CARBON MARKET WATCH

Open public consultation concerning the review of ETS1

1 Introduction

Since the start of the operation of the EU Emissions Trading System (ETS) from 2005, the policy instrument has been a cornerstone of the EU's policy to combat climate change. It puts a cap and a price on emissions from the energy, industry, maritime sectors and aviation in Europe, which account for approximately 40% of the EU's total emissions.

ETS emissions for electricity, heat generation and industrial production are now around 47.6% below 2005 levels and well on track to achieve the 2030 target of -62%. The observed trend confirms the effectiveness and efficiency of the EU's cap and trade system as one of the main policy incentives for the decarbonisation of the European economy.

While in principle the ETS covers emissions from all flights landing in and departing from the European Economic Area (EEA), the EU has temporarily, until 2027, limited the scope to intra-EEA flights, in order to encourage the development of an effective global carbon pricing scheme by the International Civil Aviation Organization (ICAO).

The MSR Decision introduced the Market Stability Reserve starting in 2019. The MSR removes allowances from EU ETS auction volumes adding them to the reserve whenever the number of allowances in the market exceeds a fixed threshold. The MSR releases allowances back to the market in times of scarcity. In this way, the MSR aims at rebalancing supply and demand as well as making the carbon market more resilient to major shocks.

The ETS Directive was revised in 2023 as part of the 'Fit for '55' package, to enhance its environmental ambition and extend its coverage. Certain aspects of the ETS are subject to review to ensure that the EU ETS continues to contribute in the most cost-efficient manner to the overall goal of reaching economy-wide carbon neutrality by 2050 as set out in the 2040 communication, taking into account the need for all sectors to contribute to the EU climate efforts.

The ETS Directive and the MSR Decision are due for an evaluation following the "evaluate first" principle. According to this principle, initiatives must be evaluated before being subject to a revision. The evaluation will look at the ETS Directive's implementation (covering stationary installations, aviation and maritime transport, i.e. ETS1) since the amendments introduced by Directive (EU)2018/410, and at the Decision's implementation relating to the functioning of the MSR from when it started functioning in 2019 to the present.

The purpose of the present stakeholder consultation is to gather stakeholders' views on the elements of the evaluation and the impact assessment. The questionnaire consists of three chapters:

1. a first part identifying the participant's profile,
2. a second part focusing on backward-looking questions relevant for the evaluation of certain aspects of the ETS and,
3. a third part on forward-looking looking questions that are relevant for the impact assessment of possible policy options.

2. Evaluation

This section of the questionnaire focuses on the ETS1 implementation since the amendments introduced by Directive (EU)2018/410 and at the MSR Decision's implementation from 2019 to the present.

The implementation of new rules introduced in the review of the EU ETS that entered into force on 5 June 2023 is not part of the scope of the evaluation. This includes the new emissions trading system covering CO2 emissions from fuel combustion in buildings, road transport and small industry (ETS2), which will start operating in 2027. Furthermore, any assessment of the feasibility of integrating the sectors under into the ETS1 is also excluded as it is subject to a review clause due in 2031.

This part of the questionnaire aims to identify strengths, weaknesses and areas for improvement based on real-world outcomes and stakeholder experiences. The evaluation criteria will focus on the effectiveness, efficiency, coherence, relevance, and EU added value of the ETS Directive and MSR Decision.

2.1 Effectiveness

Effectiveness considers how successful EU action has been in achieving or progressing towards its objectives.

2.1.1 How effective do you think the ETS Directive has been in achieving its objective to reduce greenhouse gas emissions?

- ○ Very effective
- ○ Moderately effective
- ○ Slightly effective
- ○ Not effective at all
- ○ Do not know

2.1.2 How effective are current measures (free allocation and indirect cost compensation) in protecting against carbon leakage in non-CBAM sectors?

- ○ Very effective
- ○ Moderately effective
- ○ Slightly effective
- ○ Not effective at all
- ○ Do not know

2.1.3 How effective has the MSR Decision been in achieving its two main objectives?

	Very effective	Moderately effective	Slightly effective	Not effective	Do not know
Addressing the structural surplus of allowances that had accumulated in the EU ETS since 2009	○	◉	○	○	○
Improving the system's resilience to major shocks (by adjusting the supply of allowances to be auctioned)	○	◉	○	○	○

2.1.4 What feature of the MSR contributed most to its effectiveness so far?

- ○ The MSR reduced auction volumes in the EU ETS
- ◉ The MSR invalidated allowances through the invalidation mechanism
- ○ The MSR offered certainty that any supply or demand shocks will be tackled through its functioning
- ○ The MSR was not effective
- ○ Do not know

2.1.5 Please provide specific examples or evidence to support your assessment of effectiveness of the ETS Directive and MSR Decision

1000 character(s) maximum

The biggest driver for the decrease in EU ETS emissions has been the power sector, where emissions from electricity and heat production have decreased by 24% compared to 2022. In the energy-intensive industry sectors, a significantly slower reduction of emissions of 7.5% compared to 2022 was observed (COM(2024) 538 final). Industrial installations still receive huge amounts of free pollution permits: this means that companies benefiting from free allocation do not fully internalise the cost of carbon allowances - which could delay the pace of industrial decarbonisation (ICAP, 2022).The EU ETS has accumulated a large and unsustainable oversupply since 2008,but the Market Stability Reserve has proven effective in supporting the carbon price since it started operating in 2018. Since 2024, the MSR has invalidated a total of 3.2 billion allowances. Going forward, the MSR must be maintained and strengthened to ensure a supply control mechanism remains in place.

2.2 Efficiency

Efficiency considers the resources used by an intervention for the given changes generated by the intervention.

2.2.1 How would you rate the efficiency of the ETS Directive in terms of achieving its objectives in a cost-effective manner? In your response, please consider the extent to which the costs involved in the implementation of the EU ETS have been justified and proportionate to the benefits it generated.

- Very efficient
- Moderately efficient
- Slightly efficient
- Not efficient
- Do not know

2.2.2 How would you rate the efficiency of the ETS Directive in terms of administrative burden?

- Very efficient
- Moderately efficient
- Slightly efficient
- Not efficient
- Do not know

2.2.3 Please provide suggestions for improving the efficiency of the ETS in terms of administrative burden / regulatory costs

1000 character(s) maximum

The current architecture of the EU ETS continues to reward large polluters by granting them free allowances instead of incentivising emissions reductions. Despite the “transitional” nature of free allocation, the polluter pays principle has been undermined by the application of Article 10a of the ETS Directive for over 15 years now. Around 40 billion euros were lost in auctioning to free allowances in 2023 alone, instead of being invested in the urgently needed decarbonisation of ETS sectors. Sectors such as steel, cement, and chemicals still received free allowances representing more tonnes of carbon dioxide than they actually emitted in 2023.

2.2.4 Please provide suggestions for potential simplification measures as regards the EU ETS, which could be envisaged without negatively affect the achievement of its objectives

1000 character(s) maximum

The provisions in Art.10a of the Directive are a substantial and unnecessary administrative burden to EU and national regulators, as well as regulated operators. The steps needed to identify (sub-)sectors at risk of carbon leakage, elaborate 60+ product benchmarks, develop national implementation measures with the number of free allowances for each installation, and

make final free allocation decisions is a highly complex effort involving a staggering amount of regulatory resources. This is notwithstanding free allocation changes due to the application of cross-sectoral correction factor, capacity adjustments, benchmark updates, and alignment with actual production levels. In addition, free allocation from 2026 will become conditional on the implementation of energy efficiency measures and of climate neutrality plans. Fully auctioning all emission allowances would greatly benefit administrative simplification and substantially lower costs for competent authorities.

2.2.5 How would you rate the efficiency of the MSR Decision in terms of achieving its objectives in a cost-effective manner?

- ○ Very efficient
- ○ Moderately efficient
- ○ Slightly efficient
- ○ Not efficient
- ○ Do not know

2.3 Relevance

Relevance looks at the relationship between the needs and problems at the time of introducing the intervention and during its implementation, as well as the relationship between the current and future needs and problems in the EU and the objectives of the intervention.

2.3.1 To what extent do the needs/problems addressed by the EU ETS Directive (cost-effective emissions reductions in the covered sectors to support the EU climate targets) continue to require action at EU level?

