CALL FOR EVIDENCE FOR AN EVALUATION AND IMPACT ASSESSMENT RUN IN PARALLEL	
TITLE OF THE INITIATIVE	Review of the EU ETS for maritime, aviation and stationary installations, and of the Market Stability Reserve
LEAD DG – RESPONSIBLE UNIT	DG CLIMA Units B1, B2, B4, C2
LIKELY TYPE OF INITIATIVE	Legislative proposal(s) amending Directive 2003/87/EC and Decision (EU) 2015/1814 supported by a back-to-back evaluation and impact assessment
INDICATIVE PLANNING	Q3 2026
ADDITIONAL INFORMATION	https://climate.ec.europa.eu/eu-action/eu-emissions-trading-system-eu-ets_en

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A. Political context, evaluation, problem definition & subsidiarity check

Political context

Directive 2003/87/EC (the ETS Directive) lays down the rules for greenhouse gas emission allowance trading within the European Union. The Market Stability Reserve (MSR) for the EU Emissions Trading System (EU ETS) was established by Decision (EU) 2015/1814 (the MSR Decision).

Regulation (EU) 2021/1119 of the European Parliament and of the Council ('the European Climate Law')[1] set a legally binding target of net zero greenhouse gas emissions at the latest by 2050, and an intermediate target of reducing net greenhouse gas emissions by at least 55% by 2030, compared to 1990 levels. The 'Fit for 55' package of legislation under the European Green Deal makes all sectors of the EU's economy fit to meet this target. The ETS Directive and the MSR Decision were reviewed by Directive (EU) 2023/958 and (EU) 2023/959[2] and amended in 2023, as part of this package.

Most changes introduced by these amendments took effect from 1 January 2024 or will take effect from the start of the second free allocation period (2026-2030). However, some have applied since the entry into force of Directive (EU) 2023/959 on 5 June 2023.

The current EU ETS legislation sets an emission reduction target of 62% for stationary installations, aviation and maritime transport (ETS1) by 2030 compared to 2005. Stability and full implementation of the legislative framework in place for meeting the 2030 climate and energy targets is a precondition for the EU to stay on course to reach climate neutrality in 2050.Article 2(1) of Regulation (EU) 2021/1119 set the objective of achieving climate neutrality by 2050. With a view to achieving that objective, an EU-wide climate target for 2040 will be set following a proposal from the European Commission.

The 2023 review under the Fit for 55 package introduced several review clauses relating to ETS1, under Article 3gg(5), Article 28b and Article 30 to assess potential adjustments to the system on aviation, maritime transport and stationary installations by July 2026. In addition, Article 3 of the MSR Decision sets a legal obligation

[1] Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

[2] Directive (EU) 2023/958 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC as regards aviation's contribution to the Union's economy-wide emission reduction target and the appropriate implementation of a global market-based measure (OJ L 130, 16.5.2023) and Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system (OJ L 130, 16.5.2023).

for a review of this instrument, with the next review due in 2026. Following the 'evaluate first' principle, the ETS Directive and the MSR Decision must be evaluated before undergoing revision.

A new emissions trading system covering CO_2 emissions from fuel combustion in buildings, road transport and small industry (ETS2) was created in the 2023 revision of the ETS Directive. As ETS2 will become fully operational in 2027, it is excluded from the scope of this initiative. Furthermore, any assessment of the feasibility of integrating the sectors under ETS2 into ETS1 is subject to a review clause due in 2031 (see Article 30i of Directive 2033/87/EC).

Evaluation

In compliance with the Better Regulation guidelines, the evaluation will assess the effectiveness, efficiency, relevance, coherence and EU added value of: (i) the ETS Directive in promoting reductions of greenhouse gas emissions in a cost-effective and economically efficient manner; and (ii) the MSR Decision in tackling structural supply-demand imbalances and making the ETS more resilient to such imbalances.

The efficiency analysis will consider the costs and the benefits of the intervention and will include a quantitative assessment. It will also assess the potential for simplification and burden reduction.

The evaluation is a backward-looking exercise, while the impact assessment that will be carried out back-to-back with the evaluation is forward-looking. The evaluation will look at the ETS Directive's implementation since the amendments introduced by Directive (EU) 2018/410 and at the MSR Decision's implementation relating to the functioning of the MSR from 2019 to the present. The evaluation will exclude the implementation of new rules introduced in the review of the EU ETS that entered into force on 5 June 2023, as evaluations require at least three years of available implementation data. These concern, among others, ETS2 and the coverage of the maritime sector by ETS1.

The evaluation and impact assessment will be carried out in parallel, while still allowing for the findings of the evaluation on the performance of the existing Directive and Decision to inform the fact finding exercise carried out for the impact assessment. This fact finding will be carried out through targeted interviews regarding (i) possible policy options and alternatives envisaged to tackle any identified problems going forward, and (ii) the assessment of impacts of such options.

