



Council of the European Union  
General Secretariat

---

---

**Interinstitutional files:  
2021/0211 (COD)**

---

---

**Brussels, 05 July 2022**

**WK 9720/2022 INIT**

**LIMITE**

**CLIMA**

**ENV**

**ENER**

**TRANS**

**AGRI**

**COMPET**

**ECOFIN**

**CODEC**

*This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.*

## **MEETING DOCUMENT**

From:	General Secretariat of the Council
To:	Working Party on the Environment
Subject:	Fit for 55 package (ETS revision): WPE meeting on 8 July 2022 - EP amendments on ETS BRT

With a view to the WPE meeting on 8 July 2022, delegations will find attached an overview of the EP amendments related to the new ETS for buildings and road transport sectors (ETS BRT).

## Revision of the ETS directive (cluster 1: ETS BRT): Examination of EP amendments at the WPE meeting on 8 July 2022

The objective of the meeting is to examine the amendments agreed at the plenary session of the European Parliament on 22 June 2022 (available at: [https://www.europarl.europa.eu/doceo/document/TA-9-2022-0246\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2022-0246_EN.html)). Delegations will be invited to indicate their positions/initial reactions on all amendments in one table round. No detailed discussion is expected at this stage. Delegations are invited to share their views and potential flexibilities mostly on technical (non-political) amendments as those are expected to be subject of discussions with the EP in the early stages of negotiations.

To facilitate the debate, the amendments have been grouped in clusters (Table 1) and briefly summarised (Tables 2 and 3) below.

**Table 1: Clusters**

Scope, phase in	Recitals: 471, 472, 473, 474, 481; Articles: 495, 577, 578, 579, 580, 581, 582, 626
Cap, auctions	Recitals: 475, 476; Articles: 583, 584, 585, 586, 587, 598, 599
Revenues, SCF	Recitals: 477, 478, 480; Articles: 588, 589, 590, 591, 592
Compliance	Articles: 593, 594, 595, 596, 597

## Brief summary of adopted Amendments:

**Table 2: Recitals**

Cluster	AM No.	New? N=no Y=yes	Recital No.	Summary
Scope, phase in	471	y	43a	BRT should also cover other fuels related to consumption (those that are not covered in Annex I to EU ETS Directive 2003/87/EC while avoiding double counting). Such approach shall simplify implementation.
Scope, phase in	472	n	44	1) Earlier start of first reporting, covering 2023-2024, instead of 2024-2025 2) BRT applicable from 2025 for fuels released in commercial sector only 3) Commission's assessment in 2026 4) If conditions are right, Commission shall aim to extend BRT to fuels released for private road transport and heating and cooling of residential buildings from 2029 + targeted review
Scope, phase in	473	n	46	Change of wording - replaces "two new sectors" with "in the new sectors"
Scope, phase in	474	n	47	1) Change of wording - replaces "sectors of building and road transport" with "new sectors" 2) Member States shall ensure that entities falling within the scope of BRT have valid permit at the start of 2024 instead of 2025.
Cap, auctions	475	n	48	Establishes the total quantity of allowances for the first time in 2025 instead of 2026
Cap, auctions	476	n	50	1) Change of wording - replaces "sectors of building and road transport" with "new sectors" 2) 30% increase in auction volumes of the total quantity of allowances shall come in 2025 instead of 2026
Revenues, SCF	477	n	52	1) Social Climate Fund shall be an integral part of the Union budget and effectively controlled by the budgetary authority composed of the EP and the Council 2) Introduces "carbon price fluctuation adjustment". Baseline allocation shall be increased annually by a supplementary reinforcement had the carbon price increased to a higher level than the initial assumption by the Commission. That adjustment shall be part of the Multiannual Financial Framework. All in accordance with the article 312 of TFEU
Revenues, SCF	478	y	52a	10% of expected revenues from BRT for development of climate friendly public transport and railway, including 10% of national revenues and including 10% of revenues under the Innovation Fund/ Climate Investment Fund
Revenues, SCF	480	n	54	150 million allowances from BRT to SCF instead of Innovation Fund.
Scope, phase in	481	n	55	1) Change of wording - replaces "buildings and road transport" with "the new" 2) First compliance for 2025 emissions instead of 2026 emissions

