



Castles in the Air:

The Spanish State,
public funds
and the EU-ETS



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1. Executive Summary

The European Union Emissions Trading Scheme (EU-ETS) was launched in 2005 as the key tool for reducing industrial greenhouse gas emissions and fulfilling emission reduction commitments under the Kyoto Protocol. However, EU emissions are on the rise and the scheme has failed to deliver on its purported objectives while providing a lucrative business opportunity for the worst polluters.

Within the EU framework, although the Spanish State was given a green light to raise emissions by 15 per cent based on 1990 levels, between 1990 and 2007 total emissions increased by 53 per cent (a significant 38 per cent over the EU commitment). Cement production, for example, increased by 70 per cent between 1993 and 2007, reflecting the boom in construction and building.

Moreover, the overall Spanish climate strategy lacks consistency, as exemplified by the 'coal decree' adopted in February 2011 subsidizing domestic coal burning for power generation until 2014. The measure not only meant 393 million euros of public funding in 2011 but also contributed to an estimated 35 per cent increase in CO₂ emissions that same year.

This is also evident in the political process of the National Allocation Plan (NAP), which determines how many pollution permits companies are allotted. The NAP process involved sectoral meetings convened by the administration with 'stakeholders', including industry associations however no official meetings were held with civil society groups.

The NAP sets the limit for using offset credits at 42 per cent for public energy production and at 7.9 per cent for the rest of the sectors. However, many offset projects brought about and contributed to various environmental and social conflicts in the South, especially for local communities, and further do not represent emission reductions.

While industries covered by the EU-ETS are making money for polluting, the Spanish government still needs to take responsibility for millions of excess emissions in sectors that are not covered by the EU-ETS, but which still count towards meeting the Kyoto Protocol commitments. While the Spanish State was allowed to emit 180 million CO₂-equivalent tonnes per year, emissions in the sectors not covered by the ETS reached 231 million CO₂-e tonnes in 2010, 228 million in 2009, and 239 million in 2008. The last official figures in February 2012 estimate that the Spanish State will need to buy more than 159 million offset credits abroad to achieve its Kyoto commitments.

The EU-ETS allows the use of offset credits generated through the CDM and JI which companies can use to meet their emissions reduction targets. The Spanish National Authority, the operating body that approves CDM projects for Spanish companies and the Spanish State, has passed 205 CDM projects of which 40 projects are used by the Government of Spain to meet its Kyoto commitments. Over half of these 40 projects are wind power, methane avoidance and landfill gas projects in the South.

The Spanish State uses public money to create funds for polluting industries that 'assist' companies in generating offset projects and offset credit purchase that is used to avoid reducing emissions at source.

2. Pricing the destruction of nature: Climate change and carbon trading

In 1997, governments under the United Nations Convention on Climate Change (UNFCCC) adopted the Kyoto Protocol with the aim of limiting or reducing greenhouse gas (GHG) emissions. Acknowledging that industrialized countries are those most responsible for the current high levels of GHG emissions in the atmosphere as a result of more than 150 years of industrial activity, the Protocol binds 37 industrialized countries, including those within the European Union (EU), to reducing emissions an average to 5.2 per cent below 1990 levels by 2012.¹

The EU Emissions Trading Scheme (EU-ETS) was launched in 2005 as the EU's "key tool for reducing industrial greenhouse gas emissions cost-effectively."² The scheme now operates in 30 countries and covers some 11,000 industrial installations, such as power stations, combustion plants, oil refineries and iron and steel works, as well as factories that produce cement, glass, lime, bricks, ceramics, pulp, paper and board.³

Under the EU-ETS, companies are allotted pollution permits which can be traded with other companies under the scheme. Other entities, such as banks, intermediaries and brokers can also buy and sell pollution permits in a manner which is similar to other financial instrument trading, including a range of derivatives. In addition, the implementation of 'emissions-saving' or offset projects in Southern countries under the Clean Development Mechanism (CDM) generates credits that can be bought by polluters and investors and traded in the market.

The permits and credits can also be saved or 'banked' to use between one phase and the next since the beginning of the second phase in 2008. It is estimated that a surplus of around 970 million permits were generated during the second phase (2008-2012) which companies can 'bank' for use in the third phase (2013-2020), meaning that polluters need to take no action domestically until 2017.⁴

The EU-ETS grew rapidly to an estimated total value of 76 billion euros by the end of 2011, giving it the status of the largest emissions trading market in the world.⁵ The first and second phases of the scheme (2005-2007 and 2008-2012) have demonstrated a resounding failure in regards to the declared objectives.⁶ Some of these failures include a massive overallocation of permits to polluting companies and a sizeable VAT fraud which, according to Europol, entailed a tax loss of an estimated five billion euros.⁷

Further, there is evidence that European emissions are on the rise.⁸ Regardless, the EU has not wavered. In the words of Connie Hedegaard, European Commissioner for Climate Action, "The EU-ETS is Europe's flagship policy to tackle climate change and is there to stay."⁹

Box 1 What is carbon trading?

The Kyoto Protocol negotiations, in the late 1990s, saw intense lobbying led by industrialized countries – mainly the United States –, transnational corporations and industry associations for "market-based solutions that are flexible and cost-effective."¹⁰ As a result of this, the Protocol introduced market-based mechanisms that countries could use "as an additional means" to meet their emission reduction targets.¹¹

There are two main 'flexible' mechanisms: cap and trade, and offsets. Both are based on the false assumption that "an emission reduction achieved in one location has the same beneficial effects as an emission reduction achieved anywhere else."¹² These misleading equivalences were made to create an homogeneous new commodity to be traded: carbon.

Under cap and trade schemes, governments or intergovernmental bodies, such as the European Commission, set an overall legal limit of carbon emissions in a certain time period ('a cap') and then grant industries a certain number of licenses to pollute ('carbon permits or allowances').¹³ Companies can sell or buy those permits between one another. At the end of each year, each company must surrender enough permits to cover all its emissions. If a company has spare permits (because it was given more than it needed or bought many offset credits), it can keep them to cover its future needs or else sell them on to another company.¹⁴ The EU-ETS is the largest carbon market in the world and is based on this approach.

