

Sustainability | Competition & Antitrust and Trade | Tax

Prescribed Criteria for International Carbon Credits under Singapore's Carbon Tax Regime

Introduction

On 4 October 2023, the Ministry of Sustainability and the Environment ("MSE") and the National Environment Agency ("NEA") shared a set of criteria for international carbon credits ("ICCs") under the ICC Framework.¹ The ICC Framework will allow carbon tax-liable companies to use eligible ICCs to offset up to 5% of their taxable emissions **commencing 1 January 2024**. It will be aligned with Article 6 of the Paris Agreement, which sets out the framework for voluntary cooperation between countries to achieve their Nationally Determined Contributions (NDCs), and, among other things, provides for carbon credits transfer between countries and the corresponding adjustments to be made to each country's national greenhouse gas ("GHG") inventory. The ICC Framework was introduced in November 2022, together with the amendments to progressively increase the carbon tax rate under the [Carbon Pricing Act 2018](#) ("CPA").²

The criteria detailed in the Carbon Pricing Act 2018 – Carbon Pricing (Carbon Tax and Carbon Credits Registry) (Amendment) Regulations 2023 (which amends the [Carbon Pricing \(Carbon Tax and Carbon Credits Registry\) Regulations 2020](#) ("Carbon Credits Regulations")) ("Prescribed Criteria") takes effect **on 1 January 2024**. The Prescribed Criteria aims to ensure that ICCs are of "high environmental integrity" that companies may use to offset taxable emissions. NEA, which administers the carbon tax regime, will develop processes to determine which ICCs adhere to the Prescribed Criteria before carbon tax-liable companies use the ICCs to offset their taxable emissions, as well as a whitelist of eligible host countries, carbon credit programmes and methodologies. NEA indicated it will share details by the end of this year. This Update outlines key aspects regarding the use of eligible ICCs to pay carbon tax as well as the Prescribed Criteria under Singapore's legislation and ICC Framework, along with our comments.

Surrender of Eligible ICCs for Payment of Carbon Tax

The amended CPA provides for the surrender of eligible ICCs in place of fixed-price carbon credits for the purposes of paying carbon tax. An eligible ICC is an ICC that (a) meets the Prescribed Criteria; and (b) is accepted as an eligible ICC by the NEA. With effect from 1 January 2024, one eligible ICC may

¹ Media release on "[Singapore Sets Out Eligibility Criteria For International Carbon Credits Under The Carbon Tax Regime](#)".

² To read more about the progressive increase in the carbon tax rate and the other changes to the carbon tax regime in Singapore, please refer to our earlier Client Update on "[Amendments to Carbon Pricing Act 2018 Come into Force on 1 Jan 2024](#)".

Client Update: Singapore

2023 OCTOBER

Sustainability | Competition & Antitrust and Trade | Tax

be surrendered in place of one fixed-price carbon credit in respect of any tax for an emissions year that is 2024 or a subsequent year. A taxable facility will be allowed to use eligible ICCs to cover up to 5% of taxable emissions.

Prescribed Criteria for eligible ICCs

The Prescribed Criteria for an ICC being used to pay any tax chargeable for any emissions year that is 2024 or a subsequent emissions year are set out under regulation 8 of the new Part 4 of the amended Carbon Credits Regulations, which include:

- ICCs must be authorised by the host country for the corresponding adjustment. Host country, in relation to an ICC, means the country or territory in which the certified GHG emissions reductions or removals to which the ICC relates were generated.
- ICCs must represent certified GHG emissions reductions or removals that occur between **1 January 2021 and 31 December 2030 (both dates inclusive)**.
- ICCs must meet **all** seven principles to demonstrate high environmental integrity (more discussed below). The seven principles are developed in consultation with various industry stakeholders and non-governmental organisations and based on rigorous international standards, such as the Carbon Offsetting and Reduction Scheme for International Aviation (CORSA).

