European Commission's Public Consultation on the Review of the EU Emissions Trading System (EU ETS)

(Stationary Installations and Market Stability Reserve – MSR)

Comments and Contributions from APQuímica, the Portuguese Association for the Chemical, Petrochemical and Refining Sector

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APQuímica, the Portuguese reference association for the Chemical, Petrochemical and Refining sector, appreciates the opportunity to express its views and submit its contributions on the public consultation regarding the **review of the EU Emissions Trading System (EU ETS) considering the stationary installations and the Market Stability Reserve (MSR)** [1].

As an essential upstream sector and the base of virtually all industrial value chains, acting as an economic multiplier across downstream sectors, the refining, petrochemical and chemical industry plays a critical role in Europe's strategic autonomy and supply chain security.

The sector, both at European and national levels, is fully committed to implementing the European Green Deal, the Clean Industrial Deal, the EU Chemical Strategy for Sustainability, and the related policies, striving for continuous improvement in environmental performance, safety and sustainability.

However, this commitment must be pursued in parallel with the urgent necessity to safeguard the sector's global competitiveness and resilience, ensure a robust carbon leakage protection framework, and maintain a true level playing field.

[1] EC's Consultation – *"EU emissions trading system for maritime, aviation and stationary installations, and market stability reserve – review"* / Commission Proposal – Public consultation: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14549-EU-emissions-trading-system-for-maritime-aviation-and-stationary-installations-and-market-stability-reserve-review_en.

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As highlighted in strategic documents such as the Draghi Report (September 2024), the EU Competitiveness Compass (January 2025), the Clean Industrial Deal (February 2025), and the EU Chemical Industry Action Plan (EU CIAP, July 2025), the industry, and particularly the chemical industry, finds itself at a critical juncture.

Marked by a severe investment slowdown and an alarming loss of capacity across Europe in recent years, factors such as persistently high energy and contextual costs, geopolitical uncertainty, global overcapacity, and an overly complex regulatory framework and administrative burden are undermining the chemical industry's investment capacity and long-term viability in Europe [2].

Against this background, we believe that companies should not be forced into rigid investment commitments as a precondition for regulatory support when the fundamental prerequisites, such as globally competitive energy prices, adequate infrastructure (e.g., for renewable hydrogen, CO_2 transport, etc.), and scalable technologies, are still not in place.

In addition, fulfilling the prerequisites for overcoming these challenges also requires a pragmatic acceleration, simplification, and streamlining of permitting and administrative procedures, as consistently identified [3]. Working together to address procedural bottlenecks and administrative hurdles is essential to prevent complex permitting processes from turning into structural barriers that lengthen investment timelines, thereby ensuring decarbonization projects and plant modernizations can be deployed in a timely manner.

Together with other key policy initiatives, the EU ETS review, if executed in the right way, has the potential to provide a good signal to contribute to overcoming these identified challenges. To maximize its impact, this review must fully align with major ongoing framework initiatives, such as the Industrial Accelerator Act (IAA), as well as chemical-sector specific policies, notably the EU Chemical Industry Action Plan (EU CIAP) and the ongoing work under the EU Critical Chemicals Alliance (EU CCA), whose first set of outcomes and proposals were presented in early October 2026.

Nonetheless, its success hinges on providing predictable regulatory conditions, adequate carbon leakage safeguards, and effective investment and market incentives. Crucially, it depends on practical implementation at

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[2] According to a Roland Berger / CEFIC study published in January 2026 [1], in 2025 investment in the EU Chemical Sector fell by 80% compared to 2024. Between 2022 and 2025, several new projects and investment plans were frozen or discontinued and relocated to other geographies (US, Asia). In addition to lost investment in new projects, several chemical sites operating for decades in Europe have closed permanently; the set of confirmed closures over just four years (2022 - 2025) represented a cumulative loss of 37 million tonnes, accounting for approximately 9% of Europe's total chemical production capacity.

[1] *Cf.* Roland Berger / CEFIC study – European Chemical Closures & Investments Radar 2022-2025.

