NON PAPER ON ALTERNATIVE FALLBACK BENCHMARK VALUES FOR 2026-2030

Signed by Estonia, France, Germany, Spain

We strongly support the EU ETS as the central instrument for achieving the EU's climate neutrality objective by mid-century. A predictable carbon price sends a critical signal for mobilizing capital towards clean technologies and supporting the transformation of production processes—an area in which European industry has significant strengths.

Maintaining both the ambition and the integrity of the ETS is therefore crucial to achieving our climate objectives while ensuring the competitiveness of European industry vis-à-vis other markets with less ambitious—or even non-existent—environmental and climate policies.

However, as we enter the implementation phase of the EU ETS for the 2026-2030 period, we recognize that particularly the updated values for the fallback benchmarks (heat and fuel), used to determine free allocation during this period, pose challenges for certain European industrial sectors.

In particular, these sectors may not yet have access to viable alternatives or the necessary technologies to decarbonize at the pace implied by the revised benchmark values. Under the planned update, free allocation for some sectors relying on these benchmarks is likely to be insufficient to effectively mitigate carbon leakage—precisely the objective of such allocation.

In this context, the signatories of this non-paper note Recital 16 of the draft Implementing Regulation on benchmarks for 2026-2030, which provides for the introduction of sector-specific fallback benchmarks. While this adjustment is a positive step, careful attention must be paid to ensure that the methodology used allows these benchmarks to be aligned with the actual emissions reduction potential of the sectors to which these benchmarks apply. In order to ensure a timely implementation and avoid administrative burden, we encourage the Commission to adopt a pragmatic approach and assess possible alternative, more simple methods including a specific maximum annual reduction for the benchmarks for heat and fuel.

In light of the above, we urge the European Commission to:

- Provide clarity, at the earliest opportunity and prior to the Climate Change Committee meeting where the benchmarks Implementation Regulation will be voted, on the methodology the European Commission intends to use to determine the new fallback benchmark values, including the projected reduction rates, the number of sector-specific fallback benchmarks envisaged (e.g. whether they will rely on 6- or 8-digit PRODCOM codes, NACE codes, or other classifications) and the basis for defining them.

- Present a targeted legislative proposal to address the issue of fallback benchmarks (as outlined in Recital 16 of the draft Implementing Regulation), separate from the broader revision of the ETS Directive expected in July 2026, so that it can be adopted as swiftly as possible (e.g. before 01.01.2027 at the latest) and ensure the timely entry into force of the new fallback benchmarks for heat and fuel.
- Announce its intention to present this independent proposal in a statement during the Climate Change Committee meeting where the benchmarks Implement Regulation will be voted.
- Present a detailed legal analysis on the possibility for a retroactive application of the new fallback benchmark values for heat and fuel from 1 January 2026.

We trust that the European Commission, together with the European Parliament and the Council, and taking into account the views of European industry, will identify the most appropriate approach to revising these fallback benchmarks—one that supports the EU's level of ambition, the achievement of its climate objectives, and the competitiveness of its industry.