NEA expects to review the Prescribed Criteria periodically to ensure alignment with developments in Article 6 of the Paris Agreement and high-integrity carbon markets.

Prescribed Criteria and How a Carbon Credit Project is Assessed

MSE has provided illustrations relating to principles on how a carbon credit project is assessed. We briefly explain these below.

Principle	Definition ³ and relevant regulations under the amended Carbon Credits Regulations	Illustration of key considerations in assessing an ICC project of the provision of biogas digesters that convert organic waste into clean energy ⁴
Not double counted	The certified GHG emissions reductions or removals must not be counted more than once in contravention of the Paris	Singapore has an Implementation Agreement in place with Country X, which sets out the requirements and processes for carbon credits to come with corresponding adjustments, i.e., the

³ Table 1 of MSE's media release, available [here](#).

⁴ Annex A of MSE's media release, available [here](#).

Client Update: Singapore

2023 OCTOBER

Sustainability | Competition & Antitrust and Trade | Tax

Principle	Definition ³ and relevant regulations under the amended Carbon Credits Regulations	Illustration of key considerations in assessing an ICC project of the provision of biogas digesters that convert organic waste into clean energy ⁴
Additional	<p>The certified GHG emissions reductions or removals must:</p> <p>(a) exceed any GHG emissions reductions or removals required by any law or regulatory requirement of the host country; and</p> <p>(b) any GHG emissions reductions or removals that would otherwise have occurred in a conservative and business-as-usual ("BAU") scenario.</p> <p><i>New regulation 8(c)</i></p>	<p>emissions reductions represented by the carbon credit used by carbon tax-liable companies in Singapore to offset their taxable emissions will only be counted towards Singapore's climate targets. These emissions reductions will not also be counted towards Country X's climate targets.</p> <p>Under a BAU scenario where the project did not occur, residents would have continued to collect and burn firewood to heat up their homes and cook food, i.e., carbon emissions from deforestation. The project fulfils the "additional" principle: The project and the financing from carbon credits, households are provided with biogas digesters which ferment organic waste such as manure, offering an alternative source of clean energy in the form of biomethane, and thereby reduces the reliance on firewood, and the resulting carbon emissions from deforestation.</p>
Real	<p>The certified GHG emissions reductions or removals must have been quantified based on a realistic, defensible, and conservative estimate of the amount of GHG emissions that would have occurred in a BAU scenario, assuming the project or programme that generated the certified GHG emissions</p>	<p>The implementation of the project reduces the emissions from a credible and conservative baseline, resulting in real emissions reductions. This baseline is the BAU scenario whereby firewood continues to be used, and was determined from field studies that ascertain the prevalence and entrenchment of firewood use as a community practice.</p>

Client Update: Singapore

2023 OCTOBER

Sustainability | Competition & Antitrust and Trade | Tax

Principle	Definition ³ and relevant regulations under the amended Carbon Credits Regulations	Illustration of key considerations in assessing an ICC project of the provision of biogas digesters that convert organic waste into clean energy ⁴
	<p>reductions or removals had not been carried out.</p> <p><i>New regulation 8(d)</i></p>	
Quantified and verified	<p>The certified GHG emissions reductions or removals must have been calculated in a manner that is conservative and transparent, and must have been measured and verified by an accredited and independent third-party verification entity before the ICC was issued.</p> <p><i>New regulation 8(e)</i></p>	<p>Independent, third-party verifiers have quantified and verified the emissions reduced by the project during the entire project timeframe, based on a robust measurement, reporting and verification framework.</p>
Permanent	<p>The certified GHG emissions reductions or removals must not be reversible.</p> <p>Where there is a risk that the certified GHG emissions reductions or removals may be reversible, there must be measures in place to monitor, mitigate and compensate any material reversal of the certified GHG emissions reductions or removals.</p> <p><i>New regulation 8(f), regulation 8(g)</i></p>	<p><i>*No illustration provided by MSE</i></p>
No net harm	<p>The project or programme that generated the certified GHG</p>	<p>Biogas digesters resulted in no net harm, and co-benefited local communities in Country X, for</p>