The Clean Development Mechanism (CDM) is the largest UN-backed offset scheme and allows industrialized countries (with commitments under the Kyoto Protocol) to implement 'emission-saving projects' in the Global South. These projects can generate tradable offset credits (called 'certified emission reductions or CERs') that can be counted towards meeting Kyoto targets.¹⁵ Joint Implementation (JI) works fundamentally like the CDM, but with projects implemented in 'transition economies', located mainly in Eastern European countries (and earning 'emission reduction units or ERUs').

The Linking Directive, approved by the European Community in 2004, allows companies to use a certain amount of offset credits generated by CDM and JI projects in the EU-ETS market, thus enhancing the link between the Kyoto Protocol and the EU-ETS. Each country decides on the limit for the use of offset credits from project activities.¹⁶

3. Evolution of emissions in the Spanish State

Under the framework of the Kyoto Protocol, the EU committed to an eight per cent *reduction in emissions* of six greenhouse gases by 2012 compared to 1990 levels.¹⁷ Within the framework of the EU, the Spanish State undertook the obligation to *limit the growth* of its emissions by an average of 15 per cent based on 1990 levels.¹⁸

The Spanish State along with Ireland, Greece and Portugal were allowed to increase emissions based on the 'burden-sharing agreement' between the EU Member States.¹⁹ This was allegedly out of deference for the less-industrialized countries of the EU to allow for continued economic growth.

Although the Spanish State was given a green light to raise emissions by 15 per cent, between 1990 and 2007 total emissions increased by 53 per cent (a significant 38 per cent over the EU-15 commitment). According to a report from the European Environment Agency, "Emissions from all sectors increased between 1990 and 2007, with the highest increases from energy use in transport, public electricity and heat production and fuel use in industry and households/services."²⁰ Cement production, for example, increased by 70 per cent between 1993 and 2007, reflecting the boom in construction and building.

The international obligations assumed by the Spanish State regarding its domestic emissions did not have any impact on this steadily upward trend, which continued (except for a slight decrease in 2006) until 2007, when the economic crisis hit the country. Since then, emissions have seen a constant decline due to a decrease in economic activity, especially in cement and lime production, and the transport sectors.²¹

The Coal Decree

Just as emissions shifted due to the economic downturn, the Spanish administration adopted a 'coal decree' in February 2011 after receiving EU approval.²² This allows the Spanish State to subsidize domestic coal burning for power generation until 2014.²³ The measure not only meant 393 million euros of public funding directed to subsidize big polluters in 2011, but also contributed to an estimated 35 per cent increase in carbon dioxide (CO₂) emissions that same year.²⁴

While the Ministry of Environment estimated that if this measure had not been taken, emissions would be 18 per cent above 1990 levels, other independent analysts consider that the figure must already be 29 per cent above 1990-levels and that the 'coal decree' puts Spanish emission trajectories "a step back to the levels of a decade ago."²⁵

These developments in the energy sector, which is one of the main sources of emissions, are representative of the lack of consistency in the overall climate strategy of the Spanish State. According to researchers Río and Labandeira:

"Climate policy in Spain has been a weak and soft policy and not a priority on the agenda of policy makers First, it has been a non-integrated policy, based on scattered measures applied in different sectors without a specific overall national planning of a climate change mitigation strategy in mind. Spain was the last EU country to have an official National Climate Change Strategy (in 2006). Second, the measures only had an indirect effect on CO₂ emissions."²⁶

Further, measures allegedly taken to tackle climate change may have been for other reasons such as increasing or maintaining domestic jobs, as was purported with the 'coal decree'. Former president of the regional government of Aragón, Marcelino Iglesias, maintained support for the 'coal decree' in February 2010 by stating the decree would "give employment to many miners."²⁷

The Construction Boom

Considering the trend of emissions in retrospect, the Spanish State has consistently opted for keeping its economic 'growth model' over taking action on climate change. A case in point is the rise of the transport and construction industries, both closely linked to the tourism sector. Transport accounts for about 25 per cent of total emissions and has risen around 89 per cent since 1990.²⁸ Manufacturing industries and construction accounted for a 51.6 per cent increase in emissions by 2007 compared to 1990 levels and this is without counting cement production and other related-activities.²⁹

The reasons behind the 'building boom' in the Spanish State are many-fold. In the last two decades, for instance, many under-resourced local administrations have reclassified lands to allow new construction in areas where building was previously restricted. Other reasons include the lack of profitability in the manufacturing and service economy, which led to small profit margins in the real economy and the shift of investments to other undertakings. In addition, during the second half of the 1990s, permissive legislation for building and urbanization was introduced, alongside a number of important deregulation measures. This was coupled with access to abundant and low interest credit both for the building and real estate industry, and inexpensive mortgages for families.³⁰

The new building contracts were lucrative investments for some government officials and their business partners. As a result, the building of mega-projects, many of them linked to the tourism industry, has proved to be a very efficient formula to both ‘keeping the economic wheels turning’ and reinforcing the wealthy few through further speculation and trading. In recent years, the country has seen a growing number of publicly disclosed cases in urban planning corruption, revealing a particularly close alliance between public officials and powerful corporate actors. For example, there was a pre-arranged call for tender between the government of the Balearic Islands and the construction giant *Fomento de Construcciones y Contratas (FCC)* to build a multisport pavilion in Palma de Mallorca. According to the court examining the case, this building endeavor secured around 41 million euros of public funds that was ‘diverted’ into private pockets.³¹

By 2004, estimates show that more than 500,000 apartments and houses were built per year, and in 2005 more houses were built in the Spanish State than in France, Germany and the United Kingdom combined.³² Moreover, between 1999 and 2009, the Spanish State built over 5,000 km of highways — the biggest road construction endeavor in Europe.³³ In the last decade, the country also built an extensive high speed rail network, now the longest in Europe, and the second largest in the world, only after China.³⁴ The national and regional governments have also littered the country with ‘white elephants’, ranging from airports to sports arena, and ‘science and culture cities’, most of which now remain empty but still require funds for maintenance costs.³⁵

