

## **UK Emissions Trading Scheme Provisional Common Framework – Submission from the Scottish Environment Protection Agency, 27 September 2023**

1. Is the framework clearly drafted, including in relation to its purpose and scope?

SEPA, as a UK ETS regulator finds the framework to be clearly drafted and structured in such a way as to allow information to be found effectively.

2. Does the framework only cover areas previously governed at an EU level, or does it also include matters not previously governed at an EU level?

The framework brings into scope of UK governance aspects of the EU ETS that were previously managed by the EU commission including; allowance auctioning, registry administration, and general scheme administration via the UK ETS Authority.

The framework also includes equivalent provisions related to the role of regulators under EU ETS.

The framework does not cover other related aspects of the UK ETS, notably policy relating to the linkage between the UK and EU ETS.

3. Does the framework set any measures for assessing whether divergence will be acceptable? By, for example, committing governments to maintaining certain standards.

The framework does not set an explicit standard for managing divergence, be that within the UK ETS or beyond. There is a process for dispute resolution which can consider divergence that may affect the framework principles negatively. This process is continually monitored by the ‘working group’ (ETS Official Level Working Group) who meet to discuss these matters and escalate as necessary.

The framework also includes a procedure by which future proposals for divergence can be considered and implemented.

4. The processes set out in framework will be used for the governments to decide when to align and when to diverge.

- Are these processes clear?
- Are the right people involved in decision making?
- Is there a role for stakeholders?

There is a clear process for managing the operational elements of the framework, including for divergence between relevant parties. Overall, the UK Government and devolved administrations are the key decision makers, operating through the UK ETS Authority. This is overseen by the Inter-Ministerial Group and feeds down to the ETS Official Level Working Group.

Relevant stakeholder input can be sought as part of decision making, however there is not a specified mechanism for those not in the framework to directly participate.

5. Does the framework propose any significant changes to policy?

The framework provides the structure to propose policy changes but does not in itself propose changes.

6. How will the framework change decision-making processes in the policy area in comparison to pre-EU exit?

The framework establishes the process of governance and administration of the UK ETS. This differs from that under the EU ETS, with the UK ETS Authority now acting in the role of the EU Commission. The UK Government and Devolved Administration have significantly greater scope to manage the UK ETS in comparison to the EU ETS as they now directly shape the policy area.

7. Are the decision-making processes set out in the framework transparent? By, for example, being subject to reporting requirements.

The framework sets out a clear process for decision making but does not set explicit reporting requirements, though the framework does require 'regular reporting' to the relevant legislatures.

8. Does the framework provide opportunity for ongoing stakeholder engagement, including in any review and amendment process?

The framework establishes a timeframe for its own review and amendment which would include stakeholder consultation, but there is not otherwise an explicit process of stakeholder engagement.

9. Do you have any views on how Parliament should monitor the functioning of common frameworks?

The framework states that the UK ETS Authority will regularly report to the legislatures and can on request respond to an enquiry from the legislature. This could be used as an avenue to monitor the framework. In addition the UK ETS Authority continues the process of publishing a state of the ETS report annually, known as the Article 21 report under EU ETS. While this does not report on the framework proper, it does report on the output governed by the framework.

### **Subject specific questions**

As set out in the UK ETS Provisional Common Framework document—

- “Establishing separate trading schemes through legislation in Scotland, Wales and Northern Ireland falls within devolved competence”;

- “However, the Parties have agreed to jointly legislate to establish a single, UK-wide Emissions Trading Scheme with a common set of rules for participants.”

The suggested benefits of a UK-wide scheme are set out as—

- A UK-wide system, rather than separate national schemes, will create a larger carbon market, with greater liquidity, and a consistent carbon price across the UK.
- Access to a larger carbon market increases opportunity for emissions reduction and the cost effectiveness of emissions trading.
- A common, UK-wide approach to carbon pricing avoids ‘carbon leakage’ between different parts of the United Kingdom and globally, which could have a negative effect on the contribution of the policy towards reducing emissions in line with international obligations, and the UK’s pathway towards our net zero target.

10. Given this, what are the potential reasons for (or benefits from) divergence between Scotland and the rest of the UK in emission trading schemes i.e. the development of a Scotland-specific ETS?

The main advantage of a Scottish specific ETS would be the direct management of the policy area, allowing a focus on driving Scottish ambitions. It is possible that a Scottish ETS could be developed to more directly support Scotland’s greater ambitions on achieving net zero ahead of the rest of the UK. Additionally, a Scotland specific scheme could allow Scotland to engage in discussions on linking with other ETS internationally.

However SEPA agrees with the benefits as listed, a Scottish ETS would increase administration while creating potential risks around allowance liquidity and carbon leakage. There are examples of ETS within nations of a scale to Scotland which do demonstrate the potential such as the New Zealand Emissions Trading Scheme, but it is not clear to SEPA whether this would be to a greater benefit than continued partnership in a larger ETS.

11. The recent UK ETS reforms have aligned the scheme with the net zero target. As Scotland has an earlier net zero ambition than the rest of the UK, can this be achieved whilst part of a UK ETS which is aligned to the UK-wide net zero target?

The UK ETS is an important contributing factor to meeting Scottish net zero targets, but it is not the only one. Complimentary policies are needed to contribute to meeting the target.