

## Geopolitical conditionality for starting ETS2 application

As additional safeguard mechanism for starting to apply the ETS2 to private road transport and private heating and cooling of residential buildings the EP proposes to add in the legal text a provision to delay surrendering obligations in case of high energy prices, until a predefined energy price level has been reached again.

The Commission could be open to a **redesigned geopolitical conditionality at the start of the cap application of the system** provided the mechanism is delinked from private sector exclusion: **If gas and oil wholesale prices are exceptionally high** compared to historical trends, they could already drive sufficient decarbonisation of the sectors and a **delay of the cap application by one year** could be acceptable. Limiting the emergency brake to a one-year delay seems also the best solution to mitigate impacts on the Social Climate Fund. It could also be a vehicle for a compromise on the full-fledged start date of the system aligned with the Commission proposal which presents the middle ground between EP and Council amendments.

Using wholesale energy market prices has the advantage that reference price data is immediately publicly available (e.g. TTF for gas in EUR per MWh, Brent for oil in USD per barrel), that it is a key driver of future end use price changes and that is not impacted by nationally determined network charges and taxes. A **focus on gas and oil wholesale prices** (instead of also including coal or other fuels) is a justified simplification, as these drive prices for more than 90% of fossil fuel use in both residential buildings and road transport. The trigger condition should allow for the possibility of increasing oil prices compared to March 2022 prices, as oil price levels at that date were not exceptionally high compared to historic prices (if inflation is taken into account) and are generally expected to increase in the future. Further **considerations on the concrete trigger prices** for the conditionality to propose:

- Separate trigger conditions for natural gas and oil prices, no averaging between the two
- As in EP proposal, comparison of an actual price period with a historical reference.
- The actual reference price is determined based on the twelve months preceding the year of start of auctioning, this would iron out short-term oscillations.
- The historical reference for oil should be expressed in a dynamic way, e.g. the average oil price during the five preceding years. In case of a cap applying from 2026, the average 2025 prices would be compared to the average prices 2020 to 2024.
- As for gas, the price situation remains exceptional, so it might also be considered to accept EP's condition of a reference to recent gas prices, e.g. of March 2022.

### Application of the conditionality if one of the two triggers is reached

- If we agree that a trigger based on 2022 conditions for gas would be justified while 2021 prices should not have triggered it, then the trigger for gas could be EP's condition that in the [twelve]consecutive months preceding the year of the start of auctioning of allowances, the average price of gas is higher than gas price in March 2022. It could be applied to the wholesale gas reference price (TTF in EUR per MWh). For comparison, it corresponds with currently available price information roughly to a result with just the average 2020 to 24 gas price value.
- The trigger for oil could be 2 times the five-year average 2020-24 of the wholesale reference price (Brent for oil in USD per barrel), acknowledging that oil prices vary a lot and are expected

to increase over time, and that only certain price peaks in 2022 were exceptional, but not average prices.

- These trigger levels are unlikely to be applicable to gas spot prices which have increased very significantly since 2020.