One example of the excess construction boom is the ‘ghost’ airport in the eastern region of Castellón. The airport was inaugurated in March 2011 after an estimated cost of nearly 200 million euros, including a 300,000 euro sculpture ‘inspired’ by the President of the regional government.³⁶ The airport has not yet seen a single passenger as the principle runway does not meet regulations and is slated for reconstruction.³⁷ Besides building airports that were doomed to be empty, the Spanish government also used public money to subsidize the companies running them.³⁸ This has a crucial link with the EU funds, which have been mostly misused in infrastructure.³⁹

Though the big building enterprises led the way in large construction endeavors, they were followed by many smaller entrepreneurs. Urban planning and wider corruption is actually one of the many issues denounced by the Spanish popular movement ‘*Indignados*’ that have been active since May 2011.⁴⁰

The Spanish State claims that tackling climate change “requires a deep transformation of current energetic and productive models”, but given the past record and the failure of the EU-ETS this objective lacks any credibility.⁴¹

4. The Spanish National Allocation Plan: Having it both ways

In order to implement the EU-ETS, each Member State has to prepare a National Allocation Plan (NAP) that details the amount of free pollution permits allocated to each sector and installation, and specifies the procedures envisaged to fulfill the overall requirements of the scheme. All NAPs must then go through the European Commission (EC) for approval.

The Spanish NAP covers 45 per cent of the total pollution from 1,100 installations during the second phase of the EU-ETS (2008-2012), similar to other EU countries participating in the scheme.⁴² The remaining 55 per cent belongs to what is called ‘diffuse sectors’, referring to mainly transport and mobility; agriculture, cattle raising and forest; institutional, residential and services buildings; and industrial and domestic waste. In the latter case, the State itself is in charge of reaching the targets, either by reducing emissions at source or by buying credits from offset projects.

EU-ETS sectors

Power generation

Oil refining

Iron and steel

Cement and lime

Ceramic industry

Glass

Paper and pulp

Diffuse sectors

(under the Kyoto Protocol targets)

Transport

Residential, commercial and institutional

Agriculture

Waste

Fluorinated gasses

The first draft NAP for the second phase drawn up by the Spanish State was rejected by the EC because it contravened several criteria. Besides advancing an excess of free pollution permits for companies, the Spanish NAP lacked data, proceeding details, and was too generous in the use of credits from offset projects.⁴³ The draft NAP allowed 70 per cent of offset credits to be purchased for public service energy production and 20 per cent for the rest of the sectors, which would have allowed the installations in the Spanish State to buy its way out of responsibility for almost all of its emissions through the use of offset credits from projects in the South.⁴⁴

After the EC rejection, the Spanish State had to modify its figures. The final NAP set the limit for using offset credits at 42 per cent for public service energy production and at 7.9 per cent for the rest of the sectors.⁴⁵ It has been well documented, however, that offset projects bring about and contribute to various environmental and social conflicts in the South, especially for local communities, and further do not represent emission reductions.⁴⁶

After offset credit limits were clarified, the final NAP awarded industrial sectors with as many free permits as they were likely to need, while less were granted to those sectors with relatively abundant low-cost reduction alternatives, mainly in the energy sector, which could then easily pass on the cost to consumers.⁴⁷ As a trade-off, the government would later 'reward' energy companies with multiple subsidies to promote a new corporate 'internationalization' program, especially in Southern countries (see below).

Another problem is that the initial plan was drafted assuming that the Spanish State would keep its growth rates for the coming period, expected to be an average increase of 37 per cent emissions increase from the industrial and power sectors, and 65 per cent in diffuse sectors, mostly for transport and households.⁴⁸ However, most companies have experienced a decrease in emissions due to the economic crisis, thus having an excess of free permits. Each one of these pollution permits represents a tonne of carbon dioxide equivalent to be traded in the carbon market. The access of unused permits rewarded companies with extraordinary benefits (known as 'windfall profits') for doing nothing more than 'measuring' and trading emissions.

During the NAP negotiations the Spanish Confederation of Business Organizations (CEOE) defended corporate interests by stating that the EU-ETS would "entail a reduction in the competitiveness [of companies], with the unavoidable consequences of business delocalization, and income and employment losses".⁴⁹ The CEOE worked both nationally and within EU institutions through Business Europe, which represents 20 million companies from 35 countries, but in the end the claims were nothing more than crying-wolf.

Behind the Closed (and Revolving) Door

The preparation of NAPs is a political process that often has little to do with environmental concerns, where policy-makers try to simultaneously avoid short-term political costs, minimize the potential conflict with the involved sectors and guarantee a 'rational' outcome from a neoliberal economic perspective.⁵⁰

The process entails the interaction of many actors who have a stake at guaranteeing their own interests. Company and industry associations lobby governments to gain maximum pollution permits and avoid taking measures to reduce emissions at source.⁵¹ However, sometimes the boundaries between industries and governments are blurry. The Spanish NAP, for instance, was drawn up under the supervision of Arturo Gonzalo Aizpiri, State Secretary for Climate Change, that built his career at Repsol, the largest oil and gas company in the Spanish State, and who returned to work for Repsol after a brief stint in the administration.⁵²

Box 2 The Spanish Government and energy companies: a revolving-door or an open road?

In March 2011, former vice-president of Economic Affairs and former minister of the Economy Elena Salgado was hired as an advisor for Chilectra, the Chilean subsidiary of Endesa, only three months after she left office. According to press reports, Salgado is going to get an annual salary of up to 70,000 euros "for her expertise."⁵³ With this move, Salgado bypassed the Spanish law that forbids any outgoing high official from working in a private company that is directly related to their position in government for two years, during which they earn 80 per cent of their salary in office.

