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Draft Delegated Regulation on the certification methodologies for carbon farming activities

Business & Science Poland position

Business & Science Poland presents its position on the draft Delegated Regulation establishing the certification methodologies for carbon farming activities pursuant to Regulation (EU) 2024/3012. This draft will have significant implications for the future shape of the market for certified carbon units in the agricultural sector, as well as for the practical implementation of carbon farming activities in the Member States. In our assessment, the document requires further clarification in several key areas. In particular, we draw attention to issues related to the ownership and tradability of carbon credits, the interaction with other EU policy instruments (including the EU ETS and the Common Agricultural Policy), the application of the additionality principle, and the need to ensure sectoral neutrality.

Below, we present detailed comments and recommendations in the above-mentioned areas.

1. Carbon credits as a farm-level asset and the prevention of double use

The draft Delegated Regulation establishes a system for the certification and registration of units; however, it does not explicitly regulate the legal status of a carbon credit as a property right, nor does it clearly define who holds the right to freely dispose of such a credit. The provisions focus primarily on environmental integrity and control mechanisms, without addressing issues related to ownership and civil-law tradability.

In our view, it should be explicitly confirmed that a certified carbon credit constitutes a right held by the operator implementing the activity (e.g. the farm) and may be freely transferred or used by that operator, subject to compliance with the rules of the certification framework. At the same time, it is essential to clearly ensure that the same unit cannot be used twice, neither in private transactions nor in parallel for other reporting purposes, in order to safeguard transparency and prevent double counting.

2. Clear distinction between carbon removal certificates and emission reduction certificates

Under the adopted design of the certification framework, carbon removals and soil emission reductions are defined separately at the methodological level. However, both types of climate outcomes operate within a single, common category of certified units. This means that, despite their different climatic nature and distinct environmental logic, no clear institutional differentiation or separate types of certificates with differentiated regulatory status or specific system uses have been provided for.

A clear separation between carbon removal certificates and emission reduction certificates is essential to ensure transparency regarding their respective climate characteristics and clarity in reporting and net emission accounting, in particular with regard to entities covered by the EU ETS. An institutional and systemic distinction

between the two categories would enhance regulatory certainty, facilitate corporate reporting, and reduce the risk of divergent interpretations in the future use of units across different regulatory contexts.

3. Clarification of carbon credit ownership in relation to land ownership

Regulation (EU) 2024/3012 and the draft Delegated Regulation refer to the “operator” as the entity implementing the carbon farming activity and acting as the party to the certification process. However, the provisions do not regulate the relationship between land ownership and the right to the certified carbon credit, nor do they address situations in which the landowner and the actual land user (e.g. a tenant) are separate entities.

In our view, it would be appropriate to explicitly clarify that the right to a certified carbon credit belongs to the entity that effectively implements the activity and assumes responsibility within the certification framework, irrespective of the title to the land. In particular, in cases of lease or other forms of land use, regulatory clarity should be ensured as regards the allocation of rights to the units, in order to reduce the risk of legal disputes and to provide predictability and investment certainty for participants in the system.

4. Proportionality of methodological requirements for soil carbon monitoring

Under the adopted soil carbon monitoring methodology, two alternative approaches are provided for: sampling to a depth of 30 cm, which entails the obligation to apply the Equivalent Soil Mass (ESM) method, including error propagation and detailed documentation of calculations; or sampling to a depth of at least 60 cm, which exempts operators from the ESM requirement but generates higher operational field costs. While this design aims to ensure a high level of precision and environmental integrity, it does not differentiate the requirements according to the scale of the project or the size of the farm. In practice, this results in a choice between a higher analytical burden and increased field costs, which may constitute a significant barrier for smaller operators.

It would be appropriate to consider introducing a simplified methodological pathway for smaller operators, while maintaining a conservative approach to the estimation of climate benefits. The objective is not to lower environmental standards, but to enhance the scalability of the system and enable broad participation by farmers. Excessively complex methodological requirements may, in practice, limit participation to large-scale projects or entities with specialised technical expertise, which would be contrary to the objective of promoting the widespread uptake of carbon farming practices across the EU.

5. Interaction between the additionality test and practices supported under the Common Agricultural Policy

The draft Delegated Regulation provides for an obligation to demonstrate the additionality of carbon farming activities, i.e. to confirm that a given activity goes beyond legal requirements and the baseline scenario. At the same time, practices such as cover crops or improved nitrogen use efficiency, which may lead to an increase in soil carbon stocks or a reduction in greenhouse gas emissions, are already widely promoted and supported under the Common Agricultural Policy, and in some cases form part of conditionality requirements.

It is therefore necessary to clearly specify how the additionality test will be applied to practices supported under the CAP, in order to avoid situations in which climate-beneficial actions are automatically deemed non-additional. The certification framework should allow for the recognition of climate benefits where there is a genuine increase in ambition or an intensification of actions beyond the level required by legislation or standard practice. Such an approach would prevent the penalisation of early adopters of good practices and ensure coherence between CAP instruments and the carbon farming framework.

6. Consideration of sector-specific characteristics

The proposed methodology is based on uniform rules for monitoring and demonstrating increases in soil organic carbon (SOC) stocks or emission reductions, through comparison with a baseline scenario and an assessment of permanence and uncertainty. The system assumes the possibility of documenting a measurable and relatively stable climate benefit over a defined monitoring period, irrespective of the characteristics of a given production system. In its current form, the methodology does not differentiate requirements according to the specific features of different crop types or farming models.

The system should take greater account of sector-specific characteristics, including the nature of crops that require intensive and deep soil intervention, such as potatoes (including starch potatoes) and sugar beet. This type of production involves regular mechanical operations, significant crop rotation and substantial short-term variability in soil organic carbon content, which may make it more difficult to demonstrate a stable trend over a shorter time horizon.

In this context, a more flexible methodological approach for such production systems would be justified, for example by allowing longer reference periods, model-based approaches that account for crop rotation, or appropriate adjustments to uncertainty assessment rules. This would help avoid the unintended discrimination of certain agricultural segments, while preserving environmental integrity and the credibility of the system.

About BSP

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