Problem the initiative aims to tackle

Based on the Climate Law and the Paris Agreement, all sectors of the economy must contribute to reducing emissions, including all of the sectors covered by ETS1.

This contribution risks being hampered by potential residual emissions from sectors with low incentives to shift to clean solutions due to incomplete internalisation of the climate cost, and from sectors without technologically or economically viable alternatives.

Aviation's share of EU transport emissions today is around 10%, or around 4% of the EU's total CO_2 emissions. By 2050, aviation's share is expected to grow to around 90%[3]. Long-haul flights fuel this growth. Globally, the International Civil Aviation Organization (ICAO) projects that international aviation emissions will continue to grow[4]. Maritime transport represents around 14% of the total EU transport emissions, or around 4% of the EU's total CO_2 emissions. For the aviation and maritime transport sectors, separate policies to support the uptake of more sustainable fuels have been put forward[5].

Over the coming decade, and to achieve climate neutrality by 2050, industry will have to go through enormous transformation to decarbonise and switch to cleaner and more energy efficient technologies. At the same time, it will need to foster competitiveness and ensure quality jobs, consistent with the objectives of the Clean Industrial

[3] Source: Figure 76, Direct CO_2 emissions from the EU transport sector by mode, Annex 8, Climate Target Plan. And Section 1.5.5, page 97. https://eur-lex.europa.eu/resource.html?uri=cellar:6c154426-c5a6-11ee-95d9-01aa75ed71a1.0001.02/DOC_3&format=PDF

[4] Source: International Civil Aviation Organisation. Microsoft PowerPoint - CAEP_Update COVID-19 impact analyses (C224).pptx

[5] For aviation, ReFuelEU aviation sets targets for fuel producers to supply an increasing share of sustainable aviation fuels, starting with 2% of certain biofuels in 2025, 6% in 2030 (of which 0.7% synthetic fuels). For the maritime sector, FuelEU Maritime sets maximum limits for the yearly average greenhouse gas (GHG) intensity of the energy used by ships above 5 000 gross tonnage calling at European ports, regardless of their flag.

Deal announced for the first 100 days of mandate of the new European Commission. This transformation requires stepping up investments, while remaining competitive and affordable. The deployment, pace and scaling-up of existing and new technologies such as carbon removals and carbon capture and utilisation will need both public and private support.

The waste treatment sector is not subject to carbon pricing at EU level. Waste accounts for about 3% of the EU's total greenhouse gas (GHG) emissions. In addition to losing valuable resources, waste can have significant negative impacts on human health and the environment. For example, incinerating waste can contribute to air pollution, while landfills might contaminate water and land. Waste sector emissions could decrease further once all current EU waste policies are fully implemented. However, new policy instruments could support GHG emissions reductions from the sector.

In addition, ETS1's contribution to the necessary emissions reductions may be hampered by market inefficiencies resulting from a decreasing market size, which is intrinsic to the system design. The MSR rules under the ETS aim to tackle structural supply-demand imbalances between the available allowances to emit CO_2 and the emissions of the compliance entities covered. This initiative will therefore analyse whether the rules governing the operation of the MSR remain appropriate in the context of a smaller supply of allowances. Market inefficiencies may also result from potential misalignment with carbon pricing rules at international level the International Civil Aviation Organization (ICAO), the International Maritime Organization (IMO) and United Nations Framework Convention on Climate Change (UNFCCC)).

In consequence, this initiative aims to ensure that the EU ETS and the MSR are properly adjusted to promote cost-effective emissions reductions in the covered sectors in line with climate neutrality in 2050, while addressing consistency with international developments, as appropriate. This involves: (i) ensuring that the market remains efficient and creates an incentive to invest in decarbonisation in the global context; and (ii) addressing specific challenges faced by covered sectors to facilitate the uptake of available solutions. This assessment will be carried out in a manner consistent with the other legislative acts to facilitate the clean transition and the competitiveness of EU industry. As part of this exercise, the impact assessment will examine: (i) how to optimise the use of ETS revenues in support of decarbonisation investment and (ii) the potential for increased synergies between support instruments.

Basis for EU action (legal basis and subsidiarity check)

Legal basis

The legal basis for this initiative is Article 192(1) of the Treaty on the Functioning of the European Union (TFEU).

Practical need for EU action

Climate change is a trans-boundary problem, and both international and EU action can effectively complement and reinforce regional, national and local action. Coordination at European level enhances climate action and EU action is justified on grounds of subsidiarity, in line with Article 191 of the TFEU. The EU has worked since 1992 to develop joint solutions and drive forward a global agreement to fight climate change.

