

DRAFT MONITORING AND REPORTING REGULATION (MRR) FOR THE EU ETS

CEMBUREAU Position

26 July 2024

CEMBUREAU, the European Cement Association, wishes to comment on the European Commission's draft Monitoring and Reporting Regulation (MRR) for the European Emissions Trading System (EU ETS).

Introduction

The accounting of the Green House Gas emissions of the (cement) industry is crucial for the reliable functioning of the emissions trading system of the EU (EU ETS). The rules for the monitoring, reporting and verification of these emissions are to be based on the one hand on the legislation, and on the other hand on the practices in industry. Legislation needs to take into account the future development of sectors like the cement industry towards carbon neutrality.

CEMBUREAU has highlighted its trajectory to net zero in 2050 in its recently updated Roadmap¹. The ambition set out in the Roadmap include the capture and use of the process and combustion emissions. For this capture, storage and use of CO₂ emissions, the MRR needs to establish appropriate accounting rules for (1) the use of zero-rated alternative input materials and fuels and (2) for the capture and transfer of CO₂. It should provide the required basis for timely investments in CO₂ mitigation technologies including CCS/CCU at industrial installations subject to the EU ETS.

The successful implementation of the CEMBUREAU Roadmap in 2050 will require a certain level of flexibility during the transition period. Adding additional requirements, on top of what has been agreed by co-legislators, risks adding additional barriers to the deployment of climate technologies. Commission President's Von der Leyen's political guidelines 2024-2029 make clear that decarbonisation and competitiveness should go hand in hand and that implementing the legal framework for 2030 should be done "*in the simplest, fairest and most cost-efficient way*".

Industrial carbon management will be needed to complement mitigation efforts to hard-to-abate emissions and to achieve negative emissions after 2050².

¹ [CEMBUREAU Net Zero Roadmap 2050](#), 2024

² Industrial Carbon Management communication, first paragraph of the Conclusion, last sentence.

Emissions that are not emissions

The draft MRR changes the existing concept of “emissions” of installations into the concept of “*production of Green House Gases*” in EU ETS covered installations together with the transfer of these gases “in” some products to other, perhaps not in the EU ETS covered installations. In simple words, the EU ETS installations are, in the new concept, responsible for the monitoring and reporting of the use of the CO2 by others. It is remarkable that, while the Industrial Carbon Management communication mentions that the use as feedstock of CO2 from industrial sources will be essential, the existing legislation and the implementation of that in this MRR per 1 January 2025 is blocked. CO2 stored in other products (e.g. plastics, insulation materials, etc.) is seen as emitted under the EU ETS. The start of that “emissions accounting” under the MRR will start on 1 January 2025. But a revision on this principle will be needed when the Industrial Carbon Management is further executed.

The planned amendments to the MRR essentially follow the changed new definition of emissions in the ETS Directive (Art. 3 (b)). Previously, emissions were clearly defined as “*the release of GHG into the atmosphere*”. The revised ETS directive defines “*emissions*” in terms of “*release*”. However, the ETS Directive and the draft MRR fail to clearly define the new term of “*release*” from materials or facilities, thereby creating legal uncertainty and ambiguity. Especially, it becomes obvious that some inconsistency is emerging with regard to the treatment of “*release*” and “*transfer*” of the two most important greenhouse gases, namely CO2 and Methane, CH4.

Carbon neutrality

Without doubt, all EU ETS installations have to become carbon neutral. However, the new Art. 49(6) in relation to Art. 49(1) prevent climate neutrality from being effectively achieved in the EU ETS by imposing a new additional requirement for the proportional attribution of zero-rated carbon and thereby an obligation to produce “negative CO2 emissions”. It simply means that not the CO2 content of the product is relevant for the storage, but the proportional CO2 emissions for the EU ETS.

It also takes away the flexibility of the operator to direct the bio-CO2 to the application with the highest economic value at the time. It will make a business case of CCU projects even more difficult in Europe.

We therefore propose to adjust Art. 49(6) as follows:

<p>New requirements for proportional accounting with far reaching consequences are proposed by a new Art. 49(6):</p>	<p>CEMBUREAU proposes to adjust the new Art. 49(6) as follows:</p>
<p><i>6. In the case of the transfer of CO2 to a capture installation resulting from materials or fuels containing a fraction of zero-rated carbon, the transferring installation shall only subtract from its reported emissions in accordance with the first paragraph of this Article the quantity of CO2 proportional to the fraction of carbon that does not originate from zero-rated carbon.</i></p>	<p><i>6. In the case of the transfer of CO2 to a capture installation resulting from materials or fuels containing a fraction of zero-rated carbon, the transferring installation shall only subtract from its reported emissions in accordance with the first paragraph of this Article no more than the quantity of CO2 proportional to the fraction of carbon that does not originate from zero-rated carbon</i></p>

Correspondingly, the changes to Art. 49(6) also need to be applied to Art. 49a(1), subparagraph 2

<p>New requirements for proportional accounting with far reaching consequences are proposed by a new Art. 49a(1), subparagraph 2:</p>	<p>CEMBUREAU proposes to adjust the new Art. 49a(1), subparagraph 2 as follows:</p>
<p>1. [...]</p> <p><i>In the case of CO2 resulting from materials or fuels containing a fraction of zero-rated carbon, the operator shall only subtract from the emissions of the installation the share of the CO2 permanently chemically bound in a product listed in the Delegated Regulation adopted pursuant to Article 12(3b) of Directive 2003/87/EC, proportional to the fraction of carbon that does not originate from zero-rated carbon.</i></p>	<p>1. [...]</p> <p><i>In the case of CO2 resulting from materials or fuels containing a fraction of zero-rated carbon, the operator shall only subtract from the emissions of the installation no more than the share of the CO2 permanently chemically bound in a product listed in the Delegated Regulation adopted pursuant to Article 12(3b) of Directive 2003/87/EC.; proportional to the fraction of carbon that does not originate from zero-rated carbon.</i></p>

Carbon Dioxide Removals

It is obvious that before 2050 all of the the cement industry installations in Europe cannot't be carbon neutral. In fact, the CEMBUREAU roadmap indicates that some installations might be carbon negative in the cement production, while others might still be "carbon positive". Of course, the whole sector will be at net zero in 2050 if all conditions are fulfilled.

Challenging for this overall outcome for the sector is recognition of carbon negative emissions. A connection to the Carbon Removals Certification Framework (CRCF) is obviously needed to achieve that recognition in the EU ETS. That connection is missing. The (cement) industry should be able to capture and store zero-rated biomass emissions. A major incentive to invest in these technologies is the ability of companies to use these negative emissions. Linking the ETS market and the CRCF would be a viable option for creating a dynamic market around and will create more potential for EU ETS installations to become carbon neutral and perhaps even carbon negative..

The wording of the draft MRR will force all installations to reach net zero, at sometimes extreme high investment and operating costs, without benefit for the mitigation of CO2 emissions to fight climate change.