended Regulation. The existence of an ETS or a carbon tax is only the first link.

1

Identify the legal carbon-pricing mechanism

2

Prove the effective non-refunded burden

3

Attribute it to the embedded emissions of the imported goods

> A national carbon-pricing system does not, by itself, establish an Article 9 reduction.

Binding law, official implementation and draft mechanics

BINDING BASE LAW

Regulation (EU) 2023/956 as amended by Regulation (EU) 2025/2083

Defines the Article 9 reduction architecture, evidence requirements, certification and yearly default carbon price pathway.

BINDING DEFINITIVE-PERIOD ARCHITECTURE

2025/2547 + related CBAM acts

Aligns reporting periods and embedded-emissions calculation architecture.

DETAILED ARTICLE 9 MECHANICS

Official draft where final detailed act is not yet adopted

Readiness material only. Draft-only formulae are not promoted as binding law.

Publication rule. The paper separates binding law, adopted implementation, official guidance and draft material visually and textually.

Reduction of CBAM certificates - not an exemption from evidentiary proof

ARTICLE 9 CAN DO

- Recognise a qualifying carbon price effectively paid in a third country.
- Reduce the CBAM certificate burden through the statutory mechanism.
- Use an actual-price route when the evidence and certification requirements are met.
- Use yearly default carbon prices where the statutory route permits.

ARTICLE 9 DOES NOT DO

- Automatically credit every ETS membership or carbon tax exposure.
- Treat a nominal rate as proof of an effective burden.
- Allow the claimant to ignore refunds, rebates, free allocation or compensation.
- Eliminate the need to connect the foreign carbon-price burden to the imported goods.

Practical consequence. Article 9 due diligence starts with legal classification, then moves through accounting evidence and ends with goods-level attribution.

Nine propositions behind one “carbon price paid” assertion

CLAIM	WHAT THE FILE MUST SUPPORT
Instrument	A qualifying third-country carbon-pricing mechanism exists and applies to the relevant emissions.
Liability	The relevant entity or operator is legally liable under that mechanism.
Covered emissions	The emissions subject to the foreign price can be identified and linked to the CBAM emissions population.
Gross burden	The file establishes the charge, surrender obligation or amount assessed.
Reliefs	Rebates and other forms of compensation are identified. Draft detailed mechanics should be reviewed for relevant examples, including free-allocation treatment where applicable.
Effective burden	The amount effectively borne after reliefs is supported.
Certification	The supporting information is certified by an independent person where required.
Goods attribution	The effective burden is attributed to the embedded emissions of the imported goods.
Currency / timing	The applicable yearly-average conversion and reporting-period architecture is respected.

> **Weakest-link principle.** A perfect bank receipt does not repair a missing goods-attribution link; a complete legal instrument does not prove payment.

From foreign carbon pricing to the imported goods

01 **Third-country legal instrument** ›

02 **Liable entity / installation** ›

03 **Covered emissions** ›

04 **Gross carbon burden** ›

05 **Reliefs / compensation** ›

06 **Effective burden** ›

07 **Independent certification** ›

08 **Allocation to goods** ›

09 **CBAM claim**

> The chain has to close on the same emissions population that supports the CBAM declaration.

A system exists - but who legally bears it?

LEGAL INSTRUMENT EVIDENCE

- Applicable statute, regulation or ETS rules.
- Version and compliance period.
- Covered installations, sectors and greenhouse gases.
- Competent authority or market administrator.

LIABILITY EVIDENCE

- Identity of the liable entity.
- Relationship to the producing installation.
- Assessment, surrender or tax record.
- Corporate-group bridge where payer and producer differ.

Common fracture. The carbon-pricing system is real, but the entity shown as payer is not demonstrably linked to the installation whose embedded emissions are declared.

The amount assessed is not automatically the amount effectively borne

01
Gross assessment

02
Applicable rebates / compensation
Draft-readiness example: free-allocation treatment where applicable.

03
Rebates / compensation

04
Other recoveries

05
Effective burden

EVIDENCE OBJECT	CAN ESTABLISH	CANNOT ESTABLISH ALONE
Assessment notice	Gross legal liability	Final non-refunded burden
Bank record	Cash movement	Legal scope or goods attribution
Rebate record	Reduction of burden	Residual net amount without reconciliation

No false precision. A file that does not reconcile gross liability and reliefs should not publish an “effective paid price” as if it had been independently established.

Accounting, banking and compliance records answer different questions

ACCOUNTING / TAX
Assessment, accrual, tax account, surrender obligation, settlement statement.

BANK / TREASURY
Cash settlement, acquisition of allowances, transfer evidence.

CARBON-MARKET RECORDS
Allowance allocation, surrender, compliance account, registry records.

> Evidence should be combined according to the proposition being tested. No single document type is self-proving for the whole Article 9 chain.

Actual-price evidence includes an independence requirement

Certification chain

WHAT THE REVIEW SHOULD ESTABLISH

- Certification is present where the actual-price route requires it.
- The certifier is identifiable and independent from the declarant and third-country authorities as required by the statutory architecture.
- The certified documents are the same documents supporting the claim.
- Draft-only qualification details are not silently treated as adopted law.

> **Role boundary.** WEETRA can test whether the file demonstrates the certification relationship. WEETRA does not substitute itself for the independent certifier.