Action at EU level is therefore indispensable and has a much bigger chance of leading to the necessary transformation, acting as a strong driver for cost-efficient change and upward convergence. As a carbon market, the EU ETS, with its MSR, incentivises emissions reductions to be made by the most cost-efficient solutions first across the activities it covers, achieving greater efficiency by virtue of its scale. Implementing a similar measure nationally would result in smaller, fragmented carbon markets. This would risk distortions of competition and likely lead to higher overall abatement costs. The same logic holds for extending carbon pricing to new sectors. In addition, the cross-border dimensions of industry, maritime transport and aviation call for coordinated action. A single, coherent set of rules is also simpler to apply for stakeholders.

B. Objectives and policy options

Certain aspects of the EU ETS may need to be revised to ensure that the EU ETS continues to contribute in the most cost-effective and economically 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 broader policy framework and the need for all sectors to contribute to the EU climate efforts, while growing our economy and preserving competitiveness. The broader policy framework includes relevant planned initiatives announced by the President in her political guidelines, such as the Clean Industrial Deal, the Industrial Decarbonisation Accelerator Act and the Action Plan on Affordable Energy.

The impact assessment will explore a broad variety of options compared to the baseline (a continuation of the current ETS1 framework) for those aspects that are subject to review:

- **Aviation emissions**: While in principle the ETS covers emissions from all flights landing in and departing from the European Economic Area (EEA), the EU has temporarily limited the scope to intra-EEA flights. This is to encourage the development of an effective global carbon pricing scheme by the International Civil Aviation Organization (ICAO). By mid-2026, the Commission should make a report on Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA). The ETS Directive suggests assessment criteria and indications on geographical scope. Consideration should be also given to the air connectivity of islands and remote areas, including EU's outermost regions.
- **Carbon leakage:** This involves the assessment of measures to support industrial installations exposed to costs related to climate policies. This is to avoid either transfer of production or investments to other countries with laxer emission constraints, while ensuring fair treatment of installations within the EU. The impact assessment will consider carbon leakage protection options only for emissions not covered by the Carbon Border Adjustment Mechanism (CBAM). This is because its full implementation and the phase-out of free allocation to those sectors will start only in 2026.
- **Carbon removals:** This covers the possible inclusion of domestic permanent carbon removals in the EU ETS. More specifically, it looks at (i) how the EU ETS could account for negative emissions resulting from GHGs that are removed from the atmosphere and safely and permanently stored underground (such as biogenic emissions with carbon capture and storage – BioCCS or direct air capture with carbon storage – DACCS) or permanently stored in products; (ii) how those negative emissions, if appropriate, could be covered by 'emissions trading' or other policies, setting a clear scope and strict criteria; (iii) putting in place of safeguards to ensure that such removals do not offset necessary emissions reductions.
- **Municipal waste incineration:** This looks at the feasibility of including such installations in the EU ETS from 2028. The Commission must also assess the possibility of including in the EU ETS other waste management processes, in particular landfilling, which creates methane and nitrous oxide emissions. This should consider the alignment with the waste hierarchy.
- **Non-permanent carbon capture and use:** More specifically, the impact assessment will look at whether all GHG emissions covered by the EU ETS are effectively accounted for and whether double counting is being avoided, in particular regarding GHG emissions considered to have been captured and utilised in a product non-permanently.
- **Thermal input thresholds:** this will look at the feasibility of lowering the 20 MW total rated thermal input thresholds for the activities in Annex I from 2031 (minimum threshold for inclusion in the ETS for several activities), considering that installations under 20MW will mostly already be covered by the ETS2, while also considering the possibility of excluding small emitters for ETS1 .
- **Linking with other carbon markets**: the impact assessment will look at how to forge links between the EU ETS and other carbon markets, so as to achieve potential benefits (e.g. reducing the cost of cutting emissions, increasing market liquidity, mitigating the risk of carbon leakage) without impeding achievement of the climate-neutrality objective and EU climate targets.
- On **maritime emissions**: the Commission:
  - will have to assess the GHG pricing mechanism and market-based measures that will possibly be adopted at the International Maritime Organization (IMO) in 2025 and review the ETS accordingly, so as to avoid a significant double burden on maritime operators and prevent environmental backsliding;
  - will have to consider extending the EU ETS to cover emissions from smaller ships (i.e. ships below 5 000 gross tonnage but not below 400 gross tonnage);
  - should monitor implementation of the recent extension of the EU ETS to maritime transport, including on those shipping services that constitute essential services of territorial continuity (e.g. for islands or remote areas such as outermost regions), and consider legislative improvements to ensure the effective implementation of the extension and to address possible evasion / circumvention trends); and
  - should simplify and improve the system where possible (e.g. consistency with other EU legislative acts in relation to biomass treatment and in particular the zero-rating of Renewable Energy Directive-compliant first generation biomass, promoting the uptake of renewable and low-carbon maritime fuels on a lifecycle basis, and streamlining monitoring, reporting and verification rules).