- ○ To a very large extent
- ○ To a large extent
- ○ To some extent
- ○ To a small extent
- ○ Not at all
- ○ Do not know

2.3.2 To what extent is the MSR Decision still relevant for improving market resilience of the EU ETS?

- ○ To a very large extent
- ○ To a large extent
- ○ To some extent
- ○ To a small extent
- ○ Not at all
- ○ Do not know

2.4 Coherence

Coherence means how well (or not) different interventions, EU/international policies or national/regional /local policy elements work together. At EU level, other policies with an interplay with the EU ETS Directive include the Renewable Energy Directive, the Energy Efficiency Directive, and the Industrial Emissions Directive. At international level, relevant measures include for example the Paris Agreement and ICAO's Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA).

2.4.1 How coherent do you find the ETS Directive and MSR Decision with other EU policies and international climate agreements

- ○ To a very large extent
- ○ To a large extent
- ○ To some extent
- ○ To a small extent
- ○ Not at all
- ○ Do not know

2.4.2 Please provide suggestions for improving coherence

1000 character(s) maximum

For aviation, the continued 'stop the clock' or exemption from the full geographical scope application for the EU ETS justified by the need to give time for ICAO to develop its own global scheme is an incoherent policy choice, considering that ICAO was first tasked to start addressing international aviation emissions in 1996, that the EU agreed to 'stop the clock' in 2012 and that there is nothing close to a Paris-aligned global scheme in place. This contradicts the EU's climate objectives and ambitions of decarbonising all sectors.

2.5 EU Added Value

EU Added Value considers whether the results of the ETS and the MSR operation could have been achieved without EU intervention, i.e. via national actions by the Member States. Under the principle of subsidiarity (Article 5 Treaty on European Union), and in areas of non-exclusive competence, the EU should only act when the objectives can be better achieved by Union action rather than action by the Member States.

2.5.1 In your opinion, what is the value added of the EU ETS and MSR as instruments aimed at reducing greenhouse gas emissions in the EU?

- ○ Very high
- ○ High
- ○ Moderate
- ○ Low
- ○ Very low
- ○ Do not know

2.5.2 Please provide an explanation to support your view, in particular explaining which particular elements of the ETS you would signal out in terms of adding value or not adding value

1000 character(s) maximum

The EU ETS is underway to meet its target to reduce emissions from the sectors covered by 62% by 2030, compared to 2005 levels. The EU ETS has helped drive down emissions from electricity and heat generation and industrial production by almost 50% since 2005, while generating over EUR 200 billion in auction revenue. However, free allocation of pollution allowances under the EU ETS has caused emissions from industrial sectors to remain stagnant or decrease very slowly, while aviation emissions are still skyrocketing.

The MSR is a long-term solution to a structural oversupply of allowance s on the EU carbon market (at the start of phase 3, the market had a surplus of 2.1 billion allowances). The MSR also makes the ETS more resilient to sudden shocks causing lower demand, for example due to economic downturn caused by the COVID pandemic in 2020. The MSR invalidates allowances in its holdings above 400 million allowances. From its inception to 2024, the MSR has invalidated a total of 3.2 billion allowances.

3 Impact assessment

The impact assessment will explore a number of options compared to the baseline (i.e. continued application of the current ETS Directive), including on:

- The geographical scope of ETS application to flights outside Europe: departing/ arriving flights other than those within the European Economic Area, to Switzerland or the UK;
- Changes to the ETS rules applicable to maritime transport with the objectives to avoid significant double burden on maritime operators and environmental backsliding in case the International Maritime Organization adopts a GHG pricing mechanism, to consider the inclusion of emissions from smaller ships into the ETS as well as measures to ensure the effective implementation of the system and to address possible evasion/circumvention trends and measures to further simplify and improve the system were possible;
- The design of measures to address the risk of carbon leakage for emissions not covered by CBAM post 2030;
- The parameters for the operation of the MSR in addition to other elements of the design of the MSR;
- The potential inclusion of carbon removals into the ETS, covering the scope, the criteria for any such trading, and the safeguards to ensure that carbon removals do not reduce the incentive to reduce emissions
- The treatment of the capture and use of carbon in non-permanent applications, in a manner that all greenhouse gas emissions are effectively accounted for and double counting is effectively avoided;
- The inclusion of municipal waste incineration installations and of other waste management processes, in particular landfills;
- The potential inclusion of installations with total rated thermal capacity below 20MW into the ETS;
- The potential linkage of ETS market with other international carbon markets.

The initiative will also examine how to maximise the climate benefit of the use of ETS revenues. This part of the questionnaire will aim to gather stakeholders' views on these elements.

3.1 Aviation emission

Based on the Climate Law and the Paris Agreement, all sectors of the economy, including aviation, have to contribute to reduce emissions. Currently transport accounts for around 30% of the EU's greenhouse gas emissions, with emissions nearly 30% above 1990 levels (Source: Figure 77, Annex 8, Climate Target Plan and underlying data). Aviation's share of EU transport emissions today is around 10%, by 2050 aviation's share is expected to grow to around 90%. Long-haul flights fuel this growth. Globally, the International Civil Aviation Organization (ICAO) projects international aviation emissions will continue to grow.

The EU ETS Directive applies to aviation since 2012 and was last revised in 2023 to prolong the scope derogation one last time until the end of 2026. Internationally, ICAO's Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) aims to offset emissions above a baseline through cancellations of international credits or the use of CORSIA eligible fuels. CORSIA participation is voluntary for countries since 2021. As of 2024, 126 States participate in CORSIA, while the scheme should become mandatory for countries with aviation activity above the threshold from 2027. Co-legislators have tasked the Commission to report on the geographical scope of application of the EU ETS to aviation, including a proposal as appropriate. In brief, the approaches envisaged in the Directive are:

- In the absence of a revision of the ETS Directive, from January 2027 the EU ETS will cover in addition to its current scope also flights departing from the EEA and arriving to other airports in third countries and, if not exempted through delegated acts (I.e. exercising the empowerment in Article 25a of the EU ETS Directive), incoming flights from third countries (With certain exemptions: Least Developed Countries and Small Island Developing States with a GDP lower than the EU's). All flights covered by the ETS, including long-haul, could request ETS-financed support for eligible sustainable aviation fuels.
- The EU ETS may be revised to maintain the current scope. The EU ETS would be applied exclusively on intra-European flights and departing flights to Switzerland and the UK, and CORSIA on extra-European international flights.
- The EU ETS may be revised to extend the scope to departing extra-European international flights (Intra-European flights as well as departing flights to the UK and Switzerland will remain under the EU ETS, as is the case today) and airlines could deduct any cost of CORSIA offsetting. Arriving flights would be covered by CORSIA (above the baseline) and any measures of the third country. This would mirror the approach taken for international maritime, and take into account CORSIA. All flights covered by the ETS, including departing long-haul flights, could request ETS-financed support for eligible sustainable aviation fuels.

3.1.1 How does action by the aviation sector measure up against its responsibility under the European Climate Law and the Paris Agreement? What level of effort to fight climate change should the aviation sector contribute and how should this develop over time? The aviation sector's level of action is…

- ○ More than sufficient (on track to exceed targets)
- ○ Sufficient (on track to meet targets)
- ○ Somewhat sufficient (clearly better than business as usual, but unlikely to meet targets)
- ○ Not sufficient at all (business as usual or only slightly better)
- ○ Do not know

3.1.2 You are invited to substantiate with evidence

1000 character(s) maximum

Emissions covered by the EU ETS in 2023 increased by 10% (v 2022 levels) in the EU aviation sector, at a time when sectoral climate impacts should be decreasing dramatically. Emissions increased again, though, in 2024 by a further 15% (v 2023 levels). The re-inclusion of non-domestic flights to and from airports in outermost regions and the COVID-19 crisis recovery are far from insufficient to justify these increases.
At international level, after having dropped from 600MtCO2 in 2019 to under 300 in 2020, emissions in 2022 were at 429 MtCO2 and increased by about a ¼ in 2023, reaching 530 MtCO2. It is expected that 2024 emissions (to be published later this year) will exceed that of 2019 (according to IATA or Climate Action Tracker, ia).
Yet, aviation is still an under-taxed sector. Only looking at carbon pricing, the current EU ETS scope priced only less than 10% of the sector's full climate impact (considering uncovered international flights and non-CO2 aviation effects; source: CMW).

