

JBCE'S POSITION ON THE DELEGATED REGULATION SUPPLEMENTING DIRECTIVE 2003/87/EC AS REGARDS THE REQUIREMENTS FOR CONSIDERING THAT GREENHOUSE GASES HAVE BECOME PERMANENTLY CHEMICALLY BOUND IN A PRODUCT¹

INTRODUCTION

The Japan Business Council in Europe (JBCE) appreciates the opportunity to provide comments on the European Commission's proposal for a Delegated Regulation for the EU-ETS. JBCE believes that the proposed regulation is an important step towards stimulating carbon removal markets and achieving the goal of carbon neutrality.

While the current draft focuses exclusively on the construction sector, particularly cement and concrete, we believe it is crucial to expand this definition to include chemicals, in particular those utilising Carbon Capture and Utilisation (CCU) technologies.

Nevertheless, we would like to give our views on the justification for including CCU plastics used in the construction industry in the list of "permanently chemically bound" products in the proposed Annex, with the three points below.

KEY MESSAGES

JBCE would like to stress the importance of the following three points:

1. Harmonisation with the CRCF on the categorisation and definition of permanent carbon storage in products and on the lifespan requirements
2. Recognition of recycling in the end-of-life treatment of CCU products to achieve the objective of reducing greenhouse gas emissions
3. Inclusion of plastics used in construction in the Annex as products to permanently chemically bind greenhouse gases

1. Harmonisation with the CRCF on the categorisation and definition of

¹ Supplementing Directive 2003/87/EC of the European Parliament and of the Council as regards the requirements for considering that greenhouse gases have become permanently chemically bound in a product (https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14135-Emissions-trading-system-ETS-permanent-emissions-storage-through-carbon-capture-and-utilisation_en).

permanent carbon storage in products and the lifespan requirements

- In line with the Commission Q&A on the provisional agreement between the European Parliament and the Council of the European Union on the CRCF (Certification Framework for Carbon Removals)², carbon removals are grouped in three categories, such as permanent carbon removals, carbon farming and carbon storage in products and under the QU.A.L.ITY criteria, are required to be stored permanently or over the long term. The lifespan of products storing carbon should be minimum of 35 years³.
- In line with the European Union Emission Trading System (EU-ETS) Directive⁴, products storing carbon long-term are being excluded and only refers to products that can store carbon permanently.
- In line with Article 3 paragraph 1(b) of the proposed Delegated Regulation, CO₂ shall *“remain permanently chemically bound in a product so as to not enter the atmosphere under normal use of the product, including any normal activity taking place after the end of the life of the product, for a period of **at least several centuries**.”*
- Information shared by the European Commission on the CRCF, and the requirement proposed in the EU-ETS Directive, and the Delegated Regulation are misaligned on the “lifespan” requirement, which is unclear and may mislead economic operators.
- **To clarify the European Commission approach on carbon removals and the “lifespan” requirements, we recommend aligning the proposed Delegated Regulation and the EU-ETS Directive with the European Commission’s communication on the CRCF. In particular, to align the carbon removal categories and to clarify their definition and the required lifespan. In addition, we strongly recommend taking into account currently available technologies and investments in CCU technologies, and therefore establish a more feasible and rational balance on this lifespan requirement.**

2. Recognition of recycling in the end-of-life treatment CCU products to achieve the objective of reducing greenhouse gas emissions

- In line with Article 3 paragraph 1(b) of the proposed Delegated Regulation, the end-of-life treatment requirement is also an important factor in defining permanently chemically bound products as shown in the following passage:

² European Commission Q&A Version 1.0, 05.04.2024 ([a8abe1c4-a3c6-4c94-be0e-4b76f7fd0308_en \(europa.eu\)](https://ec.europa.eu/presscorner/detail/en/ip_24_885))

³ European Commission (https://ec.europa.eu/commission/presscorner/detail/en/ip_24_885)

⁴ Directive 2003/87/EC on establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02003L0087-20240301>)

“Products that during normal use, including any normal activity taking place after the end of the life of the product, may be exposed to high-temperature combustion, such as during waste incineration, shall not qualify as permanently chemically bound.”