Client Update: Singapore

2023 OCTOBER

Sustainability | Competition & Antitrust and Trade | Tax

Principle	Definition ³ and relevant regulations under the amended Carbon Credits Regulations	Illustration of key considerations in assessing an ICC project of the provision of biogas digesters that convert organic waste into clean energy ⁴
	<p>emissions reductions or removals must not violate:</p> <p>(a) any applicable laws of the host country, whether provincial or national;</p> <p>(b) any applicable regulatory requirements of the host country, whether provincial or national; and</p> <p>(c) any international obligations of the host country.</p> <p><i>New regulation 8(h)</i></p>	<p>instance better air quality from burning biomethane, a smokeless fuel, instead of firewood.</p>
<p>No leakage</p>	<p>The carrying on of the project or programme that generated the certified GHG emissions reductions or removals must not have resulted in, or result in, a material increase in GHG emissions at any place other than the site of that project or programme.</p> <p>Where there is a risk that the carrying on of the project or programme that generated the certified GHG emissions reductions or removals may have resulted in or may result in a material increase in GHG emissions at any place other than the site of that project or programme, there must be</p>	<p>The use of biogas digesters in the community did not lead to an increase in deforestation in other communities or elsewhere. Hence, the project does not cause leakage, i.e., an increase in emissions elsewhere.</p>

Client Update: Singapore

2023 OCTOBER

Sustainability | Competition & Antitrust and Trade | Tax

Principle	Definition ³ and relevant regulations under the amended Carbon Credits Regulations	Illustration of key considerations in assessing an ICC project of the provision of biogas digesters that convert organic waste into clean energy ⁴
	measures in place to monitor, mitigate and compensate any such material increases in GHG emissions.	
	<i>New Regulation 8(i) and Regulation 8(j)</i>	

Other Noteworthy Developments to Support the ICC Framework

International Advisory Panel for Carbon Credits. An International Advisory Panel for Carbon Credits has been set up to advise the Singapore Government on Singapore's policies relating to carbon credits, for instance on environmental integrity matters and carbon market development. Other significant developments include:

National Carbon Credits Registry. The amended CPA and relevant Regulations also contain provisions to establish a national carbon credit registry where the surrender of ICCs by taxable facilities in compliance with Article 6 of the Paris Agreement will be accounted for and tracked.

Carbon Credit Programmes. NEA has entered into memoranda of understanding (MOUs) with five carbon credit programmes to build upon their capabilities in ensuring that ICCs issued under their programmes and subsequently used to offset taxable emissions are robustly validated, verified, issued and retired. These programmes include the Gold Standard, Verra's Verified Carbon Standard, Global Carbon Council, American Carbon Registry, and the Architecture for REDD+ Transactions. NEA may expand the range of partnerships in future.

Our Comments

These are significant developments for Singapore in respect to carbon tax and carbon credit projects. Singapore is an established trading and financial hub, and has proximity to the large carbon credit source that is Southeast Asia. This presents opportunities to lower compliance costs in terms of tax, as well as to trade carbon credits for profit.

In terms of carbon projects, the Prescribed Criteria provide guardrails at both the credit level and the project or programme level to ensure that the ICCs can robustly contribute to Singapore's national commitments in reducing emissions while meeting the highest possible standards of environmental integrity. Stakeholders, including carbon credit project developers, have to understand the requirements

Sustainability | Competition & Antitrust and Trade | Tax

of Article 6 of the Paris Agreement (e.g. how future emissions 'avoided' may not qualify as certified emissions, or 'reversal' issues involving how carbon is re-released into the atmosphere), and consider them during the project design process so that they are assured that the carbon credits can be properly certified.

In light of the above, it is important for businesses intending to use the ICC offsets to have a complete understanding of what an eligible ICC is and the impact on future costs and opportunities. Please feel free to reach out to our contact partners if you would like to find out more.