Salgado's is far from an isolated case. As she entered Endesa, current head of the Ministry of the Economy Luis de Guindos left the company's board, and opened its doors in 2011 to former president José María Aznar. The list is long, and includes Javier Solana (serving in the Spanish government until 1995; Secretary General of NATO (1995–1999); appointed the EU's High Representative for Common Foreign and Security Policy; Secretary General of the Council of the EU; and Secretary-General of the Western EU; and held these posts from October 1999 until December 2009) for infrastructure, energy and water company Acciona, Pedro Solbes (former minister of Economy) for Enel, and Felipe González (former president) for Gas Natural, to name just a few.⁵⁴

The NAP process also involved sectoral meetings convened by the administration with ‘stakeholders’, including industry associations representing the cement, glass, steel and paper industries, among others, and the largest energy companies including, Endesa, Iberdrola and Unión Fenosa. There were no official meetings with civil society groups. The public consultation process was stated to “give the opportunity to *all* stakeholders to express their opinion” through a set of specific questions via e-mail. Out of a total of 299 questions, 96 came from industrial installations, four from Non Governmental Organizations (NGOs) and one from a trade union.⁵⁵ This is the only information that is made available by the Spanish government.

The contents of meetings with companies, industry associations and attendees are not publicly disclosed. The Spanish State is one of the four EU countries (together with Cyprus, Luxembourg and Malta) without a Freedom of Information act (FOI).⁵⁶

The fact that civil society groups were only allowed to send in comments through a predefined form via e-mail shows a narrow understanding of stakeholders and whose money is being spent in what is supposed to be a key tool to address climate change.

5. The profiting game of pollution permits: Big companies win... people lose

Since the price of carbon fluctuates on a daily basis, just like goods in any other financial market and the details of operations amongst companies are confidential, it is not possible to know the exact amount of money made by the surplus of free pollution permits. But combining official data and using the average price of carbon in the market, press reports have estimated that heavy industries covered by the EU-ETS in the Spanish State profited around 1.2 billion euros by trading pollution permits between 2008 and 2011.⁵⁷ This amount, divided by four years, could have been used, for instance, to employ 14,700 workers in education or 12,400 workers in health and social services every year.⁵⁸

In February 2012, the re-appointed head of the Ministry of Agriculture, Food and the Environment, Miguel Arias Cañete of the conservative Popular Party (PP), acknowledged this reality by stating, “The industry and power sectors received 152 million permits annually, and they have only used 121 million in 2010; the difference has been sold in the market with huge profits.”⁵⁹ The Minister even claimed that “there are industrial plants open simply to justify receiving emission permits and sell them in the market.”⁶⁰

The latest data on allocated permits and verified emissions, released on April 2012 by the EC, shows that by the end of 2011 there was a smaller but still significant estimated surplus of 18 million free pollution permits in the Spanish State.⁶¹

Considering the second phase (with the data available at the time of writing), from 2008 to 2011, ArcelorMittal accumulated a total of more than 18 million permits, the highest amount of free permits in the Spanish State. This ‘world’s leading steel and mining company’ with headquarters in Luxembourg is by far the polluter that has gained the most windfall profits from the EU-ETS, with a surplus of around 97 million permits at the end of the second phase, translating to an estimated 1.6 billion euros.⁶²

Well aware of the profit possibilities that the EU-ETS offers, ArcelorMittal and other companies with a huge surplus of pollution permits have lobbied EU institutions intensively to ensure they retain these benefits in the next phase of the scheme (2013-2020) by using threats of relocation and massive job losses.⁶³

By sectors, power companies profited the most during the first phase of the scheme, however, it is the cement and lime companies who have benefited the most from windfall profits during the second phase of the EU-ETS in the Spanish State, by receiving extremely generous allocations just before production collapsed due to the economic crisis. Amongst these, the companies that were rewarded most generously to pollute have been: Cemex España, Cementos Portland, Holcim España, Lafarge, and Uniland.

The 2010 Sustainability Report by Cemex España explains that the free pollution permits are registered in the company accounting records as intangible assets which were valued at 10.9 million euros by the end of that year. On the same page, under the heading ‘Financial consequences of climate change’, the report simply reads: “No quantification has been made on the effect of climate change.”⁶⁴

6. Gambling with Public Funds

While industries covered by the EU-ETS are making money for polluting, the government still needs to take responsibility for millions of excess emissions in diffuse sectors that are not covered by the EU-ETS, but which still count towards meeting the Kyoto Protocol commitments. According to official data, while the Spanish State was allowed to emit 180 million CO₂-equivalent tonnes per year in the diffuse sectors, emissions reached 231 million CO₂-e tonnes in 2010, 228 million in 2009, and 239 million in 2008.⁶⁵ The last official figures in February 2012 estimate that the Spanish State will need to buy more than 159 million offset credits abroad to achieve its Kyoto commitments.⁶⁶

By February 2012, the Spanish administration spent close to 750 million euros of public funding in ‘flexible mechanisms’, both for carbon funds managed by international institutions (426 million euros), and for buying offset credits from other countries (341 million euros).⁶⁷

The Ministry of Agriculture, Food and the Environment claimed that “there are industrial plants open simply to justify receiving emission permits and sell them in the market.”

Spain and the EU-ETS

Windfall profits

2008-2011

cement, steel and oil refining



Company*
Surplus in pollution permits
 Estimated windfall profits (in euros)**

Arcelor Mittal
18.205.529
 263 million



Cemex España
14.509.239
 210 million



Repsol
7.240.164
 105 million



Cementos Portland
6.670.113
 97 million



Holcim España
5.118.732
 74 million



Lafarge
4.502.078
 65 million



Compañía Española de Petróleo (CEPSA)
3.370.375
 49 million



Uniland
2.739.074
 40 million

Which companies have profited most with the surplus of free pollution permits?

The Spanish State will need to buy more than **159 million offset credits** abroad to achieve its Kyoto commitments.

The cement sector accumulated the largest share of **windfall profits** throughout Phase II

The Spanish administration has invested an estimated

750
 million euro

of public funding in 'flexible mechanisms'.

