

GOING BEYOND CARBON REDUCTIONS: THE PROPOSED EU CARBON REMOVALS CERTIFICATION REGULATION

On 30 November 2022, the European Commission adopted a proposal for a Regulation to create a first EU-wide voluntary framework that would certify high-quality carbon removals. The draft Regulation is part of the EU's drive to be the world's first climate-neutral continent by 2050. The proposal requires third-party verification and certification of the compliance of carbon removals with the Q.U.A.L.I.T.Y criteria and the related certification methodologies that will be set out in delegated acts. This regime does not apply to the storage of carbon emissions which are already covered by the mandatory EU ETS.

BACKGROUND

The IPCC has acknowledged that carbon 'reduction' efforts alone are not going to be sufficient to allow Paris Agreement targets to be met – significant carbon 'removals' will be essential. In February 2022, the Commission launched a public consultation on the development of a regulatory framework that would govern the monitoring, reporting and verification of the authenticity of voluntary carbon removals. On 30 November 2022, the Commission put forward the draft Regulation aimed at expanding sustainable carbon removals and encouraging the use of innovative solutions to capture, recycle and store CO₂ by farmers, foresters and industries. The intention behind the proposal is to offer official carbon removal certificates for high quality and durable carbon removals which go beyond legislative compliance requirements. Certificates could have value, for example, for sale to buyers for voluntary carbon offsetting purposes. The proposal does not establish a trading system; rather individual Member States would need to set up national certification schemes with registries (which could be privately operated), and they could provide for or facilitate trading schemes (perhaps extensions of existing voluntary carbon market standards) but this would be left to Member states to decide.

KEY DEFINITIONS

According to the draft Regulation, carbon removal means "either the storage of atmospheric or biogenic carbon within geological carbon pools, biogenic carbon pools, long-lasting products and materials, and the marine

Key issues

- The proposed Regulation will set out criteria and a methodology for certification of voluntary carbon removals, and establishment by Member States of public or private certification schemes.
- Types of carbon removal activities: permanent removal, carbon storage in products and carbon farming.
- Carbon removal activities need to meet four Q.U.A.L.I.T.Y criteria: **q**uantification, **a**dditionality, **l**ong-term storage and **s**ustainability.
- The Proposal leaves it to Member States and individual actors to determine whether carbon removal certificates will be traded on public or private carbon markets, remunerated through existing funding tools or not.
- BECCS and DACCS technologies would be covered by the draft Regulation, but traditional industrial CCUS technologies governed by the EU ETS are not covered.

environment, or the reduction of carbon release from a biogenic carbon pool to the atmosphere."

Examples of carbon removal include:

- **Permanent storage:** meaning that under normal circumstances and using appropriate management practices, carbon will be stored for several centuries such as in geological formations. This will include industrial technologies such as bio-energy with carbon capture and storage (BECCS) or Direct Air Capture and Storage (DACCS);
- **Storage in products:** meaning that carbon will be stored in long-lasting products or material, such as wood-based or carbonate-bonded construction materials (although it is acknowledged that eventually the carbon in these products will be released back into the atmosphere).
- **Carbon farming:** which includes the reduction of emissions from biogenic carbon pools or enhancing the storage of carbon within them. Typically this relates to carbon naturally stored on land through activities that enhance carbon capture in soils and forests (e.g., agro-forestry, forest restoration, better soil management), and/or reducing the release of carbon from soils to the atmosphere (e.g., restoration of peatland) governed under the Land Use and Forestry (LULUCF) Regulation.

It is worth noting that the draft Regulation does not cover removals of emissions covered by the EU emissions trading system. This is because the draft Regulation is focused on activities that remove carbon from the atmosphere rather than those that take greenhouse gas emissions from an installation (such as a gas power plant) and use or store them. The one exception is the storage of CO₂ from sustainable biomass whose emission, under the EU ETS, is considered zero-rated, and therefore removals would still qualify under this proposal).

QU.A.L.I.TY CRITERIA

Under the Commission's proposal, criteria for certification include ensuring that the captured CO₂ can be accurately measured and stored for the long term. Carbon removal projects would apply for a "certificate of compliance" from an independent third party auditor. The proposal lays out criteria for how the verification should be undertaken to ensure that a project is actually taking CO₂ out of the atmosphere and storing it somewhere safe where it can no longer contribute to global warming.