Contacts

Sustainability



Lee Weilin
Head, Sustainability

T +65 6232 0707

weilin.lee@rajahtann.com

Competition & Antitrust and Trade



Kala Anandarajah, BBM
Head, Competition & Antitrust
and Trade

T +65 6232 0111

kala.anandarajah@rajahtann.com



Alvin Tan
Partner, Competition & Antitrust
and Trade

T +65 6232 0904

alvin.tan@rajahtann.com

Tax



Vikna Rajah
Head, Tax and Trust & Private
Client Practices

T +65 6232 0597

vikna.rajah@rajahtann.com

Please feel free to also contact Knowledge Management at eOASIS@rajahtann.com

Client Update: Singapore

2023 OCTOBER

LAWYERS
WHO
KNOW
ASIA

Regional Contacts

R&T SOK & HENG | *Cambodia*

R&T Sok & Heng Law Office

T +855 23 963 112 / 113

F +855 23 963 116

kh.rajahtannasia.com

RAJAH & TANN | *Myanmar*

Rajah & Tann Myanmar Company Limited

T +95 1 9345 343 / +95 1 9345 346

F +95 1 9345 348

mm.rajahtannasia.com

RAJAH & TANN 立杰上海

SHANGHAI REPRESENTATIVE OFFICE | *China*

Rajah & Tann Singapore LLP

Shanghai Representative Office

T +86 21 6120 8818

F +86 21 6120 8820

cn.rajahtannasia.com

GATMAYTAN YAP PATACSIL

GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*

Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)

T +632 8894 0377 to 79 / +632 8894 4931 to 32

F +632 8552 1977 to 78

www.cagatlaw.com

ASSEGAF HAMZAH & PARTNERS | *Indonesia*

Assegaf Hamzah & Partners

Jakarta Office

T +62 21 2555 7800

F +62 21 2555 7899

Surabaya Office

T +62 31 5116 4550

F +62 31 5116 4560

www.ahp.co.id

RAJAH & TANN | *Singapore*

Rajah & Tann Singapore LLP

T +65 6535 3600

sg.rajahtannasia.com

RAJAH & TANN | *Thailand*

R&T Asia (Thailand) Limited

T +66 2 656 1991

F +66 2 656 0833

th.rajahtannasia.com

RAJAH & TANN | *Lao PDR*

Rajah & Tann (Laos) Co., Ltd.