**Table 3: Articles**

Cluster	AM No.	New? N=no Y=yes	Article No.	Actual Directive	Summary
Scope, phase in	495	n	1(1) point 2, point d	3(1) point y	Adds “intended for use” and “or used as” to the definition of fuel
Scope, phase in	577	n	1 (1) point 21	Chapter IVa	Changes title. Includes “other fuels” into BRT
Scope, phase in	578	y	1 (1) point 21	30a (1a) new	Extension of scope of BRT shall only apply to fuels released in private road transport and for private heating and cooling of residential building from 2029, its inclusion is subject to Commission’s assessment as specified in AM 579
Scope, phase in	579	y	1 (1) point 21	30a (1b) new	1) Extension of scope of BRT applying to fuels released in private road transport and for private heating and cooling of residential building from 2029 if the conditions are right 2) Commission shall present a report to the EP and Council by 2026 - assessment of the extension from point 1 + description of what the assessment should include
Scope, phase in	580	y	1 (1) point 21	30a (1c) new	Possible “opt in” for MSs to apply BRT to fuels released for private road transport and private heating and cooling of residential buildings. If MS decided so, it must have sufficient support programme for low-income households and against energy poverty. Commission shall assess whether such Member State’s support programmes are sufficient. MS shall inform the Commission if it intends to do so.
Scope, phase in	581	y	1 (1) point 21	30a a new	1) poss. deadline extension for surrendering allowances for fuels used for private road transport and heating and cooling of residential buildings if the average price of these fuels is higher for six consecutive months preceding the year of the start of auctioning than in March 2022, to apply until the fuel price goes below that threshold. 2) Ties BRT launch for private households and transport use to the operability of Social Climate Fund (at least 3 years)
Scope, phase in	582	n	1 (1) point 21	Article 30b (1)	Advances of the obligation to hold a permit by one year (from 2025 to 2024).
Cap, auctions	583	n	1 (1) point 21	Article 30c (1)	Advances the issuance of allowances by one year (2026 to 2025)
Cap, auctions	584	y	1 (1) point 21	Article 30c (2) a new	Empowers Commission to adopt delegated acts to set out an additional amount of allowances to be issued in cases where there was double counting of emissions in the existing ETS and BRT.

Cap, auctions	585	n	1 (1) point 21	Article 30d (1)	Start of the auctions of allowances is advanced by one year (2026 to 2025).
Cap, auctions	586	n	1 (1) point 21	Article 30d (2) sub. 1	Start of the auctions of allowances is advanced by one year (2026 to 2025).
Cap, auctions	587	n	1 (1) point 21	Article 30d (2) sub. 2	The creation of 600m allowances in MSR is advanced by one year (2026 to 2025).
Revenues, SCF	588	n	1 (1) point 21	30d (3)	Transfer of the revenues from 150 million allowances to the Social Climate Fund instead of the Innovation Fund.
Revenues, SCF	589	y	1 (1) point 21	30d (3a) new	Introduces a “Carbon Price Fluctuation Adjustment Mechanism”, ties it to the Multiannual Financial Framework in accordance with the Article 312 TFEU
Revenues, SCF	590	n	1 (1) point 21	Article 30d (5) sub. 1	Further specifies that the BRT revenue part going to own resources should be general income and that all revenues incl. co-financing of Social Climate Plans should be used in line with the revenue use purposes defined in the SCF regulation.
Revenues, SCF	591	n	1 (1) point 21	Article 30d (5) sub.1 – point a	Requires the use of revenues for heating and buildings in accordance with the SCF regulation.
Revenues, SCF	592	n	1 (1) point 21	Article 30d (5) sub. 1 – point b	Requires the use of revenues for transport in accordance with the SCF regulation.
Compliance	593	n	1 (1) point 21	Article 30e (2)	The obligation for regulated entities to surrender allowances is advanced by one year.
Compliance	594	n	1 (1) point 21	Article 30f (2)	The obligation to monitor and report emissions is advanced by one year.
Compliance	595	y	1 (1) point 21	Article 30f (2a) new	Creation of mechanism to prevent pass on of more than 50 % of the costs related to the surrender of allowances for fuels released for consumption pursuant to Annex III to the final consumer. Revenues from higher pass on as penalties to be transferred to SCF.
Compliance	596	n	1 (1) point 21	Article 30f (4)	Edit the text to reflect the extension of BRT to other fuels.
Compliance	597	y	1 (1) point 21	Article 30f (4 a) new	Empowers Commission to adopt delegated acts to supplement this Directive by setting out the Union-wide and fully harmonised rules regarding compensation of costs arising from double counting for operators of ETS installations.
Cap, auctions	598	y	1 (1) point 21	Article 30h (2a) new	Introduction of price ceiling mechanism until the beginning of 2030. If average price of allowances exceeds a price of 50 EURO, 10 millions of allowances to be released from

					MSR based on a Commission decision, provided that no other measures under Art 30h are already applying. If the price exceeds 45 EUR, Commission and Member States shall take further measures to reduce emissions in order to avoid reaching the price cap.
Cap, auctions	599	n	1 (1) point 21	Article 30i (1)	Obligates the Commission to present a report by end of 2028 to the European Parliament and to the Council in which it assesses whether the price cap referred to in Article 30h(2a), first subparagraph, has been effective and whether it should be continued.
Scope, phase-in	626	n	1 (1) point 2	Annex III	Modification of Annex III to reflect the extension of BRT to all fuels except agriculture, fishing, aviation and private fuel use.