- According to the Circular Plastics Alliance (CPA) Report on the state of play for collected and sorted plastic waste from construction (2020)⁵, the construction sector in Europe is *“a large user of plastic recyclate”* (46% of the total recyclate placed on the market) and *“is a relatively low generator of plastic waste”* (estimated 6% of the total plastic waste stream arising in Europe).
- The chemical industry’s raw material transition plays an important role in achieving climate neutrality. This transition can only take place if we increase the use of biomass and recycling.
- In particular, in the case of polycarbonate, which can be taken as an example of CCU products used in the construction industry, Plastics Europe⁶ argues the following:

“Polycarbonate can be remelted. Repeated cooling and heating have limited effects on its properties. This means polycarbonate is an inherently good candidate for mechanical recycling. Other technologies such as chemical recycling can also be used with polycarbonate.”
- At the same time, the proposed Delegated Regulation does not recognise recycling as CCU, which incentivises economic operators to continue using raw materials and discourages investment in the development and use of recycled technologies.
- In addition, the CRCF will improve the EU’s capacity to quantify, monitor, and verify the authenticity of all forms of carbon removals, including CCU products. The end-of-life treatment of CCU products in the construction industry will be well managed under the CRCF.
- **Considering the CRCF and the need to encourage the defossilisation of the chemical industry, which is crucial to achieving the objective of reducing greenhouse gas emissions, we suggest that recycling be recognised in the CCU’s end-of-life treatment cycle and extended to final incineration.**

3. Inclusion of plastics used in construction in the Annex as products to permanently chemically bind greenhouse gases

- In some industries, plastics have a short lifespan of less than 10 years, such as packaging, consumer products, and textiles. Plastics used in the construction industry tend to have a longer lifespan, averaging over **30 years**⁷. According to Plastics Europe, the durability of plastics with anti-corrosion properties offers an impressive lifespan of over **100 years** under specific conditions⁸. These products can be used in construction products such as pipes

⁵ Circular Plastics Alliance, *State of play for collected and sorted plastic waste from construction (2020)* (<https://ec.europa.eu/docsroom/documents/43694>)

⁶ Plastics Europe (<https://www.aboutpolycarbonate.com/wp-content/uploads/2024/04/Polycarbonate-in-the-EU.pdf>)

⁷ Statista website (<https://www.statista.com/statistics/1357773/plastic-product-lifespans-by-type>)

⁸ Plastics Europe (https://plasticseurope.org/wp-content/uploads/2022/06/PlasticsEurope-CircularityReport-2022_2804-Light.pdf)

and window frames.

- In the field of CCU plastics used in the construction industry, polycarbonate and polyurethane are popular and are known for their slow decomposition, which prolongs their use phase and provides a stable carbon sink. The chemical structure of these plastics ensures that the captured carbon is not easily released back into the atmosphere, thus contributing to the reduction of greenhouse gas emissions.
- **Polycarbonate**
Polycarbonate is mainly used in the construction industry for roofs, windows, panels, boards, etc. Some economic operators report that in some instances, polycarbonate roof panels have lasted **30 years**⁹, even under sunlight. Considering recent advances in the circular economy mentioned above (2), some of these materials can rationally be considered to **last more than 60 years in practice**.
- **Polyurethane**
Polyurethanes are widely used in the construction industry, particularly for insulation, sealants and coatings. Polyurethane foam is widely used for insulating buildings. This includes applications such as walls, roofs, floors, and pipes. The lifespan of polyurethane insulation materials **can exceed 50 years**. These materials maintain their insulation properties and structural integrity for decades, making a significant contribution to the energy efficiency and carbon footprint of buildings. In addition, polyurethane can be recycled in two ways: either mechanically, by reusing it in its polymer form, or chemically, by breaking it down into its chemical components.
- **We suggest that the following CCU plastics used in the construction sector be included in the proposed Annex:**
 - **polycarbonate materials for roofs, windows, panels, boards**
 - **polyurethane foam for building insulation.**

ABOUT JBCE

Founded in 1999, the Japan Business Council in Europe (JBCE) is a leading European organisation representing the interests of over 105 multinational companies of Japanese parentage active in Europe. Our members operate across a wide range of sectors, including information and communication technology, electronics, chemicals, automotive, machinery, wholesale trade, precision instruments, pharmaceutical, textiles and glass products.

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EU Transparency Register: [68368571120-55](https://ec.europa.eu/transparency/regexp1/index.cfm?do=entity.entity_details&entity_id=68368571120-55)

⁹ Danpal website (<https://danpal.com/how-long-do-polycarbonate-roof-panels-last-in-sun/>)