3.1.3 Does the current approach to international flights outside Europe adequately address emissions from these flights?

- ○ Yes
- ○ No
- ○ Do not know

3.1.4 You are invited to substantiate with evidence

1000 character(s) maximum

CMW has long refuted CORSIA's compatibility with the EU's climate goals and the Paris Agreement. After being tasked in 1996 to address international aviation emissions, ICAO took 20 years to develop its scheme. A derogation was granted to extra-EEA flights from the EU ETS in 2012, expecting ICAO to deliver a global solution. Ten years later, CORSIA still lacks an emissions reduction target and does not aim for carbon neutrality. It will only become "compulsory" in 2027, and no airline has yet paid for its emissions under the scheme. With two decades lost in design and another one in implementation, ICAO has proven unable to deliver climate action in line with science, the Paris Agreement, or even its own goals. The EU has repeatedly waited for ICAO to act - in vain. Now is the time for the EU to move forward and extend the EU ETS to cover all departing flights, as a first step towards covering all departing and incoming flights under carbon pricing.

3.1.5 The impact assessment will also consider other issues related to aviation emissions. How would you rate the priority of the EU addressing these issues?

- Consideration of environmental and climate impacts of flights of less than 1000km, including but not limited to increased SAF use
- Consideration of the environmental and climate impacts of flights performed 'private/ business jets', i.e. as defined in the ETS Directive: flights performed by operators exempted pursuant to point (h) or (k) of the entry 'Aviation' of the column 'Activities' in the table of Annex I
- Consideration of social and labour market impacts of the ETS Directive in the aviation sector
- Consideration of air connectivity of islands and remote territories taking into account competitiveness and carbon leakage
- The ETS-financed SAF support for the uptake of eligible fuels for flights covered by the ETS carbon price started in 2024 Consideration of first experience and feedback is welcome (e.g. what it supports, who can benefit, level of support, timing, available allowances, type of support mechanism

	Top priority	Highly important	Moderately important	Somewhat important	Least important	Not important at all	Do not know
Flights of less than 1000km	○	○	○	○	○	○	○
"Private/ business jets"	○	○	○	○	○	○	○
Social, and labour market impacts	○	○	○	○	○	○	○
Connectivity, competitiveness, carbon leakage	○	○	○	○	○	○	○
ETS support for eligible fuels	○	○	○	○	○	○	○

3.1.6 You are invited to substantiate with evidence

1000 character(s) maximum

While long flights (typically EU to/from 3rd countries) account for ⅔ of the EU aviation emissions, addressing as effectively flights <1,000km is as important, since, in many cases, alternative, available & cleaner modes of transport (rail) can be used instead and must be fostered more.
Private jets only represent a few % of emissions but private jet travel has an individual carbon footprint 5-14 times higher than commercial planes. It is a social fairness priority to better address emissions from private jet, business class & frequent flyers now to ensure the acceptability of climate policies for all EU citizens. Not only should all private jets be covered by ETS, they should be a subject to a carbon price multiplier. The EU should use ETS aviation revenue to support aviation workers in the transition, as well as LDCs/SIDS, as a minimum compensation, on top of meeting its fair share of the NCQG. Crucially, the EU must stop funding non scalable, unsustainable fuels, and focus on efuels.

3.1.7 Outermost regions: In your view, do you think the ETS aviation rules are effectively reflecting the challenges faced by outermost regions? You are invited to substantiate with evidence.

1000 character(s) maximum

While the challenges faced by outermost regions (OR) must be recognised and addressed, providing exemptions from carbon pricing scope is not a solution and will not help these regions decarbonise, not counting the continued noxious air pollution unfairly impacting local population. Airlines operating flights to/from OR are already eligible to a 100 % coverage of the price gap between kerosene and alternative fuels under the 20M allowance SAF scheme, ie allowing them to avoid carbon pricing by switching to clean alternatives. The way forward should be to stop the mentioned scope exemption and increase available allowance volume under the SAF scheme and, therefore, funding - which the additional revenue from the free allowance phasing out will facilitate. The EU should extend the scheme at least until 2040, add more allowances available per year, put greater focus on efuels (only efuels eligible or at least an efuel window) and enable most flights operating to/from OR to benefit from it.

3.1.8 Simplification: The Commission is constantly striving to improve the legislative framework, while maintaining the quality of the results. Without affecting the environmental integrity of the ETS as it applies to aviation, would you have any indications for areas for simplification of the Directive?

1000 character(s) maximum

The phase out of unnecessary free allowances for aviation is a first good step for the simplification of the EU ETS rules for aviation, on top of providing a stronger carbon price signal and therefore stronger decarbonisation incentive, as well as higher EU ETS revenue. Another simplifcation could be the end of the scope exemption for outermost regions, as long as the necessary support is provided (cf answer to question 5.1.7.). No ‘simplication’ reform must be made if it affects the EU ETS environmental integrity and social justice.

3.2 Maritime emission

While maritime transport plays an essential role in the EU economy and is one of the most energy-efficient modes of transport, it represents 3 to 4% of the EU's total CO2 emissions, or over 126 million tonnes CO2 in 2023.

Since January 2024, the EU ETS covers also the maritime transport sector and more specifically, CO2 emissions from all large ships (of ≥5 000 gross tonnage) calling at EU ports, regardless of the flag they fly and following a route-based approach which covers:

- 100% of emissions that occur between two EU ports and when ships are within EU ports;
- 50% of emissions from voyages starting or ending outside of the EU (allowing the third country to decide on appropriate action for the remaining share of emissions).

The EU ETS extension to maritime transport is part of a broader basket of measures adopted by the European Union to ensure that the sector contributes to the increased EU climate effort and to the Paris Agreement commitments, alongside continuing to push for global action at the International Maritime Organization:

- The ETS Directive as revised in 2023 includes a specific review clause (Article 3gg) in relation to maritime activities. The aim is notably to assess the carbon pricing mechanism to be possibly adopted at the International Maritime Organization (IMO) in 2025 and review the ETS accordingly with the objective to avoid significant double burden on maritime operators and environmental backsliding;
- consider extending the EU ETS to emissions from smaller ships (i.e. the ones below 5 000 gross tonnage but not below 400 gross tonnage), including offshore ships;
- monitor the implementation of the recent EU ETS extension to maritime transport and consider legislative improvements to ensure its effective implementation and to address possible evasion /circumvention trends;
- simplify and improve the system where possible (e.g. coherence with other EU legislations in relation to biomass treatment and in particular the zero-rating of RED-compliant first generation-biomass, promoting the uptake of renewable and low-carbon maritime fuels on a lifecycle basis, streamlining monitoring, reporting and verification rules).

3.2.1 Coherence with a possible global market-based measure at IMO

3.2.1.1 In the event of the adoption by the IMO of a global market-based measure to reduce greenhouse gas emissions from maritime transport, please provide your views on coherence with international developments and suggestions on how to avoid any significant double burden, taking into account the need of preserving the environmental integrity and effectiveness of the EU climate action, the EU climate goals and its international commitments and EU competitiveness

1000 character(s) maximum

The IMO Net Zero Framework (NZF) to be adopted in October is not aligned with the IMO's own GHG Strategy, won't reach sufficient emissions reductions (10% in 2030 v 20-30% target in the Strategy). An IMO 2050 carbon neutrality target doesn't make the NZF automatically aligned with the EU's and Paris Agreement climate goals -and it isn't- since the emissions budget matters. It doesn't price enough emissions (<15%), the carbon price is not high enough to compensate, and revenue generated will be far from sufficient to support both efuel uptake and equity concerns. The EU ETS must thus price 100% of extra-EEA voyages' emissions. This implementation of the NZF is the fairest, considering the need to address NZF's ambition gaps and that operators on these routes will

finance both the IMO Fund and EU budget. The ETS scope can return to 50% for extra-EEA if and when the NFZ is realigned with IMO Strategy and Paris Agreement goals. For intra-EEA voyages, the EU must keep applying only its ETS.

3.2.2 ETS maritime scope extension

3.2.2.1 Do you support extending the scope of EU ETS Maritime provisions to cover emissions from smaller ships (i.e. the ones below 5 000 gross tonnage but not below 400 gross tonnage, including offshore ships)

- (●) Strongly agree
- ( ) Rather agree
- ( ) Neutral
- ( ) Rather disagree
- ( ) Strongly disagree
- ( ) Do not know

3.2.2.2 If you agree, please indicate the ships to be covered by such an extension to achieve broader emission reduction goals.

1000 character(s) maximum

All small ships (400-5000GT) must be covered as from 2027 by carbon pricing under the EU ETS. In its latest report, the Commission estimates these represent more than 13% of EU shipping emissions. Only pricing emissions from small general cargo and offshore ships would mean leaving as much as 8% of EU shipping emissions outside of the EU ETS, affecting its environmental integrity and revenue potential. Moreover, decarbonisation incentives must be given to small ships too as soon as possible, as they can act as jumping boards to test clean solutions, which can then be scaled up to larger, more emitting ships. Finally, just like private jets, there is a social justice imperative not only to price emissions of yachts as soon as possible but also to apply a carbon price multiplier reflecting the tremendous individual carbon footprint of their passengers. It should be considered whether ETS 2 coverage is more fit-for-purpose than ETS 1 to price small ships' emissions or a share of those.

