Non-paper: The Netherlands position on the Commission legislative proposal on CO2 market and infrastructure in the EU

Carbon Capture, Utilization, and Storage (CCUS), or carbon management, is a necessary tool for reducing and compensating for fossil CO2-emissions from hard-to-abate industry and for generating negative emissions. Carbon dioxide removal is a complement to the options for mitigation of greenhouse gas (GHG) emissions. Modelling results from the impact assessment accompanying the Communication on the EU 2040 Climate Target provide an indication of the quantities of CO2 needed to be captured and stored to achieve the 2040 and 2050 objectives. In 2040, up to 280 million tonnes of CO2 per year would need to be captured and permanently stored. By 2050, up to 450 million tonnes of CO2 per year will have to be captured, (a small) part of which can be utilized through the expected development of CCU, and the remainder of which will need to be permanently stored.

Given the current state of affairs, these projected CCS scale-up levels in Europe are a major challenge. There is now a clear need for a vision and facilitative framework from the Commission on how to reach these carbon management objectives. The Netherlands calls on the Commission to consider the following factors in the proposed impact assessment and development of the required legislative proposal.

1. **The need for a clear identification of the obstacles to the development of an integrated CO2 market in the short and longer term**

    a. As the market is currently in a nascent phase, market parties experience uncertainties that prevent them from taking a final investment decision for all components of the CCS value chain. This is something we see clearly in our experiences with projects in the Netherlands, as a front-runner country in CCS. The impact assessment should consider what the primary **obstacles are for investor confidence,** and policy options for **coordinating the derisking of the value chain** in the early phase. In addition to the usual commercial risks, there are several risks associated with nascent markets that hamper projects from taking FID. It should include financial support options at least at EU level, and possibly at Member State level.[1] It should also consider which instruments could mitigate the risks faced by first users that may delay or prevent FID, in particular the utilization risk[2] in the transport part of the CCS chain and the emitter's exposure to carbon price costs if the transport and storage components are delayed or temporarily unavailable through no fault of the emitter, which could significantly undermine the business case.

    b. The assessment should include **whether there is evidence for the existence of market failure**, **and where this may occur**. It should also take into account whether a greater degree of regulation for infrastructure is effective and proportionate in stimulating a timely scale-up of a CO2 market. It should consider the interrelationship with the ETS and a possible role for permanent carbon removals.

    c. In the longer term, when CCS is increasingly needed for carbon dioxide removal, there are concerns about whether **sufficient transport and storage capacity will be developed to meet European needs**. This is notwithstanding the challenge that in the short term there is insufficient demand for transport and storage services. The impact assessment should examine this **tension between short and longer term market development needs**. It should consider what the role should be for regulation in aligning the scaling up of infrastructure and storage capacity with the necessary increase in supply of CO2. In doing so, it should **consider a phased regulatory approach** that follows the development of the full value chain of the CO2 market, and define the relationship with the **Net Zero Industry Act**.

    d. The Commission should consider how its proposals affect existing (such as horticulture and industry) and potential (carbon storage through CCU) uses for carbon. It should take into account the interaction between the legislative proposal on CO_2 markets and transport and the upcoming ETS revision.[3] Different national and international sectors have specific needs, which may compete with each other. Sectors should not be hindered by regulation.

[1] The input in this non-paper is without prejudice to current MFF negotiations.

[2] This refers to the risk that there will be insufficient commitment from CO2 capture installations to ensure enough demand for capacity in the CO2 transport and storage infrastructure ('volloop' risk).

[3] See, Netherlands Non Paper ETS-1. Ref. Ares(2025)5519442. 2025. https://open.overheid.nl.

For example, in the Netherlands, CO_2 capture has been carried out for over a decade for use of CO_2 in greenhouses to promote optimal plant growth. Captured CO2 will also be needed as a feedstock to industry in its transition away from fossil feedstock. CO2 infrastructure should align with the needs of the carbon market, both in terms of pricing and access. Both existing and potential use cases for carbon require sufficient availability of CO2 at a competitive price. It remains paramount to ensure environmental integrity and avoid introducing loopholes that could lead to undersurrendering[4]

e. While the **nascent CO2 market shares certain characteristics with the hydrogen market, it differs in key aspects,** in particular regarding the level of market maturity**.** These differences must be taken into account when considering regulatory approaches. Where regulatory mechanisms from the hydrogen market are considered relevant, these should only be applied to CO2 when they have proven to work.

f. The Commission should take into account how legislation could stimulate the necessary technology development for CCUS and cooperation with existing R&D initiatives in this field, like ECCSEL and ERA roadmap for low-carbon technologies in energy-intensive industries.