[3] *Cf.* APQuímica's comments to the European Commission's Public Consultation on the Environmental Omnibus (Ref. Ares(2026)4699914 - 08/05/2026).

both EU and Member State levels to deliver effective results, ensure adequate funding mechanisms, including channelling a substantial and predictable share of ETS revenues back into industrial decarbonization, and to maintain a true level playing field across all Member States.

Otherwise, the current ETS revision proposal risks cutting industry rather than emissions, falling short of addressing escalating CO_2 costs without providing the essential underlying framework conditions.

In light of these challenges, we would like to outline the following five key priorities that we consider essential for the EU ETS review to function as a positive signal for industry, and for the chemical industry in particular, in overcoming these hurdles:

1. Preserve the free allocation of emission allowances as a carbon leakage protection instrument without unjustified investment conditionality;
2. Ensure comprehensive carbon leakage protection for safeguarding global competitiveness;
3. Establish realistic and representative heat and fuel benchmarks (fallback benchmarks);
4. Define tailored frameworks for hard-to-abate sectors, such as the chemical, petrochemical and refining sector, for circular carbon flows, and alternative feedstocks;
5. Ensure harmonized and mandatory compensation for indirect emission costs either at EU level or under strictly identical rules across all Member States.

1. Preserve the free allocation of emission allowances as a carbon leakage protection instrument without unjustified investment conditionality

The free allocation of emission allowances plays a fundamental and indispensable role in mitigating the risk of carbon leakage for energy-intensive sectors exposed to international competition, such as the chemical, petrochemical, and refining industries. It offsets structural cost asymmetries against competitors operating in third countries who do not face comparable carbon constraints, representing a risk-mitigation safeguard and not a discretionary financial subsidy or an investment grant.

Consequently, the Commission's proposal to condition post-2030 free allocation of emission allowances on mandatory decarbonization investment plans, allocating 80% of free allowances annually following the approval of an "Invest in EU decarbonisation plan" while making the remaining 20% dependent on strict compliance with new investment requirements, fundamentally alters the nature of free allocation, distorts the protective objective

of this instrument and introduces severe legal and financial uncertainties for companies, turning a crucial protective safeguard mechanism into a punitive compliance burden.

Furthermore, tying free allowance allocation to rigid milestones where business cases may be unviable or timelines depend on external actors undermines planning certainty and increases the risk of premature asset closures, heightening the risk of industrial relocation outside the EU without delivering net environmental benefits.

Crucial aspects of this proposed new framework remain entirely unclear (with details deferred in some cases to subsequent delegated acts) such as the exact definition of “eligible investments”, the calculation methodology for “minimum required amounts”, evaluation criteria for “significant emission reductions”, the formal recognition of early-mover investments completed prior to 2030, etc.

In addition, penalizing installations through conditional allocation ignores severe structural bottlenecks entirely outside operators' control. Such external factors – as the lack of commercially mature technologies, electrical grid constraints, the unavailability of low-carbon electricity or hydrogen at competitive prices, the absence of hydrogen supply networks and CO_2 transport and storage infrastructure, or delays in permitting procedures – must not determine the withholding, reduction, or surrender of free allowances. Many industrial operators are currently unable to move forward precisely due to these still significant costs, technological limits, and infrastructure deficits.

Therefore, this conditionality framework must be rejected.

However, should the principle exceptionally be maintained, it is vital to guarantee absolute technological neutrality, full proportionality, the formal recognition of early-mover investments already underway, and the strict avoidance of retroactive allocation losses. Consequently, any new framework must be simple, tailored to the characteristics of each industrial process, avoiding duplicating existing obligations under the EU ETS, ensuring the protection of commercially sensitive information, and foreseeing the possibility of revising investment plans whenever relevant technical, economic, or regulatory conditions change.

2. Ensure comprehensive carbon leakage protection for safeguarding global competitiveness

The long-term success of the European industrial transition depends on maintaining a robust carbon leakage protection framework that guarantees a genuine level playing field globally.