Country of origin is not the only evidentiary geography

PRODUCTION
Installation / country A

›

CARBON PRICE
Third-country mechanism

›

PAYMENT
Liable entity / treasury

›

CBAM
EU declarant

WHAT MUST REMAIN TRACEABLE

The foreign price must still connect to the declared embedded emissions and imported goods population.

WHAT MUST BE PREVENTED

Double-claiming, double crediting or reliance on a payment from a mechanism that does not relate to the relevant emissions.

Control principle. The methodology tests eligibility and traceability; a difference between payment jurisdiction and customs origin is not, by itself, a failure condition.

Yearly-average architecture governs the control model

Currency-conversion rule

Yearly-average carbon-price and FX concepts govern the Article 9 control model.

Payment-date FX semantics are not used as the governing Article 9 control.

Implementation gate

Detailed formula execution remains gated where the final implementing act is not adopted.

Draft-only formula mechanics are not promoted as binding law.

Control rule

Use yearly-average carbon-price and FX concepts.

Implementation gate

Use yearly-average concepts in the control model.

Detailed calculation gate

Do not promote draft-only formula mechanics.

Actual price and yearly default carbon price must remain distinct

ROUTE A

Actual emissions + actual carbon price

- Actual embedded emissions basis.
- Qualifying carbon price effectively paid.
- Reliefs and compensation taken into account.
- Independent certification where required.
- Goods-level attribution.

ROUTE B

Yearly default carbon price

- Separate statutory route.
- Relevant where the Commission can determine the yearly default price.
- Must not be silently blended with actual-price evidence.
- Still requires correct application to the embedded-emissions basis.

Control-model rule. The two branches should remain separate in data structures, control logic and public explanation.

What a serious Article 9 review should surface

FAILURE MODE 1

Instrument identified but wrong legal period or scope.

FAILURE MODE 2

Payer not linked to producing installation.

FAILURE MODE 3

Gross charge shown, but applicable rebates or other compensation omitted.

FAILURE MODE 4

Cash payment shown, but no bridge to covered embedded emissions.

FAILURE MODE 5

Independent certification missing or not linked to the certified corpus.

FAILURE MODE 6

Plant-wide burden asserted as shipment-specific without allocation method.

FAILURE MODE 7

Currency / period conversion relies on non-applicable or draft-only semantics.

Methodological point. Some defects are remediable with better evidence; others require changing the claimed route or abandoning the deduction.

Questions that should be answerable before the deduction is relied upon

01

Which foreign carbon-pricing instrument applies and which version governed the reporting period?

02

Who was legally liable and who actually bore the cost?

03

Which emissions were covered by the foreign mechanism?

04

What gross amount arose and what reliefs reduced it?

05

What proves the effective non-refunded burden?

06

Who independently certified the documentation?

07

How is the certified burden attributed to the imported goods?

08

Which yearly-average conversion and reporting-period rule applies?

> The engagement purchases a defined depth of review. It does not purchase a favourable Article 9 conclusion.

Controls that must reflect the amended Article 9 architecture

CONTROL	Current treatment
B5-001	Qualifying third-country carbon-price instrument; keep actual/default branches separate.
B5-002	Evidence of effective payment; certification remains a dependency, not the same object.
B5-003	Reconcile gross charge, reliefs and effective burden.
B5-004	Link carbon-price emissions coverage to declared embedded emissions.
B5-005	Yearly-average FX conversion; keep detailed execution rule-gated until final mechanics are adopted.
B5-009	Test third-country eligibility and traceability rather than strict country-of-origin equality.
B5-011	Independent certification of Article 9 documentation.
B5-014	Retention and audit trail aligned to amended Article 9 recordkeeping.

> **Versioning rule.** Historical determinations remain pinned to the catalogue version under which they were issued.

Authority hierarchy for the September 2026 position

Binding EU law

- Regulation (EU) 2023/956 establishing CBAM, as amended through the September 2026 legal cut-off.
- Regulation (EU) 2025/2083 amending the CBAM framework, including Article 9.

Implementing / delegated law

- Commission Implementing Regulation (EU) 2025/2546 on CBAM verification.
- Commission Implementing Regulation (EU) 2025/2547 on definitive-period embedded-emissions methodology.
- Commission Delegated Regulation (EU) 2025/2551 on accreditation and verification framework.

Official non-binding guidance

- European Commission CBAM operator guidance published 14 August 2026, including sector-specific guidance.
- European Commission guidance for verifiers and accreditation bodies published 24 August 2026.

Official draft / readiness material

Detailed Article 9 draft implementing material is cited only as readiness material where it has not yet been adopted. Draft content cannot override or supplement binding law as if already in force.

> **Source discipline.** Every load-bearing regulatory statement should be traceable to a source class and legal cut-off.

INSTITUTE FOR REGULATORY COHERENCE

Regulatory Defensibility & Auditability

Sources & Publication Control

BINDING EU LAW

Regulation (EU) 2023/956 establishing the Carbon Border Adjustment Mechanism, as amended through the September 2026 legal cut-off.

IMPLEMENTING / DELEGATED LAW

Commission Implementing Regulations (EU) 2025/2546 and 2025/2547, and Commission Delegated Regulation (EU) 2025/2551.

OFFICIAL NON-BINDING GUIDANCE

European Commission CBAM operator guidance and verifier / accreditation guidance published in August 2026.

CONTEXTUAL PUBLIC DATA

Country and trade data may provide context. They do not establish the legal or methodological determination.

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