Between 1993 and 2007, cement production increased by **70** per cent.

In 2005 **more houses** were built in the Spanish State than in France, Germany and the United Kingdom combined

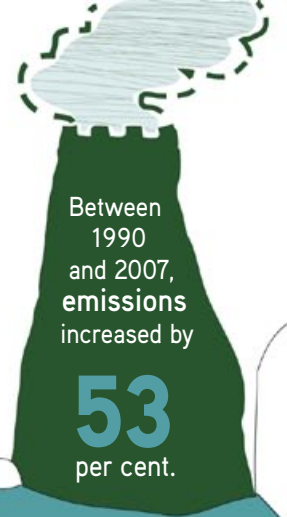
Source: Estimation by the authors based on the data of European Commission – Climate Action, Emissions Trading System, Registries, Verified emissions for 2011 [extracted 2 April 2012], http://ec.europa.eu/clima/policies/ets/registries/docs/verified_emissions_2011_en.xls

* EC data on allocated and verified emissions are classified by installation, not by company. The authors have summed total permits based on installations that could be identified as part of the company.

** Calculations are based on the estimated average price of 14.47 euros, based on the BlueNet closing price statistics from 26/02/2008 to 23/05/2012. See: <http://www.blunext.eu/statistics/downloads.php>



Steel company **Arcelor Mittal** has the record windfall profits in Spain and Europe.



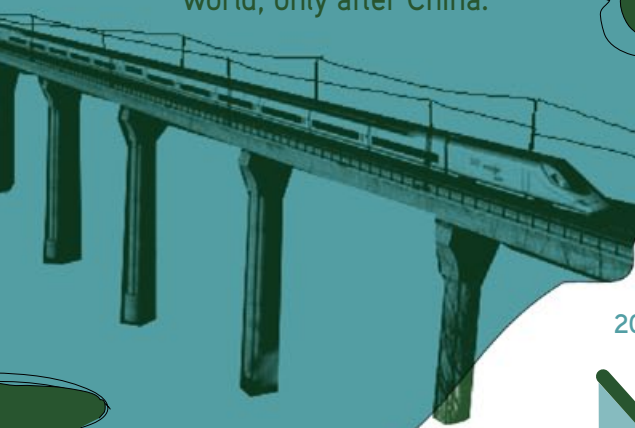
The Spanish Carbon Fund is a public-private fund administered by the World Bank with a total capital of **US\$278.6 million**.

The Spanish state is **subsidizing** Spanish corporations to implement offset projects in the South.

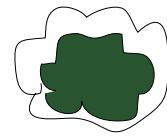


Repsol Oil is among the companies with most windfall profits.

Spain has the **longest high speed rail** network in Europe, and the second largest in the world, only after China.



The 'coal decree' subsidized **393 million euros** of public funding to big polluters in 2011, and contributed to an estimated **35 per cent increase** in emissions that same year.

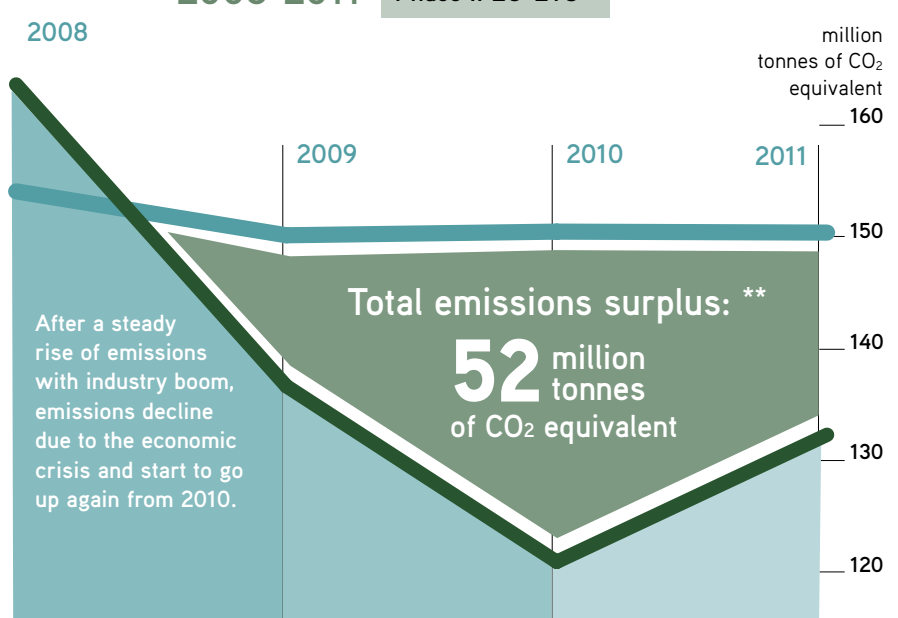


Most companies have experienced a decrease in emissions due to the economic crisis, thus have an excess of **free permits**.

Excess of carbon permits in the Spanish State



2008-2011 Phase II EU-ETS



Amount of emissions **verified** from installations in the Spanish state covered under the EU ETS

Amount of carbon permits **allocated** to installations in the Spanish state covered under the EU ETS*

Source: European Commission - Climate Action, Emissions Trading System, Registries, Verified emissions for 2011 [datos extraídos el 2 de abril de 2012], http://ec.europa.eu/clima/policias/ets/registries/docs/verified_emissions_2011_en.xls

* Each carbon permit equals one tonne of CO₂ equivalent

** The graph shows a lower surplus than the 8 companies combined on the left because total surplus subtracts the companies that had negative emissions.