While the Carbon Border Adjustment Mechanism (CBAM) is intended to shield the internal market, its practical effectiveness and capacity to prevent regulatory evasion must be rigorously assessed before proceeding with any sweeping phase-out of free allocation of ETS emission allowances.

For globally integrated sectors and value chains, such as the chemical, petrochemical, and refining industries, CBAM fails to address the severe exposure of European exports in third-country markets, where domestic producers compete against rivals free from equivalent carbon costs.

The absence of a robust, WTO-compatible export adjustment mechanism risks severe losses in international competitiveness and the permanent displacement of European production abroad. To effectively address this, an export adjustment should apply to EU-origin CBAM goods exported to third countries not subject to an equivalent framework, reflecting actual EU carbon costs and utilizing an adequate emissions reference base.

Therefore, free allocation of ETS emission allowances must be preserved until fully operational and watertight safeguards are in place for both internal and external markets, ensuring that European industry can continue operating without suffering the structural disadvantages referred to above.

We stress, however, that the assessment of the protection level provided (or not) by CBAM to EU companies cannot be limited merely to evaluating the protection for producers of goods already directly covered or the absence of protection for exports. To effectively avoid circumvention, at the EU level the assessment must always consider the complete value chain, including the impacts on downstream EU manufacturers that use CBAM-covered goods as raw materials.

In fact, in chemical industry value chains where an upstream raw material is subject to CBAM while downstream derivatives are not, this can increase EU production costs, whereas competing imported downstream chemical products do not bear an equivalent carbon cost. This asymmetry creates a tangible risk of downstream carbon leakage and the risk of replacement of EU production by imported products [4].

Therefore, we consider it is essential to evaluate the impact of CBAM across entire value chains, including downstream products whenever CBAM-covered inputs represent a relevant component of the production cost. It is equally essential to ensure that the methodology accounts for both embedded emissions in raw materials and the carbon costs actually borne by EU producers, provides safeguards for EU exports, monitors circumvention practices, artificial trade flow alterations, and substitution by processed products outside the EU, while ensuring a gradual, evidence-based approach accompanied by robust safeguard mechanisms.

In addition, any potential future extension of CBAM to additional chemicals (namely organic chemicals) must also assess the effects on strategic raw materials, avoiding the creation of new competitive imbalances within the EU chemical value chain itself.

[4] An illustrative example of this situation can be found in the value chain for aniline and MDI manufacturing, where the upstream raw material, ammonia, is subject to CBAM, but the downstream products, aniline and MDI, are not. Purchasing CBAM-covered ammonia increases EU production costs, while competing imported downstream products bear no equivalent carbon cost. This asymmetry creates an effective risk of downstream carbon leakage and the risk of displacement of EU aniline and MDI production by imports.

3. Establish realistic and representative heat and fuel benchmarks (fallback benchmarks)

For the chemical, petrochemical, and refining industries, the future evolution of benchmark values must accurately reflect the real-world operational realities, technological maturity, asset replacement cycles, and specific operational constraints characteristic of the complex and heterogeneous manufacturing processes in the sector.

Experience demonstrates that technological progress is non-uniform across sectors, and many chemical processes face intrinsic thermodynamic and technical limits where short-term efficiency gains are severely constrained or where available energy efficiency measures have already been fully implemented.

To prevent severe competitive distortions, establishing overly stringent or unrealistic benchmarks, in particular through overly restrictive methodologies such as the strict application of the top-10% logic or the maximum annual reduction rates traditionally associated with fallback heat and fuel benchmarks, must be avoided to prevent unjustifiably penalizing installations that lack viable short-term technological alternatives or that have already exhausted available efficiency gains, leaving them exposed to unmanageable carbon costs.

The benchmark-setting methodology must avoid relying on isolated best-case exceptions or non-replicable configurations that do not mirror broad industrial conditions. Ensuring representative and technically achievable fallback benchmarks is vital to prevent artificial distortions, support necessary adjustments to the allowance availability framework, ensure that the cross-sectoral correction factor (CSCF) is not triggered to the detriment of individual installation performance, and maintain effective carbon leakage protection across all integrated chemical value chains.