3.2.3 Ensuring the effective implementation of the ETS maritime rules and addressing possible risk of evasion/circumvention

3.2.3.1 Are the current measures effective in preventing shipping companies to evade the requirements of the EU ETS Directive?

- (●) Strongly agree
- ( ) Rather agree
- ( ) Neutral
- ( ) Rather disagree
- ( ) Strongly disagree
- ( ) Do not know

3.2.3.2 If you disagree, what improvements or additional measures would you suggest?

1000 character(s) maximum

3.2.3.3 In your view, do you think the ETS maritime rules are effectively reflecting the challenges faced by islands and remote territories, including outermost regions, where shipping services constitute essential services of territorial continuity?

- Strongly agree
- Rather agree
- Neutral
- Rather disagree
- Strongly disagree
- Do not know

3.2.3.4 If you disagree, you are invited to substantiate with evidence, including any views on the impact of the EU ETS on the connectivity of islands and remote territories, including the EU's outermost region

1000 character(s) maximum

Like in the aviation sector, while the challenges faced by outermost regions must be recognised and addressed in shipping, providing exemptions from carbon pricing scope is not a solution and will not help these regions decarbonise, not counting the continued noxious air pollution unfairly impacting local population. Shipping companies operating voyages to/from outermost regions should be eligible to a financing support from EU ETS revenue covering 100 % of the price gap between the use of fossil fuels and RFNBO such as e-ammonia or e-methanol, ie allowing them to avoid carbon pricing by switching to clean alternative fuels rather than a waiver to pollute. The way forward should be to put such a scheme in place - eg similar to the 20M allowance SAF scheme design - and stop the mentioned EU ETS scope exemption.

3.2.4 Coherence with other EU legislations and possible simplification

3.2.4.1 Do you think the administrative costs linked to the implementation of the ETS extension to maritime transport are proportionate and reasonable?

- Strongly agree
- Rather agree
- Neutral
- Rather disagree
- Strongly disagree
- Do not know

3.2.4.2 If you disagree, what improvements or simplifications would you suggest to streamline administrative costs?

3.2.4.3 Do you think the ETS should further incentivise the uptake of renewable and low-carbon maritime fuels based on Well-to-Wake emissions, taking into account the impacts of energy production, transport, distribution and use on board

- ◉ Strongly agree
- ○ Rather agree
- ○ Neutral
- ○ Rather disagree
- ○ Strongly disagree
- ○ Do not know

3.2.4.4 If you agree, what improvements would you suggest?

1000 character(s) maximum

The EU and countries should only support the most low-carbon and scalable options for the decarbonisation of the shipping fuel mix, ie RFNBO. The H2Bank's shipping window is a start but clearly not enough to make a difference. Shipping companies operating voyages to/from OR should be eligible to financing support from EU ETS revenue covering 100 % of the price gap between the use of fossil fuels and RFNBO/efuels. This could come from a new funding scheme financed by EU ETS revenue similar to the 20M allowance SAF scheme or a double-sided auction scheme under the Sustainable Transport Investment Plan or H2 Mechanism. In either case, combination of 'first come first served' principle and mixing efuels with biofuels will kill efuels chances for FIDs needed by 2026 to reach both FuelEU and REFuelEU mandates - both of which must be reaffirmed. The scheme should only focus on RFNBO or at the very least with a RFNBO window, compensate close to 100% of cost gap and run at least until 2040.

3.3 Stationary installation

3.3.1 The Commission is constantly striving to improve the legislative framework, while maintaining the quality of the results. Without affecting the environmental integrity of the ETS as it applies to stationary installations, would you have any indications for areas for simplification of the Directive

1000 character(s) maximum

- Replace all carbon leakage measures with the CBAM framework: starting with including all indirect emissions for current CBAM sectors to replace indirect cost compensation, and as soon as possible broaden the scope to more sectors (starting with organic chemicals).
    - The administrative burden linked to the allocation of free allowances, from proving activity levels, to respecting the new conditionalities on energy efficiency and climate neutrality plans, can be solved by replacing all free allocation with CBAM phase-in.
    - As a consequence, the 2026 revision should foresee a phase-out timeline for any sectors still receiving free allocation.

- For the remaining duration of the free allocation system, respect the principle of product-based benchmarking, rather than process based.
    - Practically: switch from the clinker benchmarks to a cement benchmark, and from the five steel production benchmarks to two steel benchmarks (long and flat).

5.3.1 Measures to address the risk of carbon leakage for emissions not covered by CBAM sector

The introduction of the CBAM is intended to address the risk of carbon leakage in certain sectors. In these sectors, free allocation of ETS allowances will be phased out gradually from 2026 as CBAM is phased in. From 2034 CBAM sectors will not receive free allocation. It may therefore be necessary to consider what carbon leakage protection measures may be needed after 2030 for emissions not covered by CBAM.

5.3.1.1 If free allocation is continued beyond 2030 for sectors not covered by CBAM, should the future provision of free allocation be based upon

Maximum 3 selection(s)

- ☐ The same carbon leakage list as previously applied in Phase IV (2021-2030)
- ☐ An updated carbon leakage list
- ☐ Providing free allocation on the basis of an updated benchmark methodology
- ☐ Making free allocation conditional on taking steps towards carbon neutrality (the 2023 revision of the ETS Directive already introduces new conditions based on emission intensity from 2026)
- ☐ Other
- ☐ Do not know

5.3.1.2 Please specify

300 character(s) maximum

Carbon Market Watch opposes the continuation of free allocation for sectors not covered by CBAM. The carbon leakage list needs to be thoroughly reduced based on an assessment of the proof (opposed to “risk”) of carbon leakage, and use this information to apply a tiered approach of carbon leakage.

5.3.1.3 Do you think indirect cost compensation will remain necessary after 2030 to protect against the risk of carbon leakage resulting from carbon costs passed on in electricity prices (in sectors where indirect emissions are not covered by CBAM)?

- ○ Yes, the current approach based on State aid should be maintained
- ○ Yes, but the system for compensating indirect carbon costs should be harmonised at EU-level
- ○ No, indirect cost compensation should be phased out
- ○ Other views
- ○ Do not know

5.3.1.4 Free Text Question

300 character(s) maximum

Indirect cost compensation is a fossil fuel subsidy: heavier energy consumption and overreliance on fossil energy is compensated (both which should be de-incentivised). Indirect emissions should be covered by CBAM, and ETS revenues funding ICC should be unlocked to provide OPEX support for RES use.

3.4 Revenue use

The sale of allowances in the EU ETS auctions raises a substantial revenue for Member States to support climate action and energy transformation. In 2023, the total auction revenue amounted to EUR 43.6 billion. Of this, EUR 33 billion went directly to the Member States and EUR 0.3 billion went to Iceland, Liechtenstein, Norway and Northern Ireland. EUR 7.4 billion supplied the ETS Innovation Fund and the ETS Modernisation Fund, and the remaining EUR 2.8 billion supplied the Recovery and Resilience Fund, which Member States use to advance the clean energy transition and boost energy security – by implementing the reforms and investments included to their resilience and recovery plans.

Under Article 10(3) of the ETS Directive, since June 2023 Member States are obliged to use 100% of the revenue collected (or an equivalent financial value) to support climate action and energy transformation, except for any revenue that Member States spend in aid for electricity-intensive industries for indirect carbon costs. The specific purposes are listed in Article 10(3) and include industrial decarbonisation, energy transformation, clean tech technologies, adaptation to climate change, international climate finance, decarbonisation of the transport sector including public transport and mobility, actions for just transition and social support, and administrative expenses of managing the EU ETS.

3.4.1 In your view, what should be the most important uses of ETS1 auction revenues in the future?

Use drag&drop or the up/down buttons to change the order or accept the initial order.

1. Energy efficiency
2. Social support and just transition
3. International purposes and international climate finance
4. Development of renewable energy sources
5. Public transport and mobility
6. Decarbonisation of industrial installations
7. Development of a clean energy system
8. Decarbonisation of aviation
9. Decarbonisation of shipping
10. Development of innovative clean technologies
11. Climate adaptation
12. Upscaling of innovative clean technologies

3.4.2 Do you think that there is sufficient transparency on how Member States use the revenues generated through the EU ETS?