Under the draft Regulation, carbon removal activities need to meet four QU.A.L.I.TY criteria:

- **QU**antification: They must be measured accurately and yield clear and unequivocal carbon removal benefits. To that end, the net carbon removal benefit must be calculated as follows:

$$\text{Net carbon removal benefit} = \text{CR}_{\text{baseline}} - \text{CR}_{\text{total}} - \text{GHG}_{\text{increase}} > 0$$

where:

- (a) CR_{baseline} is the carbon removals under the baseline. The baseline must correspond to the standard carbon removal performance of comparable activities in similar social, economic, environmental and technological circumstances and take into account the geographical context.

- (b) CR_{total} is the total carbon removals of the carbon removal activity.
- (c) GHG_{increase} is the increase in direct and indirect greenhouse gas emissions, other than those from biogenic carbon pools in the case of carbon farming, which are due to the implementation of the carbon removal activity.

In other words, operators will firstly quantify the amount of additional carbon removals that a carbon removal activity has generated in comparison to a baseline. Then, they will subtract any increase in greenhouse gas emissions related to the implementation of the carbon removal activity. Relevant greenhouse gas emissions that should be taken into account include direct emissions, such as those resulting from the use of more fertilisers, fuel or energy, or indirect emissions, such as those resulting from land use change, with consequent risks for food security due to displacement of agricultural production. However, it seems that any additional emissions generated from carbon farming activities do not have to be factored in to the calculation, which is likely to be controversial.

- **Additionality:** Removals must go beyond existing practices and what is required by law; in other words, they must be more than "business as usual". This means that operators should quantify the amount of additional carbon removals that a carbon removal activity has generated compared with, preferably, a standardised baseline that will reflect the standard performance of comparable activities in similar socioeconomic, environmental and technological circumstances.
- **Long-term storage:** They must ensure that the carbon removed is stored for as long as possible and the risk of release of carbon should be minimised. The certificates must clearly account for the duration of carbon storage and distinguish permanent from temporary storage. Under the proposed Regulation, activities that store carbon in geological formations are categorised as long-term storage, whereas carbon farming or carbon storage in products are categorised as temporary storage. To account for this risk of the release of carbon from temporary storage, the proposed Regulation specifies that the relevant methodologies should be subject to an expiry date (the end date of the monitoring period), after which carbon is assumed to have been released into the atmosphere. Member States would need to establish liability mechanisms to deal with this such as discounting of removal units, buffers or insurance. This aspect of the regime might mean that product storage certificates lose their value after a certain time which may make them much less attractive to buyers. How such a mechanism would be implemented is left to Member States but will be crucial not only for the integrity of the certification programme and any claims on removals, but also for the value attributed to removal certificates by buyers.
- **Sustainability:** They must preserve or contribute to sustainability objectives such as climate change adaptation, circular economy, water and marine resources, and biodiversity. Applicable standards will build on the "Do No Significant Harm (DNSH)" criteria set out in in the EU Taxonomy Technical Screening Criteria for the relevant activities.

DELEGATED ACTS & EXPERT GROUPS

The draft Regulation sets out the Q.U.A.L.I.T.Y criteria in broad terms and grants the Commission the power to adopt delegated acts setting out detailed certification methodologies for the different carbon removal activities. Annex I

of the Regulation lists the minimum elements that should be included in those methodologies, such as rules for identifying all carbon removal sinks and greenhouse gas emission sources, rules on the minimum sustainability requirements and rules to address uncertainties in the quantification of carbon removals.

The Commission will develop these methodologies in close consultation with an Expert Group on Carbon Removals and other interested actors (the Group). The Group will consist of approximately 70 members and could involve several sub-groups, providing additional expertise. It will be led by the Commission with the help of an external contractor.

CERTIFICATION PROCESS

To apply for a certification of compliance with the proposed Regulation, an operator of a carbon removal activity must submit an application to a certification scheme. Upon acceptance of that application, the operator must submit to a certification body a comprehensive description of the carbon removal activity, including the certification methodology applied.

The certification body (an independent assessment body appointed by a certification scheme and accredited by a national accreditation authority) will conduct a certification audit to verify the information submitted and to confirm compliance of the carbon removal activity with the Q.U.A.L.I.T.Y criteria. Based on that certification audit, the certification body will issue a certification audit report, which includes a summary and (if the criteria are met) a certificate. The certificate will certify that the carbon removal activity complies with the Regulation.