Therefore, we welcome the current Commission proposal COM(2026)619 regarding the revised heat and fuel benchmarks for 2026–2030, as it recognizes that the initially foreseen reduction could lead to a disproportionate decrease in the free allocation of emission allowances relative to actual decarbonization potential, and thereby increases the levels of free allowance allocation calculated on the basis of heat and fuel benchmarks, without triggering the cross-sectoral correction factor (CSCF). From this perspective, we call for the swift adoption and application of this proposal, as well as the extension of the principles of representativeness and replicability embedded therein to the remaining benchmarks, in order to prevent unjustified disparities between product benchmarks and fallback benchmarks.

4. Define tailored frameworks for hard-to-abate sectors, such as the chemical, petrochemical and refining sector, for circular carbon flows, and alternative feedstocks

For inherently hard-to-abate processes where scalable and economically viable technological alternatives are not yet commercially available, as frequently observed in the chemical, petrochemical and refining industries, the EU ETS must provide flexible pathways and dedicated financial support.

Robust funding instruments, such as the Innovation Fund and the new Industrial Decarbonisation Bank, must be effectively channelled back to prioritize capital-intensive investments in decarbonization, including renewable hydrogen and other low-carbon fuels and materials and their associated infrastructure, electrification, and related enablers, ensuring that climate ambition goes hand in hand with industrial viability and strategic autonomy.

However, given the massive funding gap driven by persistently higher OPEX and CAPEX in Europe compared to global markets, funding schemes must be complemented by horizontal market-pull policies, to enable cost pass-through and secure permanent revenue streams for transforming upstream manufacturers. Synergies must therefore be established with the ongoing development of market measures within the Critical Chemicals Alliance (CCA), also ensuring that the objectives of the Industrial Accelerator Act (IAA) are effectively translated into practical demand-side incentives and predictable operational conditions for the chemical value chain.

Crucially, ambitious compliance trajectories under the Linear Reduction Factor (LRF) and dedicated funding mechanisms (such as the Innovation Fund and the new Industrial Decarbonisation Bank) must be directly synchronized with the prior delivery of essential enabling conditions, namely globally competitive energy prices and the timely deployment of key infrastructure. Without these foundational prerequisites, accelerating reduction trajectories risks imposing unsustainable CAPEX and OPEX pressures on energy-intensive operations, compromising their economic viability.

The final results depend on practical implementation at both EU and Member State levels to ensure adequate funding mechanisms, including channelling a substantial and predictable share of ETS revenues back into industrial decarbonization, and to maintain a true level playing field across all Member States.

The decarbonization of some industrial sectors depends heavily not only on energy efficiency but fundamentally on raw material transformation, on the availability and integration of alternative and sustainable feedstocks, and circular carbon flows (including from waste), as well as technologies like Carbon Capture and Utilization / Storage (CCU / CCS), Direct Air Capture and Carbon Storage (DACCS), etc., requiring clear recognition, carbon footprint accounting, and incentive mechanisms for the use of alternative materials and technologies, and a technology-neutral framework for carbon removals.

However, the regulatory framework currently lacks the necessary clarity regarding the formal recognition and accounting of these alternative materials, sustainable derivatives, circular feedstocks and alternative technologies for carbon footprint reduction and compliance purposes. It is therefore imperative to establish a clear, stable, harmonized, and predictable regulatory framework that formally recognizes these feedstocks and dedicated technological pathways while avoiding duplicative obligations or legal contradictions with parallel legislation, such as the Renewable Energy Directive (RED III / IV).

Moreover, the potential inclusion of by-product hydrogen within the scope of the EU ETS must be clarified and coordinated with the framework of the Renewable Energy Directive (RED III), which distinguishes this type of hydrogen from renewable fuels of non-biological origin (RFNBO) for the purpose of the applicable targets. Therefore, the ETS review must ensure in this respect full legal coherence between the EU ETS and RED III, clarify the regulatory treatment of hydrogen generated inherently as a by-product of industrial processes, and clearly distinguish this by-product hydrogen from energy-purpose hydrogen. Furthermore, it is essential to avoid establishing new monitoring, reporting, or verification (MRV) obligations that lack proportional environmental benefits, while strictly preventing the double counting of emissions or compliance obligations along the value chain.