- ○ Strongly agree
- ○ Rather agree
- ○ Neutral
- ○ Rather disagree
- ○ Strongly disagree
- ○ Do not know

3.4.3 Please explain what should be done to increase transparency (if anything)

1000 character(s) maximum

Pursuant to the Governance Regulation and the Reporting Implementing Regulation, member states should make their reports on ETS revenue use available to the public. The publication of these reports, as well as the assessments by the Commission, ensures scrutiny on national spending. Enforcement of the principles set out in Article 10(3), and monitoring of the spending by member states are essential: the European Commission should refuse to endorse reports that do not reflect the principles of the EU ETS Directive. Member states should introduce clawback clauses when the principles of Article 10(3) is not fulfilled by the project receiving funding.

Earmarking of ETS revenue at Article 10(3) must be improved to ensure transparent reporting of spending measures. Details of the resulting environmental and social impacts of spending must be made available for assessment, particularly in light of the upcoming ETS2 from 2027.

3.4.4 Do you think support via the Modernisation Fund will remain necessary in the future?

- ○ Strongly agree
- ○ Rather agree
- ○ Neutral
- ○ Rather disagree
- ○ Strongly disagree
- ○ Do not know

3.4.5 If so, do you think the current scope of the Modernisation Fund is sufficient to address the decarbonisation challenges in lower-income Member States?

- ○ Yes, the current scope should be maintained
- ○ No, the scope should be extended
- ○ I do not know

3.4.6 Please specify

300 character(s) maximum

As outlined in recent research by Bankwatch, the current scope of the Modernisation fund allows for the funding of fossil gas projects (over EUR 2 billion) in covered states.This practice essentially locks lower income member states into higher energy prices as the price of fossil fuels increase with the introduction of ETS2.

3.4.7 Do you think support via the Innovation Fund will remain necessary in the future to support decarbonisation in any of the sectors not covered by the new Industrial Decarbonisation Bank?

- ○ Strongly agree
- ○ Rather agree
- ○ Neutral
- ○ Rather disagree
- ○ Strongly disagree
- ○ Do not know

3.4.8 Please substantiate your reply, in particular indicating which features of the current Innovation Fund should be maintained, strengthened, modified or removed?

1000 character(s) maximum

The call for projects should emphasise, on top of current criteria, materials saving, which should be assessed as a mandatory criterion with equal importance to the degree of innovation.
Between 2020 and 2022, around one third of the Innovation Fund resources were awarded to CCS and CCU and CCU projects (more than €2.5 billion), mostly aimed at building CO2 storage capacity for the cement and lime sectors. In comparison, only one project was awarded to fund research on clinker substitution (project Eraclitus, €4.5 million from the IF). There is very little transparency on the foreseen CO2 emission reductions promised by each project, and what are the consequences if the project doesn't reach the expected emission reductions. The European Commission should share expected reductions, results reached by each project, and enforce clawback clauses if the emission reductions are not reached in the foreseen timelines. It is also key to identify sectors that are urgent to decarbonise (including shipping, aviation, road transport) also to avoid ETS revenues only "pay back" power and industry.

3.5 New Industrial Decarbonisation support

While the EU carbon price already provides an incentive to invest in industrial decarbonisation, many of the investments needed currently have higher abatement costs than the prevailing carbon price. That's why the Clean Industrial Deal fosters competitive industries and quality jobs notably by channelling investments into energy-intensive sectors and clean technologies and ensuring access to affordable energy supplies and raw materials.

Considering that this also requires instruments that provide public financial support in an adequately targeted manner and designed to meet the needs of the market, the Commission announced the creation of an Industrial Decarbonisation Bank to mobilise over €100 billion in funding, based on available funds in the Innovation Fund, additional revenues resulting from parts of the EU ETS as well as the revision of InvestEU. It should help to decarbonise at scale energy intensive industries, to harness competitive advantages across the EU vis-à-vis global competition and to prevent carbon leakage, de-industrialisation and new strategic dependencies.

The Industrial Decarbonisation Bank will maximise emission reductions. It will use ETS allowances reserved for this purpose as part of the architecture of the EU ETS to support projects with carbon emission reduction as a metric to enable technology-neutral support across industrial sectors, including through carbon contracts for difference. It will be designed to ensure a competitive selection and a fair distribution of support across Member States. It will complement the ETS price signal and help bridge the funding gap in both capital and operational expenditures. The Innovation Fund and other support mechanisms developed under the EU ETS already provide examples of best practices to build upon.

3.5.1 Do you support the creation of an Industrial Decarbonisation Bank to support industrial decarbonisation efforts?

- (●) Yes
- ( ) No
- ( ) I don't know

3.5.2 What type of instruments would best support the business case for industrial decarbonisation?

- ( ) Fixed premia support for specific products (e. g. Hydrogen Bank auction)
- ( ) Carbon contracts for difference
- ( ) Grants
- ( ) Promotional loans
- ( ) Production tax credits
- ( ) Blending
- (●) Other

3.5.3 Please specify

300 character(s) maximum

While industries already receive billions to decarbonise their processes and build new infrastructure, what is needed is long term certainty that guarantees emission reductions over a pre-planned timeline. New public funding should include clawback clauses if the emission reductions are not respected.

3.5.4 Do you support additional national resources complementing European-level funding instruments, e.g. through “as-a-service” features?

- Yes
- No
- I don’t know

3.5.5 Please specify

300 character(s) maximum

3.5.6 In your view, what should be the balance between EU-level competition (funding the most cost-effective projects in the EU single market; focus on the EU’s global competitiveness) and geographical balance (quotas based on location)?

- EU-level competition should prevail over geographical balance
- Geographical balance should prevail over EU-level competition
- Other

3.5.7 Please specify

300 character(s) maximum

While Innovation Fund criteria like cost-effectiveness, scalability, and circularity must remain central to maximise emission reductions, it’s essential to ensure that the public interest is served first & public money is used for projects addressing the EU’s environmental & strategic autonomy goals.

3.6 Market Stability Reserve (MSR)

The Market Stability Reserve started operating in 2019. It is a rule-based tool aimed at addressing the surplus of allowances that had accumulated in the EU ETS since 2009, as well as at improving the system's resilience to major shocks by adjusting the supply of allowances to be auctioned. Each year, the Commission publishes the total number of allowances in circulation (TNAC) in the previous year. When this indicator is above 833 million, allowances are withdrawn from the auction volume and placed in the reserve. The MSR intake is either at a rate of 24% of the TNAC, or the difference between the TNAC and 833 million when the TNAC is between 833 and 1 096 million allowances (in order to mitigate threshold effects). If the total number of allowances in circulation is less than 400 million, 100 million allowances are released from the reserve and auctioned. Allowances are either placed in or released from the reserve over the course of 12 months, by reducing or increasing the auction volumes on the primary market for allowances. Allowances in the reserve above 400 million are invalidated on 1 January every year.

So far, the MSR has reduced the structural surplus in the EU ETS. The TNAC in 2023 amounted to 1 112 million allowances. A decreasing market size of available allowances under the EU ETS, intrinsic to the system design (i.e. declining cap) leaves the question about the future role of the MSR: are the original problems still relevant and which potential future problems might it need to address.

3.6.1 Going forward, what should the MSR achieve to ensure the proper functioning of the EU ETS?

- ○ The MSR should continue to tackle the surplus in the market
- ○ The MSR should serve as mechanism to increase market liquidity
- ○ The MSR should be strengthened to prevent excessive EU ETS price volatility
- ○ None of the above
- ○ Other
- ○ I don't know

3.6.2 Please specify

300 character(s) maximum

The MSR has proven its effectiveness in removing the historic surplus in the ETS and restoring a more meaningful price signal despite consistently lower emissions than the cap until now.The MSR also makes the ETS more resilient to sudden and unanticipated shocks causing lower demand (cf. COVID pandemic).

3.6.3 What changes to the MSR would you propose?

Maximum 3 selection(s)

- ☐ Fixed thresholds for MSR intake (833 million allowances) and/or release (400 million allowances) need to be adjusted downwards
- ☐ Fixed thresholds for MSR intake (833 million allowances) and/or release (400 million allowances) need to be adjusted upwards

- ☐ Intake and/or release thresholds should be dynamic, i.e. reflect market conditions at a specific point in time
- ☐ A buffer should be added also for the release threshold, similarly to that for the intake threshold, in order to address potential threshold effects related to releases
- ☐ Intake rate should be kept at 24% beyond 2030
- ☐ Intake rate should revert to 12% after 2030
- ☐ The response time of the MSR should be decreased from annual supply adjustments to adjustments with higher frequency
- ☐ The invalidation rule for holdings in the reserve above 400 million allowances needs to be adjusted
- ☐ The MSR should remain as it is
- ☐ Other
- ☐ Do not know

3.6.4 Free Text Question

300 character(s) maximum

The threshold range was based on the assumed hedging demand mainly in the power sector. With decreased emissions from electricity generation the hedging need from industry comes into consideration. The current thresholds are unlikely to reflect the hedging need in the future and should be decreased.