T +856 21 454 239

F +856 21 285 261

la.rajahtannasia.com

RAJAH & TANN LCT LAWYERS | *Vietnam*

Rajah & Tann LCT Lawyers

Ho Chi Minh City Office

T +84 28 3821 2382 / +84 28 3821 2673

F +84 28 3520 8206

CHRISTOPHER & LEE ONG | *Malaysia*

Christopher & Lee Ong

T +60 3 2273 1919

F +60 3 2273 8310

www.christopherleeong.com

Hanoi Office

T +84 24 3267 6127

F +84 24 3267 6128

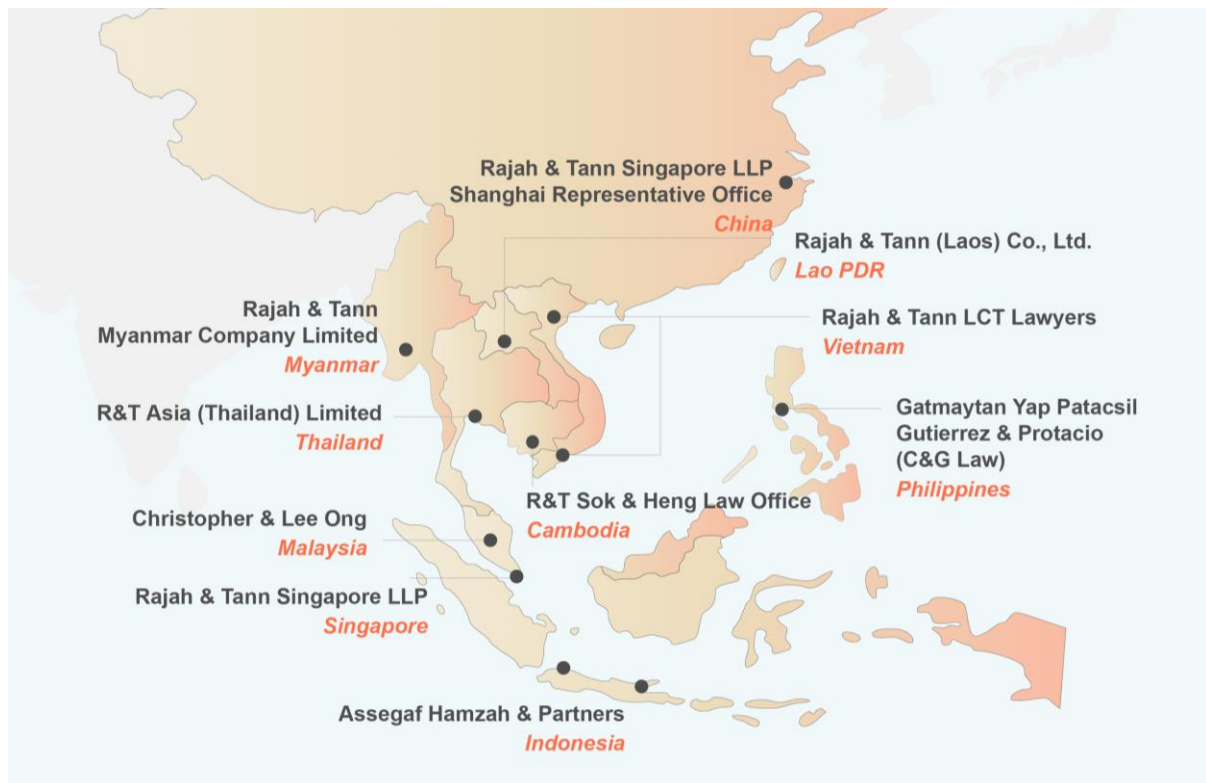
www.rajahtannlct.com

Rajah & Tann Asia is a network of legal practices based in Asia.

Member firms are independently constituted and regulated in accordance with relevant local legal requirements. Services provided by a member firm are governed by the terms of engagement between the member firm and the client.

This update is solely intended to provide general information and does not provide any advice or create any relationship, whether legally binding or otherwise. Rajah & Tann Asia and its member firms do not accept, and fully disclaim, responsibility for any loss or damage which may result from accessing or relying on this update.

Our Regional Presence



Rajah & Tann Singapore LLP is one of the largest full-service law firms in Singapore, providing high quality advice to an impressive list of clients. We place strong emphasis on promptness, accessibility and reliability in dealing with clients. At the same time, the firm strives towards a practical yet creative approach in dealing with business and commercial problems. As the Singapore member firm of the Lex Mundi Network, we are able to offer access to excellent legal expertise in more than 100 countries.

Rajah & Tann Singapore LLP is part of Rajah & Tann Asia, a network of local law firms in Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam. Our Asian network also includes regional desks focused on Brunei, Japan and South Asia.

The contents of this Update are owned by Rajah & Tann Singapore LLP and subject to copyright protection under the laws of Singapore and, through international treaties, other countries. No part of this Update may be reproduced, licensed, sold, published, transmitted, modified, adapted, publicly displayed, broadcast (including storage in any medium by electronic means whether or not transiently for any purpose save as permitted herein) without the prior written permission of Rajah & Tann Singapore LLP.

Please note also that whilst the information in this Update is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as a substitute for specific professional advice for any particular course of action as such information may not suit your specific business and operational requirements. It is to your advantage to seek legal advice for your specific situation. In this regard, you may call the lawyer you normally deal with in Rajah & Tann Singapore LLP or email Knowledge Management at eOASIS@rajahtann.com.