Regarding the development of infrastructures for CO_2 capture, transport, utilisation, and storage, integrated approaches (e.g. at the scale of industrial clusters) should be prioritized. Future funding mechanisms should be able to support all different stages of the CO_2 value chain, including capture and conditioning, transport, utilisation or permanent storage, energy interconnections, shared infrastructures, capacity reservation, third-party operator costs, as well as specific risks borne by first movers. Liability for CO_2 must be clearly identified and transferred between the different operators along the value chain, e.g. ensuring that capturing installations do not remain exposed to losses or leakages occurring after the verified transfer of CO_2 to transport or storage infrastructures.

5. Ensure harmonized and mandatory compensation for indirect emission costs either at EU level or under strictly identical rules across all Member States

The current optional approach in the ETS Directive for compensating electro-intensive sectors and subsectors for indirect emission costs passed through in electricity prices – leaving the mode of application, final details on the eligible sectors, and funding amounts to the discretion of individual Member States – leads to significant distortions within the EU internal market. This optionality results in uneven levels of protection and compromises investment certainty across Member States for industries facing identical EU ETS carbon costs.

Consequently, compensation for indirect emission costs should be redesigned to eliminate distortions within the internal market and ensure a level playing field across the Union. The preferred solution would be the establishment of a common EU-level compensation mechanism ensuring uniform treatment and an equivalent

level of carbon leakage protection for all eligible sectors and subsectors, irrespective of their location within the Union. Such a mechanism should operate under fully harmonised Union rules and be financed jointly by the Union and the Member States. To prevent disparities arising from differences in national budgetary capacities, Member States should be required to finance only a harmonised baseline share of the eligible compensation amount, calculated in accordance with the methodology set out in the ETS State Aid Guidelines. The Union budget should provide complementary funding to bridge the gap between this baseline national contribution and the maximum level of compensation permitted under Union law.

Final remarks

The Chemical Industry is committed to being at the core of Europe's industrial future. From our perspective, for the EU ETS review to succeed, in a nutshell, as indicated in the points above, it must fundamentally reconcile climate ambition with industrial reality by preserving robust carbon leakage protection (including robust export safeguards), removing unviable investment conditionalities, establishing realistic benchmarks, securing harmonized indirect cost compensation, and guaranteeing the necessary enabling conditions, market-pull synergies, and funding to maintain Europe's industrial competitiveness.

In addition to the information presented above, we also refer to the response (*Ref. Ares(2026)10267663 - 02/11/2026* and *Ref. Ares(2026)10266410 - 02/11/2026*) provided by CEFIC – the European Chemical Industry Council, of which APQuímica is a member. This response outlines the key vision and messages of the chemical sector at the European level, including more detailed information on some of the topics we consider critical and mentioned above, as well as information and recommendations for some other issues which we also consider important to be considered.

Both at National and European levels, the Chemical Industry maintains a strong commitment to working together with the Commission, the National Authorities and all other relevant stakeholders to find suitable solutions in all these areas, in order to improve the implementation of the EU climate legislation and related regulations in Europe.

Significant potential and impact, both at European and National levels, may be expected from the upcoming EU ETS review. It is therefore of the utmost importance to promote the close involvement of all stakeholders in its design to ensure a successful implementation.

APQuímica

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APQuímica is the Portuguese reference association for the Chemical, Petrochemical and Refining sector. It integrates more than 60 associate entities, including major industrial companies, SMEs, startups, universities, R&TD centres and other entities with relevant operation along their value chain.

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The Chemical, Petrochemical and Refining sector in Portugal accounts for:

- *12 billion annual turnover*
- *1,6 billion of Gross Value Added (GVA)*
- *12% of total Portuguese exports*
- *181 countries as the sector exports' destinations*
- *52 000 direct and indirect jobs*
- *1/5 of PT manufacturing industry's innovation expenditure*

Source and additional information: www.apquimica.pt / info@apquimica.pt