3.7 New technologies

3.7.1 Carbon Removals

Article 30(5) of the ETS Directive requires that the Commission report on how negative emissions resulting from GHG emissions that are removed from the atmosphere and safely and permanently stored (also called 'carbon dioxide removals', or 'CDR') (such as from biogenic emissions coupled with carbon capture and storage, BECCS, or direct air capture and storage, DACCS) could be accounted for and how those negative emissions could be covered, if appropriate, by emissions trading. This consideration needs to include (a) a clear scope, (b) strict criteria, and (c) safeguards to ensure that carbon removals do not reduce the incentive to reduce emissions as required by the EU Climate Law.

The Carbon Removal and Carbon Farming (CRCF) Regulation of 27 November 2024, which aims to create an EU-wide voluntary framework for certifying different types of carbon removal activities across Europe, including permanent carbon removals and temporary removals including via carbon farming and carbon storage in products. Certified units will be issued for carbon removal activities that take place within the EU.

The EU ETS currently regulates direct emissions to stimulate reductions, with a shrinking cap expected to result in no new allowances by 2045 based on the yearly reduction of the cap in application of the linear reduction factor to the current scope of the EU ETS. A shrinking cap may impact the functioning of the carbon market, in particular with lower liquidity (possibility to quickly buy allowances) making the marketmore liable to price spikes. Moreover, emissions reductions in regulated sectors may be more challenging to achieve in the next period if the majority of emissions that remain in the system are increasingly those that are hardest to abate, leading to an interest in considering alternative means of achieving EU GHG targets. Allowing EU ETS regulated entities to use removal units towards their EU ETS compliance could address some of these concerns, but is also subject to important challenges, such as ensuring that carbon removals do not reduce the incentive to reduce emissions as required by the EU Climate Law. At the same time, allowing use of removals under the EU ETS could provide regulatory clarity and incentivize investments in carbon removals.

The following questions on the potential inclusion of carbon removals in the EU ETS do not preclude complementary or alternative policies from being developed for the scaling up carbon removals.

3.7.1.1 With regards to the possible use of CRCF removal units* by EU ETS regulated entities towards their compliance obligations, please indicate whether you agree or disagree with the following options:

	Strongly agree	Somewhat agree	Neutral	Somewhat disagree	Strongly disagree	Do not know
Removals certified under the CRCF should NOT be allowed for use by EU ETS regulated entities towards their compliance obligations	○	○	○	○	○	○

	Strongly agree	Somewhat agree	Neutral	Somewhat disagree	Strongly disagree	Do not know
Removals certified under the CRCF should NOT be allowed for use by EU ETS regulated entities towards their compliance obligations	○	○	○	○	○	○
Permanent removals** certified under the CRCF should be allowed for use by EU ETS regulated entities towards their ETS compliance obligations	○	○	○	○	○	○
Temporary removals*** certified under CRCF should be allowed for use						

by EU ETS regulated entities towards their ETS compliance obligations	○	○	○	○	○	○
CRCF removals should be acquired by a central agency and inserted into the EU ETS under specific conditions	○	○	○	○	○	○
EU ETS regulated entities should be allowed to purchase CRCF removals directly from removal suppliers and use them to fulfil surrender obligations	○	○	○	○	○	○
EU ETS installations should be allowed to deduct from their compliance obligations any removals generated from their own activities, i.e. an ETS installation is able to obtain negative emissions by capturing and storing any of its emissions which are rated zero, without having to obtain a CRCF credit.	○	○	○	○	○	○
The use of CRCF removals by ETS regulated entities should not be unlimited, but subject to restrictions	○	○	○	○	○	○
The use of CRCF removals by EU ETS regulated entities should be phased in slowly over time	○	○	○	○	○	○
There should be a limit on gross emissions by EU ETS regulated entities (not only net ones)	○	○	○	○	○	○

* The CRCF certifies the following activities which are defined as one or more practices or processes carried out by an operator, or a group of operators, resulting in (i) a permanent carbon removal, (ii) a temporary carbon removal through carbon farming or through carbon storage in products, (iii) or soil emission reductions through carbon farming where such carbon farming, overall, reduces the emissions of carbon from soil carbon pools or increases carbon removals in biogenic carbon pools.

** The CRCF defines 'permanent carbon removal' as any practice or process that, under normal circumstances and using appropriate management practices, captures and stores atmospheric or biogenic carbon for several centuries, including permanently chemically bound carbon in products, and which is not combined with enhanced hydrocarbon recovery;
*** The CRCF certifies the activity resulting in temporary carbon removal through carbon farming or through carbon storage in products. These are defined as follows:

- 'carbon farming' means any practice or process carried out over an activity period of at least five years, related to the management of a terrestrial or coastal environment and resulting in the capture and temporary storage of atmospheric or biogenic carbon in biogenic carbon pools, or in the reduction of soil emissions;
- 'carbon storage in products' means any practice or process that captures and stores atmospheric or biogenic carbon for at least 35 years in long-lasting products, allows on-site monitoring of the carbon stored and is certified throughout the monitoring period;

3.7.1.2 Please provide explanation or examples to support your view.

1000 character(s) maximum

CDR integration (whether limited in quantity and/or quality) will cause mitigation deterrence due to the signal it sends to ETS operators.The push for integration is mainly driven by actors stating they want increased liquidity or cost containment. Neither can happen if the integration is limited to high-quality and sustainable permanent CDR, as these are expensive and unlikely to be significantly scaled by 2035-2040. Therefore integration will also do nothing to fund or scale those removals due to significant price differentials.
The political forces pushing for CDR in the ETS are unlikely to be satiated by a limited inclusion (as liquidity and price impact will be low to zero) - starting along this path risks a slippery slope towards integration cheaper and easily scalable units, such as forestry or international units. Many ETS emissions still need to be abated - the focus must remain on that climate imperative. ETS revenues could be used to fund CDR without any integration of units.

3.7.1.3 Do you consider that **alternative or complementary** policies to the integration of carbon removals in the EU ETS are necessary to scale up carbon removals?

- (○) Alternative policies are needed
- ( ) Complementary policies are needed
- ( ) None
- ( ) I don't know

3.7.1.4 Please list and explain which

1000 character(s) maximum

There are many options that do not imply a full equivalency between emissions and removals, and do not cause significant mitigation deterrence risks. These options include (but are not limited to):

- Using ETS revenues to fund CDR activities without units entering the ETS (e.g. dedicated calls for specific CDR tech via Innovation fund)
- Removal Trading Scheme focused on polluters (on top of ETS) and ability to pay (e.g. fossil fuel producers/importers and tech companies)
- National removal targets alongside emission reduction targets in ESR

Key is that removals complement - not substitute - emission reductions. High-quality; sustainable and permanent CDR will remain scarce and expensive, with potential risks for planetary boundaries if scaled too far. Therefore they must not be wasted on offsetting in the ETS as many non-ETS emissions also need to be balanced to reach climate neutrality.

3.7.2 Non-permanent Carbon Capture and Usage (CCU)

Industrial carbon management involves the use of a range of technologies to capture, store, transport and use CO_2 emissions from industrial facilities, as well as to remove CO_2 from the atmosphere. The EU Industrial Carbon Management Strategy seeks to develop these technologies and the regulatory and investment framework to support them.

Emissions from some industrial processes and forms of transport or agriculture are more difficult or expensive and the challenge to reduce emissions will increase as we approach the 2040 and 2050 targets. In some cases, where a carbon-based feedstock is required, alternatives to fossil feedstock are necessary. This is why there is a role to play for technologies to remove, capture, store and re-use carbon.

The EU already has a number of policies in place to support the capture and storage of CO_2, including the possibility to avoid surrendering allowances in the EU ETS if emissions are captured and permanently stored. The 2023 revision of the EU ETS also introduced the possibility to avoid surrendering allowances where emissions are captured and stored permanently in CCU products in compliance with the requirements set out in Article 12(3b), as an equivalent to the possibility to capture and store emissions geologically under Article 12(3a).