The Spanish State is, in fact, one of the most active actors in international carbon funds run by a range of multilateral financial institutions.⁶⁸ Considering this was not enough, though, the first public-private fund managed in the Spanish State was created in 2006 with the aim of assisting Spanish companies to fulfill Kyoto commitments through the purchasing of offset credits. The Carbon Fund for Spanish Companies (FC2E), a joint venture sponsored by Banco Santander and the state-owned Official Credit Institute (ICO), invested 50 million euros. This fund was created “to form a risk-diversified portfolio by providing its participants with optimum access to the carbon markets.”⁶⁹ In doing so, the country is using public funds to speculate on a casino market and promote projects that do not reduce emissions or necessarily support local communities’ livelihoods.⁷⁰

In March 2009, the Spanish government launched a “Plan to foster the internationalization of the Spanish economy in sectors associated to climate change”, a multi-sector strategy with three main aims to:

Instead of adopting policies to reduce emissions at source and using public money towards implementing them, the Spanish government invested in large companies to further subsidise the ‘internationalization plan’.

“...strengthen the presence and improve the international competitiveness of Spanish companies in renewable energy and advanced technologies sectors to combat climate change...; identify and develop new business opportunities for Spanish companies abroad; and contribute to the achievement of both emissions reduction targets ... assumed by Spain, maximizing opportunities for Spain to implement KP [Kyoto Protocol] CDM projects and purchase the emission reductions generated through them.”⁷¹

In other words, instead of adopting policies to reduce emissions at source and using public money towards implementing them, the Spanish government invested in large companies to further subsidise the ‘internationalization plan’.

The Plan includes subsidies such as advantageous conditions to obtain Development Aid Funds (FAD loans), grants for companies preparing CDM offset projects and/or developing technical or institutional assistance activities around those projects, advantageous terms for export credit insurances, and funds to support projects developed by companies, especially CDM projects.⁷² In essence, the Plan creates more subsidies to the same companies that already benefit from the carbon markets as well as more loopholes for polluters to escape reducing emissions at source.

Many of the CDM projects developed in Southern countries which generate offset credits have serious impacts in terms of human rights abuses and environmental destruction. The construction of the Quimbo dam that started in February 2012 in Colombia for example, led by Endesa’s subsidiary Emgesa, has expelled local communities and deprived them from their livelihoods, including the use of public and privately-funded violence by the Colombian army and the company’s security agents (for more on CDM projects, (See Box 1 and below).⁷³ Endesa developed the CDM project with the support of the Spanish State and will directly benefit from the offset credits set to begin generating in 2015.

The Plan also envisages other instruments to help companies in their expansion, such as informational websites, promotional activities mainly through the Spanish Institute of Foreign Trade (ICEX) that organizes the ‘Spanish institutional and corporate presence’ in carbon market fairs, workshops and seminars, and assistance to Spanish companies operating abroad through Spanish trade agencies in other countries. The government has also signed several bilateral Memorandums of Understanding with Southern countries so that Spanish-based companies are guaranteed the host country support to develop projects generating offset credits and these credits can be, in turn, bought by the companies themselves and the Spanish administration.

This strategy demonstrates a design built to benefit large corporations, which are the ones that have the resources to navigate through the complex and costly process of CDM projects. Further, the Spanish State diverts public funds to the polluting industries that are also profiting from the carbon market. In fact, Spanish installations are the third most active in the EU-ETS in submitting offset credits, only after Norway and Lithuania.⁷⁴

7. Major Players: Spanish Companies in the EU-ETS and CDM

The EU-ETS allows the use of offset credits generated through the CDM and JI which companies can use to meet their emissions reduction targets.⁷⁵ The carbon market converts offset credits to permits through the 2004 Linking Directive which allows the participating industries to submit offset credits from ‘emissions savings projects’ developed mostly in the Global South. However, offsets are not only available to help countries meet their emissions reductions targets. Developing, buying and trading credits from offset projects turn a large profit for polluting industries and contributes to land appropriation. This section will explore the role of three major players in the carbon market from different sectors in Spain: Electrical energy generation, petroleum, and cement.

Throughout Phase II of the EU-ETS, the Spanish State was ranked second to Germany, by allowing 20 percent of total emissions to be offset by projects abroad.⁷⁶ Carbon offsets are not emissions reductions. Each offset project allows pollution from fossil-fuelled power stations or heavy industry in the Global North to continue over and above reduction limits. To date, the CDM has actually resulted in an increase of CO₂ emissions worldwide – displacing emissions cuts in the North in favour of offset projects.

Most CDM offset credits, called Certified Emissions Reductions (CERs), are generated by projects that contribute nothing to a transition to a non-fossil fuel dependent society. There are currently 4044 total registered CDM projects of which 1534 have been issued CERs.⁷⁷ As of May 2012, 66 per cent of the offset credits issued were manufactured by large firms making minor technical adjustments at a few industrial installations to eliminate hydrofluorocarbons (HFCs), nitrous oxide (N₂O) and perfluorocarbons (PFC).⁷⁸

The Spanish National Authority, the operating body that approves CDM projects for Spanish companies and the Spanish State, has passed 205 CDM projects of which 40 projects are used by the Government of Spain to meet its Kyoto commitments. Over half of these 40 projects are wind power, methane avoidance and landfill gas projects in the South.⁷⁹

The attempt by carbon offset promoters to distinguish between 'good' and 'bad' projects misses the point, since even the most renewable projects are inserted within a system that generates credits to carry on polluting elsewhere. Such projects often promote social and environmental conflicts. While requiring enormous quantities of land, water and machinery, the projects are not set up to benefit the local communities or the environment. CDM projects generally take place in regions where communities have insecure land titles, thereby deepening the North-South gap. In addition, offset projects generally involve powerful Northern corporations and Southern elites that have vested interests in a 'development model' that enriches a few and impoverishes the majority.

