

Brussels, 20.10.2026

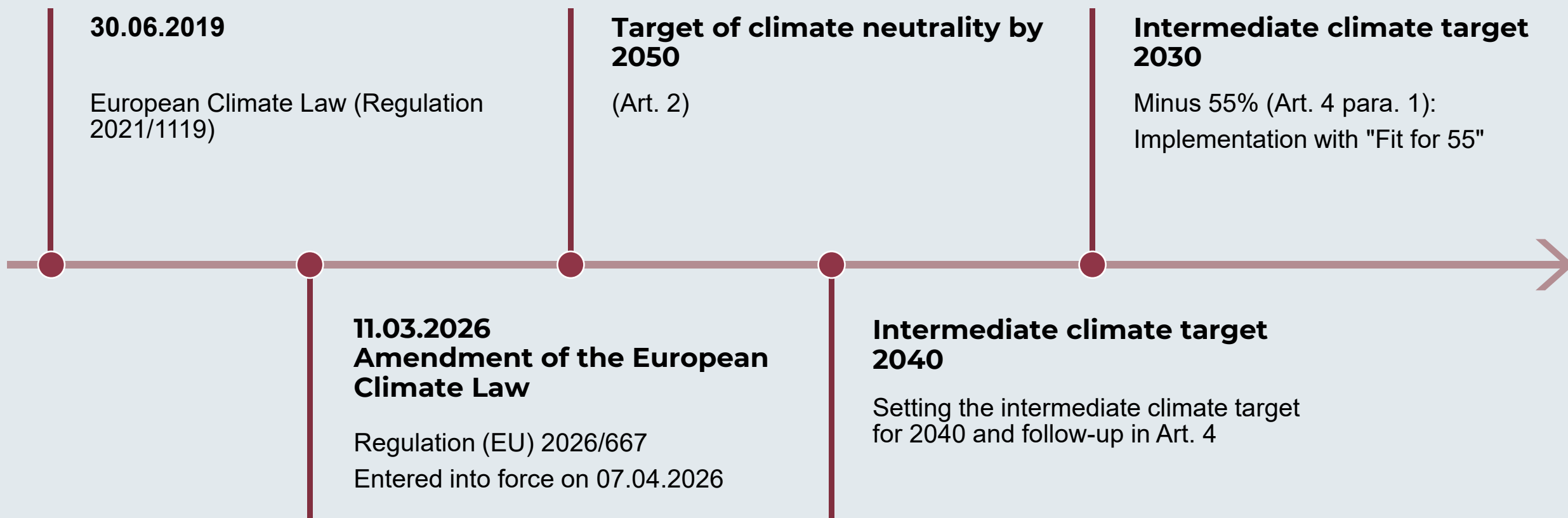
FLEX-MECHS: THE CONTRIBUTION OF INTERNATIONAL CREDITS TO THE EU CLIMATE TARGET 2040

INTRODUCTION



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EU CLIMATE TARGETS



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EU CLIMATE TARGET 2040: STRUCTURE OF THE NEW ART. 4 EU CLIMATE LAW

Para. 3	Para. 4	Para. 5
Interim climate target by 2040: reduction of 90%	The EU Commission: • Shall review the relevant Union legislation in order to enable the achievement the EU's 2040 climate target and climate-neutrality objective, and • consider taking the necessary measures as appropriate and based on a detailed impact assessment, in accordance with the Treaties.	Within the Framework of the review referred in para. 4, in order to facilitate the achievement of the EU 2040 climate target, the Commission shall ensure that the elements listed are appropriately reflected in the legislative proposals, in particular:: • Adequate contribution of high-quality international credits from 2036 onwards • The role of domestic permanent removals in the Union • Enhanced flexibility within and across sectors

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2030 FRAMEWORK

EU Climate Law (2021)

→ EU-wide GHG emission reduction targets

Min. -55% by 2030; -90% by 2040; Climate neutrality by 2050 (net targets; reduction compared to 1990)

Emissions Trading System (ETS 1)

EU-wide target for ETS 1 sectors:
-62% by 2030 compared to 2005 levels

Emissions Trading System 2 (ETS 2)

Burden sharing (ESR)

EU-wide target for non-ETS sectors:
-40% by 2030 compared to 2005 levels

- › Binding contributions of the MS

LULUCF

- › EU-wide removal target: 310 million tonnes of CO₂ eq by 2030
- › „No-debit-Rule “

Sectoral legislation

with EU targets and national contributions

- › RED: min. 42.5 % (+ 2.5 %) by 2030
- › EED : min. - 11.7 % by 2030
- › EPBD

MS define national policies and measures (and in some cases national contributions) that contribute to EU goals.

