

Dear DG Climate,

There is a point largely ignored in discussions within lobbying organisations and EU member state positions on qualitative restrictions on CERs and ERUs after 2012.

The potential application of such restrictions on CERs issued from reduction taking place in 2008-2012 is often called "retroactive regulation".

Yet most agree that ERUs (especially from track 1) are a threat to the CER market and that allowing them into the scheme after 2012 would open the door the the AAU overhang into the EU ETS. ERUs only come from emission reductions in 2008-2012 but can be issued until 31 March 2015.

I am concerned that applying different sets of rules for CERs and ERUs may expose the EU to a case of discrimination between CER and ERU owners. As a consequence, allowing all CERs from pre-2013 reductions into the EU ETS may force the EU to also allow all ERUs into the scheme which would cause the carbon credit market to collapse rapidly. Attached is a chart showing the already excessive supply of CER/ERU until 2020 broken down by technology, without extra supply of ERUs issued after 2012.

Calling "retroactive regulation" restrictions on CERs from 2008-2012 reductions may be justified when applied before April 2013, as some companies have been expecting to use such credits for 2012 compliance before the EU ETS Directive was amended. However, applying restrictions after April 2013 should not be considered "retroactive regulation", since there was never any reasonable expectation that such credits would be eligible into the EU ETS before the scheme's extension was voted.

For this reason I suggest the EU should apply a maximum cut-off date of April 2013 for all credits (industrial gas CERs and ERUs) regardless of the date of emission reductions.

Best regards,

Adrien Assous

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