Endesa

Endesa corporation, a major player in the carbon market, is owned by Italian Enel which holds 92 per cent of the company's shares. By 2009, being the Spanish State's largest electric utility, 29.7 million tonnes of CO₂ emission permits were assigned to Endesa for free. During the first phase of the EU-ETS power companies gained an estimated 19 billion euros in windfall profits, however the second phase has been slightly different.⁸⁰

The caps in the power sector have been stronger than in other industries, assuming that power companies were less exposed to international competition and had more options to implement relatively cheap emissions reductions. However, many power companies in the EU have gained windfall profits by passing on 'costs' to consumers throughout the first and second phases of the EU-ETS.⁸¹ The power sector has been actively involved in implementing and purchasing offsets through the CDM. Being ranked one of the top 20 buyers of CERs in the world, Endesa is clearly no exception.⁸²

The company purchased the US-based AHL Carbono in 2008 at the start of Phase II of the EU-ETS. Endesa holds 82.5 per cent stake in Endesa Carbono and acts as an intermediary to other companies and governments active in the CDM market. Endesa Carbono has purchased just fewer than 10 per cent of the total credits granted by the UNFCCC.⁸³

By 2009, Endesa's UN-backed offset projects generated 13 million carbon credits, added to those issued in previous years made a grand total of 20.6 million credits, each representing one tonne of carbon dioxide equivalent.⁸⁴ By 2010 the company's CDM/JI offsets portfolio reached 94.6 million credits with an estimated value of 1.4 billion euros.⁸⁵ Currently Endesa is an authorized buyer of credits from 74 CDM projects while Enel has purchased credits from 67 CDM projects.⁸⁶

Enel and Endesa have been accused of causing environmental and social conflicts around the world, and the list is long. Mega hydroelectric dam projects at the Neltume lake have caused well documented violations in the Patagonia region for Mapuche Indigenous Peoples in Chile.⁸⁷ Other denunciations have been made against the companies in the municipality of San Juan Cotzal, Guatemala, in El Quimbo area, Colombia; in Porto Romano, Albania; in Mohovce, Slovakia; in the Galati district, Romania; and in Kaliningrad, Russia. In addition, conflicts in Italy have been identified in Civitavecchia, Monte Amiata, Dolomiti, Porto Tolle, Brindisi, Bastardo, Fusina, Genova and La Spezia, to name a few.⁸⁸

While requiring enormous quantities of land, water and machinery, the projects are not set up to benefit the local communities or the environment.

Cemex

Cemex is a multinational company originally based in Mexico but currently has offices in over 50 countries. In the Spanish State, the cement sector has been a big winner of windfall profits in Phase II of the EU-ETS, second only to steel manufacturer ArcelorMittal. In fact, throughout the second phase Cemex has gained 14.5 million surplus allowances estimated to be worth over 200 million euros.⁸⁹

Within the cement sector, Lafarge is the market leader in Europe, while Holcim and Cemex compete closely for second place.⁹⁰ This sector has been identified as one of the most polluting and Cemex has actively lobbied to avoid regulation. Cemex is a member of the European Cement Association (CEMBureau) which is not listed in the European Commission's lobby transparency register allowing companies to spend unknown quantities of money on lobbying activities. The 20 permanent staff of CEMbureau working in Brussels have lobbied hard on carbon leakage which will allow the sector free permits through Phase III of the EU-ETS until 2020.⁹¹

Cemex Spain is the authorized buyer of 19 CDM projects registered under the UNFCCC. Of these projects, 15 are biomass projects, one cement and three wind power projects.⁹² Through offset projects Cemex plans to purchase over 120,000 carbon credits per year over the next 10 years.⁹³

Considered a top ten CDM project in terms of tonnes of 'saved' carbon, the controversial Eurus Wind farm project in Oaxaca, México is the largest wind power generator in Latin America. The Eurus mega wind power project consists of 167 wind turbines generating up to 1.5 MW each and has a production capacity of 250 MW. This mega-project was developed jointly by Cemex and the Spanish-based company Acciona Energía with an investment of over US\$550 million.⁹⁴ Indigenous Peoples in the area have denounced that this project has divided communities, displaced thousands of hectares of arable land, provoked social conflicts and the criminalization of social movements, to name a few.⁹⁵

Of the 15 biomass projects, evidence has shown that these projects do not intend to reduce energy consumption but on the contrary, partially replace the energy from fossil fuels to biomass energy, mainly from rice husks. In Colombia, 45 thousand tonnes of rice husks were used in a cement factory during the first year (2009); 52 thousand tonnes in 2010; and it was expected to use approximately 90 thousand tonnes for 2011.⁹⁶ These quantities are correlative to the amount of lands needed to produce them, competing directly for local resources and large-scale land acquisitions for private interests. Rice husks have traditionally been used to absorb animal droppings and later used as fertilizer for crops. Research has shown that small-scale farmers have been forced to switch to chemical fertilizers as a result of rice husk loss from biomass factories.⁹⁷

In October 2011, over 15,000 local farmers and Indigenous Peoples rallied in Cali, Colombia at the National Congress of Lands, Territories and Sovereignities. The final declaration stated:

*"This Congress declares the presence in our territories of the Anglo Gold Ashanti, BHP Billiton, Xtrata, Pacific Rubiales, Cosigo Resources, Smurfitt Kappa, Cemex, Medoro Resources, Grey Star (today Eco Oro Minerals Corp) and Unión Fenosa as illegal and unwelcome due to their direct participation in conflicts with communities and their territories, and their systematic assault to national sovereignty...."*⁹⁸

Repsol

The Spanish State's largest oil and gas company, Repsol SA, controls about 60 per cent of the oil refining market in Spain and owns 45.5 per cent of the dominant natural gas company, Gas Natural.⁹⁹ The Forbes 500 list placed it as the 94th largest company in the world in 2011. Repsol claims to be one of the top 10 largest privatized oil companies in the world, with annual revenues stated at 62.5 billion in 2011, an increase of 10 per cent from 2010.¹⁰⁰

Repsol's current global ranking remains ambiguous at the time of writing after the re-acquisition and nationalization of YPF by the Argentinean government in April 2012. According to Repsol's Chief executive, YPF was worth US\$18.3 billion with Repsol's 57 percent stake at US\$10.5 billion.¹⁰¹ Accounting for about 25 per cent of Repsol's 2011 revenue, YPF was Repsol's dominant company and link to major oil fields in Argentina.¹⁰² The oil giant has companies and installations in more than 30 countries with new investments in oil exploration mainly based in the US, Brazil and Angola.¹⁰³

Repsol is estimated to have gained over 7.2 million free surplus allowances throughout Phase II of the EU-ETS so far, which depending on the selling price could render windfall profits over 108 million euros.¹⁰⁴ When considering the current economic crisis, this excess funding could provide jobs and resources for the education and health sectors currently being gutted by the administration in Madrid.