Concretely, the ETS recognizes mineral carbonates used in construction products: carbon capture and utilization (CCU) products as permanently chemically binding CO_2 under Delegated Regulation C(2024) 5294. The mineral carbonates are considered permanent when used in the following construction products:

- Carbonated aggregates used unbound or bound in mineral based construction products;
- Carbonated constituents of cement, lime, or other hydraulic binders used in construction products;
- Carbonated concrete, including precast blocks, pavers or aerated concrete;
- Carbonated bricks, tiles, or other masonry units.

With this framework, the EU ETS has implicitly established accounting (Accounting in this context refers to emission accounting, i.e. monitoring and reporting emissions associated with certain processes, and, in the context of the EU ETS the surrender of the corresponding number of emission allowances) of non- permanently captured emissions upstream, at the first point to release. Until all stages of the life of a product in which captured carbon is used are subject to carbon pricing, in particular at the stage of waste incineration, reliance on accounting for emissions at the point of their release from products into the atmosphere (‘downstream’ accounting) might result in emissions being undercounted. At the same time, the current framework of upstream accounting places non-permanent CCU products at a disadvantage in comparison to products that use virgin fossil carbon feedstock and does not take into account the CCU benefits in terms of displacing virgin fossil fuels and the related emissions.

Taking into account in particular the potential inclusion of waste incineration and landfills into the EU ETS and the need to provide a level-playing field for the replacement of fossil carbon feedstock by alternative sources, it is necessary to assess whether the CO_2 potentially released from non-permanent CCU products and fuels should be accounted at the point of emission to the atmosphere (‘downstream accounting’), and if so in a manner equal to any products whose manufacturing is based on virgin fossil fuel carbon feedstocks, or when the CO_2 is initially captured (‘upstream accounting’).
Overall, the capture of carbon should be regulated in a way that reduces net emissions and ensures that all emissions are accounted for in an equal manner and that double counting is avoided. This could take into account the potential climate benefit of non-permanent CCU applications as alternative to a fossil-based product and therefore their role in complementing mitigation efforts for hard-to-abate emissions, as well as considering the energy consumption to power this energy-intensive process and the need to support investments in CCU as a technological pathway to reduce strategic dependencies on imported virgin fossil fuels, promote the re-use of carbon and circular business models.

3.7.2.1 Please indicate to what extent you agree with the following statements.

	Strongly agree	Somewhat agree	Neutral	Somewhat disagree	Strongly disagree	Do not know
The surrender obligation should be moved downstream for non-permanent products produced with captured CO 2	○	○	○	○	○	○
The ETS should adjust the surrendering obligations where emissions are captured and used (CCU) in products that do not result in the permanent storage of the captured carbon, to acknowledge the potential climate benefit of the capture and use of the carbon	○	○	○	○	○	○
There should be restrictions or conditions to adjusting surrendering obligations to recognise the climate benefit of the capture and non-permanent use of carbon (e. g.: minimum emission savings, displacement of fossil carbon, avoiding double counting/pricing of the same emissions)	○	○	○	○	○	○

3.7.2.2 Please provide your main views regarding the treatment of capture and non- permanent use of carbon in the ETS, and potential adjustments in surrendering obligations to recognise its climate benefits.

1000 character(s) maximum

Moving accounting downstream risks undercounting emissions, or incentivising temporary re-use of carbon without climate benefits. It is not feasible to have accurate MRV on all downstream 'temporary storage' products (for example fuels, plastics, chemicals). The carbon stored by 'non-permanent CCU' will not have meaningful climate benefits, and enabling lowering of ETS compliance obligations risks creating a massive loophole for industrial and power emissions.
While the crowding out virgin fossil fuels could have a climate benefit, it will depend on project-specifics that require close scrutiny. Exempting CCU from the ETS is not the way forward to promote only potential beneficial cases. Alternatively, additional penalties (such as higher levies or taxes) should be used to desincentivise virgin fossil fuel use.

3.7.2.3 What accounting approach should be applied to ensure the integrity and effectiveness of the EU ETS, i.e. avoiding underpayment or double payment of ETS emissions, to non-permanent CCU technologies in the ETS?

- (●) Upstream accounting (i.e. emissions are accounted/paid for at capture, unless permanently stored)
- ( ) Sharing the accounting between the producer of the CCU product and the user of the product that leads to the final emission.
- ( ) Downstream accounting option where the final emitter pays, provided that municipal waste incineration would be included in the ETS
- ( ) Downstream accounting option with 'chain of custody' approach, where the liability for allowance submission is associated with the captured carbon and passed along the value chain, provided that municipal waste incineration would be included in the ETS
- ( ) Life-cycle assessment-based surrender obligation with upstream accounting option
- ( ) Life-cycle assessment-based surrender obligation with downstream accounting option

3.7.2.4 Please provide explanation to support your view.

1000 character(s) maximum

All alternatives to the upstream accounting option risk emissions being undercounted or not being covered by the polluters pays principle. Life-cycle assessments are likely to underestimate emissions as they risk becoming highly politicised. Not all emissions from temporarily stored CCU will end up in 'municipal waste incineration' nor the ETS (for example fuels used for international transport, exported chemicals, or plastics that end up in the environment or landfill. Incentivising non-permanent CCU with the inclusion of waste incineration in the ETS could even risk incentivising export or illegal dumping of 'non-permanent CCU' products and related-waste to escape ETS compliance obligations.

3.7.2.5 Currently, CO_2 transport activity in the ETS Directive is limited to transport with the

objective of storage. Do you think it is important to alter this to also cover CO_2 transport for any purpose to have a level playing field for CCS and CCU?

- ○ Yes
- ☒ No

3.7.2.6 Please provide explanation to support your view.

1000 character(s) maximum

/

3.8 Potential expansion of the scope of the Directive

3.8.1 Municipal Waste Incineration (MWI) and other waste management processes

By June 2026, the Commission will assess the feasibility of including municipal waste incineration (MWI) installations in the EU ETS, with the aim of doing so from 2028, and with an assessment of the potential need for an option for Member States to opt out until 31 December 2030. This assessment should also cover the possibility of including other waste management processes in the EU ETS, in particular landfills, which create methane and nitrous oxide emissions.

Following the 2023 review of the EU ETS, MWI installations must monitor and report their emissions under the EU ETS starting in 2024. The collected data is intended to feed into to the Commission's assessment. Currently, MWI installations do not surrender allowances for their emissions under the EU ETS.

Emissions of pollutants to air, including greenhouse gases, from waste incineration, waste co-incineration and from waste management activities over a certain size are currently regulated by the Industrial Emissions Directive (IED) (Directive 2010/75/EU amended by Directive 2024/1785). These emissions are regulated via operating permits based on the use of Best Available Techniques (BATs) and on associated emission levels.

An inclusion of emission from MWI installations and other waste management processes in the EU ETS does not prejudge the implementation and further development of EU' s waste policy.

3.8.1.1 Do you agree that MWI installations should be fully included in the EU ETS if possible?

- ○ Strongly agree
- ○ Rather agree
- ○ Neutral
- ○ Rather disagree
- ○ Strongly disagree
- ○ Do not know

3.8.1.2 Please provide explanation to support your view.

1000 character(s) maximum

Municipal waste incinerators (MWIs) are major CO_2 emitters and should be fully included in the EU ETS to ensure their climate impact is accounted for. This would promote environmental responsibility and align with existing EU policy. Full inclusion—covering both fossil and biogenic CO_2—supports the waste hierarchy by discouraging over-reliance on incineration and encouraging prevention, reuse, and recycling. Currently, MWIs must monitor emissions but aren't required to surrender allowances, full inclusion would align their treatment with other sectors under the EU ETS. Emissions from both heat

and electricity generation should be included to avoid loopholes and align with upcoming inclusion of buildings in 2027. Full inclusion ensures fair treatment, strengthens climate goals, and reinforces sustainable waste management across the EU.

3.8.1.3 Do you agree that installations for the incineration of hazardous waste should also be included in the EU ETS (together with MWI installations)?

- (●) Strongly agree
- ( ) Rather agree
- ( ) Neutral
- ( ) Rather disagree
- ( ) Strongly disagree
- ( ) Do not know

3.8.1.4 Please provide explanation to support your view.

1000 character(s) maximum

Hazardous waste incineration emits CO_2 and should be treated accordingly under the EU-ETS. Excluding it lacks environmental justification and undermines climate efforts. It also adds unnecessary complexity by applying different rules to different incinerators. Beyond that, the exemption acts as an implicit subsidy for hazardous waste treatment, weakening incentives to redesign products or processes to avoid hazardous materials in the first place. Including all incinerators in the EU-ETS would ensure consistency and support both environmental and circular economy objectives.