- On the **Market Stability Reserve:** the review should consider the parameters of the reserve (intake and release rates, thresholds, alignment with the linear reduction factor) and its impact on growth, jobs and the EU's industrial competitiveness and on the risk of carbon leakage.

Overall, the Commission will assess consistency with other EU legislative acts and possible simplification options, including evaluation of the administrative costs linked to ETS implementation and the risk of additional burden resulting from monitoring and reporting obligations.

The initiative will also examine how to maximise the climate benefit of using ETS revenues.

C. Likely impacts

The EU ETS is one of the EU's main instruments in the fight against climate change: by putting a price on carbon, significant positive environmental impacts can be expected. These include improving air quality, reducing health damage due to pollution, fostering efficient natural resource use and investment in clean technologies and carbon removal solutions. This initiative advances environmental protection, as provided for in Article 37 of the Charter of Fundamental Rights of the European Union, which involves pursuing a high level of environmental protection and the improvement of the quality of the environment. Finally, the initiative contributes to achieving Sustainable Development Goal 13 (Take urgent action to combat climate change and its impacts).

The possible extension of emissions trading to new sectors and the expansion of the carbon price signal within existing sectors are expected to: (i) provide additional abatement options across the EU; (ii) drive emissions reductions where they are overall most cost-efficient; and (iii) provide resources to be invested in climate action. However, if emissions reductions in Europe are achieved because of reduced industrial production (i.e. carbon leakage) rather than more efficient and cleaner technologies, there would be no climate benefit overall, as emissions would occur in non-EU countries.

Meanwhile, expanding emissions trading in an appropriate policy context would provide for harmonised economic incentives to reduce emissions and to take up low-carbon solutions. A stronger carbon price signal would result in higher costs for those covered entities that still have to decarbonise, although the precise impact on the sectors as a whole depends also on their ability to pass on such costs to consumers. This would therefore also influence potential social impacts of the intervention, for example in terms of price of products.

For each option considered, the initiative will assess the direct and indirect impacts on competitiveness (including of small and medium-sized enterprises), jobs and growth, as well as any other social impacts that can be identified. It will also consider options for simplification, including avoiding additional burden resulting from monitoring and reporting obligations.

D. Better Regulation instruments

Impact assessment and evaluation

A back-to-back evaluation and impact assessment will be conducted to support preparation of this initiative. The evaluation will focus on the five evaluation criteria of the Better Regulation framework: effectiveness, efficiency, relevance, coherence and EU value added. As explained above, the findings of the evaluation of the existing Directive and Decision will feed into the fact-finding exercise regarding: (i) possible policy options and alternatives envisaged to tackle any identified problems going forward; and (ii) the assessment of impacts of such options. The impact assessment will look at the potential economic, social and environmental impacts of possible amendments to the ETS Directive and MSR Decision. The assessment will support the preparation of a possible legal proposal and inform the Commission's decision on possible future adjustments to the EU ETS and MSR. The possible legal proposal with the accompanying impact assessment and evaluation report are expected be published in Q3 2026.

Consultation strategy

The consultation aims to ensure that the public and stakeholders, including those who will be directly affected by this initiative, can provide their views and inputs.

The consultation methods will include an open public consultation (OPC), targeted interviews with stakeholders, a targeted survey of national authorities, and tailored data requests to collect more detailed information in key thematic areas.

The OPC is expected to be launched in the first quarter of 2025. It will last for 12 weeks and will be accessible via the Commission's public consultations page "Have your say" in all official EU languages.

At the end of this consultation process, a factual summary report and a synopsis report will be drafted. The factual summary report will be published eight weeks after the closure of the OPC. The synopsis report will be annexed to the impact assessment.

Why we are consulting?
The consultation aims to ensure that all stakeholders can provide their views and inputs on the revision of the ETS Directive and the MSR Decision. This will also improve the evidence base underpinning the initiative. The consultation will look for inputs in areas such as: • addressing the risk of carbon leakage; • the possible extension of the EU ETS coverage (such as municipal solid waste incineration, additional flights and aviation activities and installations with thermal capacity below 20 MW); • the Market Stability Reserve; • the linking of ETS with other international carbon markets; and • support mechanisms for carbon removals and CCU.
Target audience
All members of the public and organisations are welcome to contribute to this consultation. Contributions are particularly sought from national and sub-national administrative authorities in the EU, administrative authorities in non-EU countries, businesses, trade associations, NGOs, workers associations and trade unions, consultancies, think tanks, and research and academic institutions.