EU Governance Regulation (2018)

= Central procedural control instrument for the

- Objectives of the Energy Union
- Control of GHG emission reduction

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„ENERGY UNION PACKAGE AND CLIMATE PACKAGE FOR THE NEXT 10 YEARS “ EU COMMISSION WORK PROGRAMME FOR 2026

8.	Energy	Update of the governance of the Energy Union and Climate Action including the phase-out of fossil fuels subsidies (legislative, Articles 192 and 194 TFEU, Q4 2026)
		Energy Union package for the decade ahead
		- Development of the CO2 transportation infrastructure and markets (legislative, Article 194 TFEU, Q3 2026)
		- Setting-up of the energy efficiency framework (legislative, Article 194 TFEU, Q3 2026)
		- Setting-up of the renewable energy framework (legislative, Article 194 TFEU, Q3 2026)
9.	Climate	Omnibus to simplify energy product legislation (legislative, Articles 192 and 194 TFEU, Q2 2026)
		Climate package for the decade ahead
		- Revision of national targets and flexibilities in the EU climate policy framework (legislative, Article 192 TFEU, Q4 2026)
		- Update of the EU emissions trading system for maritime, aviation and stationary installations, and the relevant market stability reserve (legislative, Article 192 TFEU, Q3 2026)
		European integrated framework for climate resilience (non-legislative and legislative, Article 192 TFEU, Q4 2026)

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Flex-Mechs: Contribution of international credits to the EU climate target 2040

11:15 - 11:30	Introduction – The EU climate target 2040 <i>Dr. Markus Ehrmann, Foundation for Environmental Energy Law</i>
11:30 - 12:00	Flex-Mechs: How international credits could contribute to the EU climate target 2040 <i>Dr. Jana Nysten, Foundation for Environmental Energy Law</i>
12:00 – 12:45	Moderated discussion <i>Leona Tenkhoff, SWP</i> <i>Louis Uzor, Carbon Gap</i> <i>Artur Metzger-Runge, MCC</i> <i>Benjamin Görlach, Agora Energiewende</i> <i>Dr. Jana Viktoria Nysten, Foundation for Environmental Energy Law</i> Moderation: <i>Dr. Markus Ehrmann, Foundation for Environmental Energy Law</i>
12:50 – 13:00	Wrap up and Closing <i>Dr. Markus Ehrmann, Foundation for Environmental Energy Law</i>

Dr. Markus Ehrmann

ehrmann@stiftung-
umweltenergierecht.de

Stiftung Umweltenergierecht
Friedrich-Ebert-Ring 9
97072 Würzburg



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„FLEX-MECHS“ THE CONTRIBUTION OF INTERNATIONAL CREDITS TO THE EU CLIMATE TARGET

Presentation of the upcoming Würzburger Studie zum
Umweltenergierecht



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AGENDA

- › EU law allows for a contribution of international credits to the EU 2040 climate target
- › State parties may cooperate under the Paris Agreement
- › Discretion of the EU legislator with the use of international credits
- › Conclusions and Outlook

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EU LAW ALLOWS FOR A CONTRIBUTION OF INTERNATIONAL CREDITS TO THE EU 2040 CLIMATE TARGET

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LEADING UP TO THE AMENDMENT OF THE EU CLIMATE LAW, THE USE OF INTERNATIONAL CREDITS WAS A CONTROVERSIAL TOPIC

- › European Scientific Advisory Board on Climate Change, think tanks, but also many NGOs had expressed concerns, as international credits could **move decarbonisation investments outside Europe**, and **may not always represent permanent and realistic GHG emissions reductions**.
- › European Commission was expressed their opposition to (again) allowing the use of international credits in the **EU Emissions Trading System (EU ETS)**, which in the past, under the rules of the Kyoto-Protocol, had led to a drop in prices of allowances without meaningful contribution to climate change mitigation.
- › Still, the European Parliament and the Council agreed to allow „**an adequate contribution**“ – at **up to a higher percentage** than the Commission had proposed (a maximum of 5% v. 3%).



The EU Climate Law for the first time allows a contribution of international credits to the EU climate target, albeit limited.

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CONTRIBUTION OF INTERNATIONAL CREDITS UNDER ART. 4(5) EU CLIMATE LAW

2036-
2040

“from **2036**, ... towards the EU climate target **2040**”
“a pilot period from 2031 to 2035 to initiate a high-quality and high-integrity international credit market may be considered” (Art. 4(5) lit. a) EU Climate Law)

≤ 5%

“**up to 5 % of 1990 Union net emissions**, corresponding to a **domestic reduction of net greenhouse gas emissions by 85 %** compared to 1990 levels by 2040”
(Art. 4(5) lit. a) EU Climate Law)

Implem
entation

“**high-quality** international credits under Article 6 of the Paris Agreement...”, “**ambitious and cost-efficient...**”, “**origin, quality criteria and other conditions** concerning the acquisition and use of any such credits shall be **regulated in Union law**” (Art. 4(5) lit. a EU Climate Law)

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STATE PARTIES MAY COOPERATE UNDER THE PARIS AGREEMENT

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COOPERATION IN THE FIELD OF CLIMATE CHANGE WITHIN THE UNFCCC FRAMEWORK

- › Under the Kyoto-Protocol, industrialized states had to achieve a certain percentage of GHG emissions reductions; to supplement their own efforts, they could cooperate with other industrialized (Joint Implementation) or developing countries (Clean Development Mechanism).
 - › “Flexibility mechanisms” (probably) helped get State Parties to accept the GHG emissions reductions obligations.
- › Under the Paris Agreement, (all) State Parties set their own GHG emissions reductions targets (Nationally Determined Contributions); “voluntary cooperation” may be pursued “to allow for **higher ambition in their mitigation and adaptation actions** and to **promote sustainable development and environmental integrity**” (Art. 6(1) Paris Agreement).