2. The degree of EU and Member State regulation needed to facilitate the emergence of a competitive, cost-effective CO2 value chain

The legislative proposal aims to ensure the emergence of a competitive, cost-effective CO2 value chain. The impact assessment provides insight into the assumptions about the short and longer term CCS market development, taking into account different transport modalities. It should consider the degree of anticipated regulation from the EU and the Member States that is needed to achieve this objective in different phases of market development, including:

a. The CCS Directive contains the requirement of **transparent and non-discriminatory third party access**, which conditions the negotiations between (potential) users and transport and storage operators.
   - Is this already sufficient to ensure fair and open access to CO2 infrastructure?
   - If not, which additional measures would be the most effective and proportionate, and what is the appropriate balance between market-based and regulated approaches?
   - What are the advantages and disadvantages of requiring increased transparency on the value chain components of tariffs?

b. The Netherlands has concerns about whether it is necessary and desirable to appoint a single **transport system operator**, particularly in light of the societal costs and efficiency. What are the advantages and disadvantages of the various ownership models for CO2 infrastructure?

c. To what extent is it desirable to have **the same market model** within the European Union, **compared to multiple market models**? What are the benefits and risks of each scenario for facilitating the emergence of a cost-effective CO2 value chain? This should take into account the timely realization of projects already under (early) development as well as cross-border infrastructure projects.

d. Regulation involves societal costs and takes time to implement but may correct structural market failures. How does the degree of regulation influence the development of the CCS market in the short and medium term, and **to what extent do the benefits of regulation outweigh the associated (societal) costs** This should consider the characteristics of the CCS market, notably its limited number of players compared to many other markets.

3. Developing CO2 infrastructure and network planning

The impact assessment should address policy options aimed at ensuring an optimal and timely development of CO2-infrastructure across the EU. This should include the following issues:

a. More guidance on a **facilitative framework for EU-wide network planning**. The regional plans for Projects of Common Interest (PCI) under the TEN-E Regulation provide a valuable starting point. As the market develops, further coordination by the Commission is needed to ensure that network planning effectively supports the timely development of the CCS market. Network planning should allow flexibility to take into account market development in order to avoid potential oversupply and ensure efficiency.

b. At the same time, network planning should also enhance market development and competition and support a timely scaling up of supply. **The Commission should consider how it can provide both coordination and better access to financial support preferably at EU level for the timely development of CO_2-infrastructure, including cross-border projects.**This is particularly important for those regions that are home to the core industrial base in the EU, which must be maintained, and requires cost-effective decarbonization solutions.

c. How should an EU network plan take into account the development of fast-moving CO2 infrastructure projects in the **EEA and the UK**? How can coordination help ensure that infrastructure capacity is efficiently allocated, avoiding both overcapacity (stranded assets) and undercapacity? What measures are needed to maintain a level playing field regarding derisking measures?

d. The **impact of European nature and environmental legislation on permitting procedures** should be evaluated (i.e. Environmental Impact Assessment, Natura 2000 protection, risk and safety/health contours), with consideration for time needed, and how this could be made more flexible. This aspect **should be included in the analysis for CO2-network planning,** in particular implications for the feasibility of infrastructure and storage.

e. How **permitting procedures** for CCUS infrastructure can be **better aligned** between Member States should also be examined.

4. Impact on existing and new projects

The Commission impact assessment must take into account the impact of the proposed legislation on both existing and new projects, also in the domain of CCUS technology development.

The introduction of new regulation must **not hinder projects** currently being developed. This is necessary for the early development of a CC(U)S-market and for achieving the 2030 climate targets. The timely realization of projects currently under development is also essential for reaching the shared community target of 50 megatons of CO2-injection capacity in 2030 under the Net Zero Industry Act (NZIA), which is a very ambitious goal.

5. Obstacles for implementation by Member States

The impact assessment must consider implementation by Member States and potential limiting conditions. These include:

a. The implications of the different regulatory options on the **required capacity** at Member State level, in particular the capacity to undertake the required **permitting procedures**.

b. Implementation faces **spatial planning constraints**, particularly in light of competing spatial claims and interests on the North Sea, e.g. around Natura 2000 area's (land and sea). In addition **spatial planning procedures are complex** in densely populated areas on land, offshore, and around Natura 2000 areas (land and sea). Both of these factors add to the risk that projects cannot start within the preferred timeframe, or even at all.[5]

[5] See, Netherlands Non-Paper on Enabling the Energy Transition with Temporary, Small Nitrogen Emissions. 2025. https://open.overheid.nl. In general, this process can take up to 3-5 years, with no guarantee for a successful permit.

This impact should be included timely when new projects are proposed, in particular when multiple countries are involved.

6. Removing legal obstacles for cross-border CO2 transport between the EU and the UK

The proposed legislation should address the current legal obstacles to cross border CO2-transport between the EU and the UK. This is important to ensure a proportionate geographical distribution of CO2-transport and -storage capacity within an integrated European CO2 market. It will also provide flexibility and liquidity to the market.

7. Legal basis for the legislative initiative

The call for evidence for the legislative initiative on CO2 transportation infrastructure and markets refers to article 194(2) TFEU on energy as the legal basis for the legislative initiative. As the CCS and ETS Directives are based on article 192 TFEU, the question of whether this legislative initiative should also be based on article 192 TFEU as an additional legal basis, should be considered.