In parallel, The Spanish Agency for International Cooperation to Development (AECID) has financed a Repsol Foundation project to carry a 'greenwashing' campaign in the area where it operates extracting fossil fuels in Ecuador.¹⁰⁵ This would provide 150,000 euros of funds allegedly earmarked for development aid to a company that earned more than 4.5 million euros in profits in 2010 extracting oil and gas in Ecuador.¹⁰⁶ Furthermore, Repsol in Ecuador has a dirty and conflictive relation to local peoples and their territories and carries several denunciations against its practices.¹⁰⁷

Repsol is an authorized buyer of six CDM projects which include: two energy efficiency projects from the companies own generation, two HFC projects, one wind project and one landfill gas project.¹⁰⁸ One of the projects located in Argentina claims to reduce GHG by re-injecting gas in tertiary oil fields recovery in the Cerro Fortunoso site, Mendoza province; a site with 167 drilled wells, from which 117 are in production, and has proven reservoirs for 3.3 million cubic meters.¹⁰⁹ This environmental 'improvement' will give the company a return of an estimated 200,000 carbon credits.¹¹⁰

The Spanish Carbon Fund

The Spanish Carbon Fund (SCF), a consortium of large Spanish industries and the Spanish State is a public-private fund administered by the World Bank with a total capital of US\$278.6 million.¹¹¹ The SCF was created in 2004 as a WB carbon fund between the Spanish Ministry of Environment and Rural and Marine Affairs, and the Spanish Ministry of Economy and Finance.

The companies participating in the SCF include: Endesa Generación, Enel Viesgo Generación, S.L., Repsol SA, Gas Natural SDG, S.A., Iberdrola Generación, S.A.U., Oficemen (Cement Association), Abengoa SA, Azuliber 1 SL, Cementos Portland Valderrivas SA, Compañía Española de Petróleos, S.A., and Hidroeléctrica del Cantábrico, S.A.

There are currently 20 projects listed under the SCF on the World Bank website.¹¹² The projects range from HFCs, hydropower and landfill gas flaring in China to wind farms in Karnataka, India and perhaps one of the most reported-on controversial projects, La Venta II in Oaxaca, Mexico.¹¹³

La Venta II, inaugurated in 2007, is part of a four stage wind farm mega-project referred to as *Corredor Eólico del Istmo* (CEI), or La Venta I, II, III and IV. Of the wind farms La Venta II is registered as a CDM project through the SCF.¹¹⁴ The farm is combined with La Venta I and together has over 100 Gamesa wind power generators, with a capacity of 850 KW each.¹¹⁵

Indigenous Peoples and local farmers located on the Isthmus of Tehuantepec region of Oaxaca have endured a history of violent conflict. Communities reported that they were not consulted or were blatantly deceived regarding the wind farm projects and many have lost their lands.¹¹⁶

*"The company wants us to pay two pesos per square meter for its impact on our land that is worth 150,000 pesos per hectare, and that we can never use again, because they have built roads, pipelines for the output of the energy produced."*¹¹⁷

Another community member stated:

*"They have signed contracts for 30 years, where they [the company] offered an amount, we later realised that it was a pittance compared with the production of the land, and that we were going to be in trouble. These lands produce per acre at least 40 liters of milk daily for eight cows.... The payment that they make is 260 pesos [~15 euros] monthly per hectare, it was a vile lie to the farmers."*¹¹⁸

Repsol is estimated to have gained over 7.2 million free surplus allowances throughout Phase II of the EU-ETS so far, which depending on the selling price could render windfall profits over 108 million euros.

On October 28, 2011, local communities reported another confrontation on the Pan American Highway just outside the La Venta Community in Juchitán, Oaxaca. Local communities blocked the road in opposition to further construction in order to protect their lands from more wind farms being built. Police turned up and violently cleared the roadblock resulting in one death and 20 injuries. Communities are reported to have received death threats seven days prior to the police attack that were documented by Amnesty International.¹¹⁹

8. Conclusions

The EU-ETS has failed to reach its objectives. The scheme has turned the real danger of climate change into a numbers game while providing a lucrative business opportunity for the worst polluters. Through its participation in the scheme, the Spanish State has subsidized polluting industries and created a built-in system that rewards polluting industries with the use of the much-needed public funds.

During the first and second phase of the EU-ETS, the Spanish State gave away free permits to pollute just before the economic crisis struck the country, which has rewarded most industries participating in the scheme with windfall profits. This system side-steps the need to take real measures to reduce emissions.

The Spanish State in hand with industry lobbies has simultaneously adopted inconsistent measures to reduce emissions, favoring instead emissions-intensive economic growth and opting for outsourcing its responsibilities through offset credits. Moreover, in order to defend the interests of industry, public-private funds have facilitated offset projects abroad, which often have led to social and environmental destruction for the local communities. None of them have reduced emissions.

While pouring public money into international carbon funds, boosting a financial market that does nothing to reduce emissions and subsidizing the expansion of big companies through projects that seek to generate offset credits, the Spanish State is imposing massive domestic cuts on health, education and social services which will have to be paid by current and future generations. Moreover, the Spanish State is also subsidizing companies through its 'internationalization plan' to expand their colonialization crusade in Southern countries and further exacerbate displacement, human rights abuses and environmental and social destruction.

This green mirage delays real action on climate change. The EU-ETS in practice sets the legal framework to subsidize the worst polluters by maintaining a 'business as usual' scenario and providing an opportunity to make money by commodifying pollution. The very logic that underlies the scheme also turns what is a real threat to the livelihoods of peoples and the planet into a futile numbers game that acts as a smoke screen to conceal a wider debate.¹²⁰

Notes

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