State Parties may choose to cooperate under the Paris Agreement; if they do that it should lead to more/better climate mitigation and adaptation.

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MODALITIES OF COOPERATION UNDER ART. 6 PARIS AGREEMENT

Art. 6(2) PA

Cooperative Approaches

- Internationally Transferred Mitigation Outcomes (ITMO)
- Contractual freedom of the state parties
 - If ITMO for achieving the NDC „corresponding adjustments“ (Art. 6(3))

Art. 6(4) PA

Paris Agreement Crediting Mechanism (PACM)

- Mechanism to generate Art. 6.4 ER
- Uniform type of certificate that can be transferred as ITMO
 - Not a trading platform!
- If transferred as ITMO then Art. 6(2) jo. Art(3) applies.

Art. 6(8) PA

Non-market based approaches

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› DISCRETION OF THE EU LEGISLATOR WITH THE USE OF INTERNATIONAL CREDITS

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Text of the EU Climate Law

Text of the Paris Agreement

Objectives of the cooperation	“both ambitious and cost-efficient, supporting the Union and third countries in achieving net greenhouse gas reduction trajectories compatible with the Paris Agreement... “ (Art. 4(5) lit. a) EU Climate Law)	“higher ambition in their mitigation and adaptation actions and to promote sustainable development and environmental integrity.” (Art. 6(1) PA)
Timing of the cooperation	“from 2036... towards EU climate target 2040”... “pilot period from 2031 to 2035” (Art. 4(5) lit. a) EU Climate Law)	n/a BUT: prohibition on banking – international credits cannot be transferred between NDC periods
Number of international credits to be transferred	“up to 5 % of 1990 Union net emissions, corresponding to a domestic reduction of net greenhouse gas emissions by 85 % compared to 1990 levels by 2040” (Art. 4(5) lit. a) EU Climate Law)	n/a BUT: reporting obligations and accounting rules (“corresponding adjustments” for ITMO to be used for NDCs)

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	Text of the EU Climate Law	Text of the Paris Agreement
Identity of the buyer and internal use of international credits	n/a	(state) “Parties” (who can decide to allow participation of private actors) only concerned with use for achieving the NDC
Quality of international credits	“high-quality” (several other aspects mentioned, including “integrity, avoidance of double counting, additionality, permanence, transparent governance, strong monitoring, reporting and verification methodologies”) (Art. 4(5) lit. a) EU Climate Law)	n/a PACM is an option which would come with certain standards and respective certification
Identity of the seller/cooperation partner	n/a (Recital 13 mentions “Strategic Partners”)	(State) “Parties” (who can decide to allow participation of private actors)

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EU COMMISSION PROPOSES LIMITED USE OF INTERNATIONAL CREDITS IN EU ETS

EU Commission in Proposal EU for Climate Law



“International credits should **not** play a role in compliance with the rules of the CO2 market.

They should be accounted for **on the basis of a linear target path.**”

(p. 2 f. of the explanatory memorandum to the proposal)

EU Commission Proposal for EU ETS Reform



“Up to 260 million allowances from the Union-wide quantity of allowances referred to in Article 9 shall be made available to the facility for the purchase of up to 260 Mt of high quality and high integrity international credits...” (Art. 9b(1) EU Com proposal for EU ETS Reform)

(Successful) Acquisition of international credits would allow reduction of linear reduction factor by 1% from 2036-2040 (1,7% instead of 2,7%)



**EU Commission still wants to keep international credits out of the EU ETS “market”.
Central purchase (and use) through EU Commission.**

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CONCLUSIONS AND OUTLOOK



CONCLUSIONS AND OUTLOOK

- › The **EU Commission's proposals on international credits are expected Q04/26**; those will have to comply with the assignment laid out in Art. 4(4) jo. 4(5) EU Climate Law.
 - › From the consultation documents, we know that the EU Commission has been looking into **several (important) aspects** mentioned in Art. 4(5) lit a) EU Climate Law, inter alia “economic, social and environmental co-benefits and human rights safeguards, and have a high ambition for the share of proceeds for adaptation and the sharing of mitigation benefits with countries concerned”.
- › The rules of the **Paris Agreement** are mostly concerned with the use of **ITMO to achieve the NDC**; insofar as the EU intends to do that, compliance with reporting obligations etc. will have to be ensured.
- › For the **transfer of ITMO, bi- (possibly multi)-lateral international agreements** between State Parties will be required.

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Dr. Jana Viktoria Nysten

nysten@stiftung-
umweltenergierecht.de

Stiftung Umweltenergierecht
Friedrich-Ebert-Ring 9
97072 Würzburg



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