The certification schemes may be managed by a private or public organisation that will oversee the certification of compliance.

A certification scheme is required to establish and maintain a public registry to make information related to the certification process publicly accessible. This includes details of the certificates and updated certificates and the quantity of carbon removals units certified.

Only a certification scheme recognised by the Commission through a decision valid for up to 5 years may be used by operators. Each recognised certification scheme must submit to the Commission an annual report on its operations which will be publicly available. The Commission will be able to adopt implementing acts setting out the structure and technical details of those reports.

POTENTIAL IMPLICATIONS FOR BUSINESS

The Commission's objective is that the proposed carbon removals certification framework will ensure that, whenever a ton of carbon is claimed to have been removed from the atmosphere, it will be accurately and credibly verified. It may also stimulate finance and trading through creation of new forms of carbon credits. Much will depend on whether the durability and integrity issues that have plagued the voluntary carbon markets, REDD+ (the UN regime for reducing emissions from deforestation and forest degradation in developing countries) and LULUCF regimes, can be overcome. If so, this could have positive implications for a number of sectors including:

Voluntary carbon market: The draft Regulation does not specify how the certificates will be used, appearing to leave it up to the Member States and others to decide whether to trade them and use them for offsetting. If they are

traded, these "regulatory" voluntary certificates may fetch a premium and drive down prices for credits from similar projects that are accredited under an unregulated scheme. It is also possible that the removal methodologies adopted under the Regulation might start to be replicated under the voluntary carbon standards to increase consistency and recognition of the removal activities across carbon markets. Similarly, they may inform the types of "removals" recognised under the Paris Agreement; negotiations on the question of what constitutes a "removal" were left unresolved at COP27 and will be picked up again at COP28.

The response to the draft Regulation by environmental organisations was immediate, with over 200 organisations releasing a public statement criticising the Commission's proposal for greenwashing arguing that a carbon removals-offset market primarily benefits polluters, as it relies on the *"false justification for continuing emissions that someone, somewhere, might at some time in the future remove a ton of carbon from the atmosphere."* They also stress that the Commission's focus should be on emissions cuts and not on the carbon removals, questioning the feasibility and sustainability of the eligible carbon capture and storage technologies.

At the same time, the Commission's proposal has been challenged as being vague, leaving key questions open (e.g., interplay with the EU ETS), some of which will be addressed at a later stage through the adoption of delegated acts.

Aviation: The Commission expects that it should be possible to use removal certificates for CORSIA (Carbon Offsetting and Reduction Scheme for International Aviation) compliance purposes.

Agriculture: The Commission's Executive Vice-President Frans Timmermans highlighted that carbon removals would also *"offer new and additional sources of income for the many farmers who are eager to do more for biodiversity but struggle to find the necessary funding to do so."* Indeed, food companies can reward farmers for higher carbon removals that result from more carbon storage in soils or other climate-friendly practices such as agroforestry.

Construction: Construction companies or property owners investing into the long-term use of more sustainable building materials, which remove and store carbon - such as wood-based versions - should be able to earn additional income through the sale of carbon removal credits. Labelling programs for sustainable construction materials could equally benefit from harmonised certification rules.

Results-based financing: Carbon removal certificates could be used for results-based financing under EU programs, such as the Common Agricultural Policy or the Innovation Fund, or State aid schemes by Member State, while regional authorities could finance the creation or expansion of natural parks by selling those certificates monetising both the climate and biodiversity benefits.

NEXT STEPS

The draft Regulation is the Commission's proposal. It will be discussed and amended by the European Parliament and the Council in accordance with the ordinary legislative procedure. Based on the Q.U.A.L.I.T.Y criteria, the Commission will develop tailored certification methodologies for the different types of carbon removal activities, supported by an expert group. The first meeting of the expert group is expected to take place during the first quarter of 2023.

Once the draft Regulation enters into force, the Commission will adopt the delegated and implementing acts on the technical certification methodologies for the various carbon removal activities and on the certification modalities / procedures and certification scheme recognition.

[Link](#) to the Proposal.

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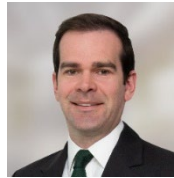
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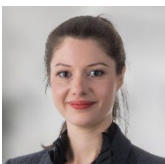
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