3.8.1.5 Do you agree that the emissions from any of the following waste management activities should be included in the EU ETS if waste incineration is included? Choose all that apply.

- Landfilling
- Compositing
- Anaerobic digestion
- Mechanical recycling
- Chemical recycling
- Other recovery or conversion technologies, such as pyrolysis or gasification, to turn waste into energy and/or synthetic fuels
- Do not know

3.8.1.6 Please provide explanation to support your view.

1000 character(s) maximum

Other waste management activities should be considered for EU ETS inclusion where appropriate. In particular, pyrolysis and gasification must be included, as they are forms of incineration—this aligns with Zero Waste Europe's position and ensures consistent carbon pricing. Landfilling could also be assessed for inclusion, though landfill taxes or bans already serve as effective deterrents in many EU countries. Since landfilling and incineration are the least preferred options under the waste hierarchy, they should carry the highest carbon cost. This would help shift incentives toward waste prevention, reuse, and recycling. It's important to recognise that waste must be treated—the aim is not to penalise treatment, but to promote the cleanest and most circular options.

3.8.1.7 What methodology is most appropriate for the MRV of the emissions from different waste activities (considering data reliability and cost-effectiveness)?

1000 character(s) maximum

The most appropriate approach is MRV of mitigation actions—tracking the implementation and impact of policies and projects on both greenhouse gas (GHG) emissions and sustainable development outcomes. Policy design should not rely solely on methods used for national GHG inventories. Instead, when considering the inclusion of MWIs and other incinerators in the EU ETS, MRV should be guided by the policy's primary objective: achieving climate goals.

3.8.1.8 Do you think that the inclusion of MWI installations in the EU ETS may help reduce the current emissions from waste?

- MWI inclusion will significantly reduce GHG emissions without considering any further actions
- MWI inclusion will significantly reduce GHG emissions if other waste sectors, such as landfill, are incorporated
- MWI inclusion will significantly reduce GHG emissions if the non-permanent use of carbon is recognised in the ETS
- MWI inclusion will significantly reduce GHG emissions if carbon removals are integrated in the

ETS

- [ ] MWI inclusion will contribute to significant reductions in GHG only if complementary circular economy policies are effectively implemented, such as extended producer responsibility schemes, material recovery targets, and/or other targets aiming to reduce virgin fossil feedstock use and disposal
- [ ] MWI inclusion will have some impact on reducing GHG emissions, but this will be negligible compared to other sectors
- [ ] MWI will not contribute to any GHG emission reduction at all
- [ ] MWI will not contribute to any GHG emission reduction at all and may even present a detrimental effect
- [ ] Other views
- [ ] Do not know

Please, add any comments

300 character(s) maximum

Exempting parts of incineration emissions from carbon costs—like biogenic CO_2—undermines the cascading use principle. It acts as a subsidy, making burning cheaper than recycling and weakening incentives for more circular waste practices.

3.8.1.9 Please specify

300 character(s) maximum

3.8.2 20 MW threshold

With the aim of increasing the level of ambition of the EU ETS, there may be the need to extend the EU ETS' coverage to include those installations that are not currently under the scope concerning the combustion of fuels. The current scope applies to those installations with a capacity exceeding 20MW total rated thermal input. A change on this Annex I activity should also consider that in many cases emissions from fuel combustion in these installations will be covered by EU ETS2.

It should also be noted that emissions of pollutants to air, including greenhouse gases, from some of the activities listed in Annex I and subject to the potential scope extension are currently regulated by the Industrial Emissions Directive (IED) (Directive 2010/75/EU amended by Directive 2024/1785). This concerns refining of oil as well as production and processing of metals above the thresholds of IED Annex I.
These emissions are regulated via operating permits based on the use of Best Available Techniques (BATs) and on associated emission levels. Emissions from combustion of fuels in installations with a total rated thermal input below 20 MW and above 1 MW are covered by the Medium Combustion Plants Directive (Directive 2015/2193) but do not include emissions of CO_2.

3.8.2.1 The EU ETS ambition could be strengthened by lowering the threshold of installation capacity thus to expand the pool of eligible installations. Do you agree with lowering the threshold?

- Strongly agree
- Rather agree
- Neutral
- Rather disagree
- Strongly disagree
- Do not know

3.8.3 Linking with other carbon markets

The European Commission is analysing how linkages between the EU ETS and other international carbon markets can be established in accordance with Article 25 of the EU ETS Directive to support cost-effective climate change mitigation. The EU ETS is a key instrument to achieve the EU climate targets cost- effectively, and any linking must safeguard its environmental integrity and effectiveness. Linking carbon markets can offer advantages to both the EU and its partners. These include price convergence and mitigation of carbon leakage risks, access to more cost-effective mitigation options, increased market liquidity as well as resilience to shocks. A robust linking, however, presents challenges regarding (and not limited to) the alignment of ambition levels, scopes, market stability measures and oversight mechanisms across systems. Such an alignment would need to be carefully negotiated to ensure that the benefits of linking are gained. To date, the EU has established one link with the Swiss ETS. The following questions aim to gather stakeholder views on the priorities, criteria, and timing for potential linkages between the EU ETS and other international carbon markets.

3.8.3.1 Since 2020, the EU ETS and the Swiss ETS are linked, and the ETS Directive governs how links with other emission trading systems can be set up. Should the EU pursue further linking opportunities and if so, what would be the main motivations for the EU to do so?

Maximum 3 selection(s)

- [ ] The EU should pursue linking to increase access to mitigation options for the ETS sectors
- [ ] The EU should pursue linking to improve cost-effectiveness of the emissions reduction under the ETS via price convergence
- [ ] The EU should pursue linking to reduce the risk of carbon leakage for ETS sectors
- [ ] The EU should pursue linking to support liquidity in the EU carbon market
- [ ] The EU should pursue linking to reinforce its leadership on global carbon pricing and climate change mitigation as well as to expand cooperation with third countries
- [ ] The EU should pursue linking efforts for other reasons [please specify]. (open text) [Max 300 characters]
- [ ] The EU should not pursue further linking opportunities
- [ ] Do not know

Linking carbon markets should be coupled with an increased emission reduction target. Given that the main benefit of linking is to reduce costs for companies by increasing the pool of available emissions reductions, this should be possible at no additional cost.

3.8.3.2For EU ETS to link with other international compliance carbon markets, certain critical criteria must be met. These include robust monitoring, reporting, and verification (MRV) of emissions; transparent governance processes with strict respect to the rule of law; and a Paris-aligned Nationally Determined Contribution (NDC).

What are the most important additional characteristics that a potential partner ETS must have for linking with the EU ETS?

at most 3 answered row(s)

	1st	2nd	3rd
Identical approach to cap setting (i.e., no linking with intensity-based systems)	○	○	○
Compatible (but not necessarily identical) market stability mechanisms	○	○	○
Compatible (but not necessarily identical) approach to allowance banking and borrowing	○	○	○
Similar (but not necessarily identical) approach to offsets, particularly removal credits	○	○	○
Similar (but not necessarily identical) scope of coverage in terms of GHGs and sectors	○	○	○
Similar share of allowances allocated via auctioning	○	○	○

Similar allowance price levels in the lead-up to the link	○	○	○
Similar (but not necessarily identical) approach to leakage protection	○	○	○
Similar (but not necessarily identical) approach to market rules on participation, derivatives, etc.	○	○	○
Other	○	○	○
Do not know	○	○	○

3.9 Final question

3.9.1 Would you have any additional comments on points not raised in the previous questions, submit evidence or position paper on topics falling under the scope of this review?

1000 character(s) maximum

CMW supports the exclusion of ETS2 from the consultation and its implementation. ETS2 is a crucial element in achieving the EU 2040 climate target and creates a valuable source of finance for socially targeted climate action through the SCF/ wider ETS2 revenue.The ETS legislation contains safeguards against the risk of high prices. To avoid unnecessarily weakening ETS2, the market must be allowed to function in its initial phase for price discovery to occur. Weakening the market too early puts the ability of ETS2 to achieve emissions reductions at risk, reduces the revenue available for member states and weakens the investment signal. Further action is urgently needed to ensure that ETS2 delivers fair and effective climate action. Strong social climate plans and the dedication of all ETS2 revenue to complementary measures and investments such as CO2 standards, ZEV public transport, and targeted subsidies/ financing for heat pumps and retrofitting will help to lower the ETS2 price.

Contact

Sam van den plas

Policy Director

sam.vandenplas@carbonmarketwatch.org