

Consultation on revision of the EU Emission Trading System (EU ETS) Directive

Fields marked with * are mandatory.

Introduction

On 24 October 2014, the European Council agreed on the 2030 framework for climate and energy [1], including a binding domestic target for reducing greenhouse gas (GHG) emissions of at least 40% in 2030 as compared to 1990. To meet this target, the European Council agreed that the emissions in the EU Emission Trading System should be reduced, compared to 2005, by 43%. A reformed EU ETS remains the main instrument to achieve the emission reduction target. The cap will decline based on an annual linear reduction factor of 2.2% (instead of the current 1.74%) from 2021 onwards, to achieve the necessary emission reductions in the EU ETS. The European Council furthermore gave strategic guidance on several issues regarding the implementation of the emission reduction target, namely free allocation to industry, the establishment of a modernisation and an innovation fund, optional free allocation of allowances to modernise electricity generation in some Member States.

The strategic guidance given by European leaders on these elements will be translated into a legislative proposal to revise the EU ETS for the period post-2020. This constitutes an important part of the work on the achievement of a resilient Energy Union with a forward looking climate change policy, which has been identified as a key policy area in President Juncker's political guidelines for the new Commission.

The purpose of the present stakeholder consultation is to gather stakeholders' views on these elements. This consultation focuses on issues not yet addressed in the consultations recently conducted for the 2030 Impact Assessment[2], the Impact Assessment for the carbon leakage list for 2015-2019[3] and the consultation conducted on post-2020 carbon leakage provisions[4].

In order to take stock of the EU ETS (established by Directive 2003/87/EC) as a policy measure, this consultation also contains questions concerning the general evaluation of this policy measure. The questionnaire consists of 7 chapters. You are invited to answer questions on the chapters which are relevant to you.

0. Registration

0.1. What is your profile?*

- Business
- A small and medium enterprise
- Trade association representing businesses
- SME business organisation
- Government institution/regulatory authority
- Academic/research institution
- Non-governmental organisation
- Citizen
- Other

0.2. Please enter the name of your business/organisation/association etc.:

European Chemical Industry Council (Cefic)

0.3. Please enter your contact details (address, telephone, email):*

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Tel: + 32 2 676 73 97, pbo@cefic.be

0.4. If relevant, please state if the sector/industry you represent falls under the scope of the EU

ETS:*

- yes
- no
- not relevant

0.5. If relevant, please state what sector your represent.:

- Energy-intensive industry
- Energy sector
- Other

0.6. The results of this stakeholder consultation will be published unless stated otherwise. Can we include your replies in the publication?*

- yes
- no
- partially

0.7. Register ID number (if you/your organisation is registered in the Transparency register):

1. Free allocation and addressing the risk of carbon leakage

The European Council has concluded that free allocation to prevent the risk of carbon leakage should not expire as foreseen in the current legislation, but should continue also after 2020 as long as there are no comparable efforts to reduce emissions in other major economies.

Extensive stakeholder consultation was already carried out on the post-2020 carbon leakage provisions, as well as on aspects related to innovation support. The process included three full-day stakeholder meetings (June, July and September 2014) and a written consultation conducted for 12 weeks (8 May – 31 July, 2014). The written consultation covered 23 multiple choice questions with space for motivations, and a question allowing respondents to bring up any other issue they felt was important or insufficiently covered.

The documents and minutes of the meetings, as well as the submissions and the analysis thereof in the case of the written consultation, are available on the Commission website.

Information from the stakeholder meetings:

http://ec.europa.eu/clima/events/articles/0090_en.htm

http://ec.europa.eu/clima/events/articles/0095_en.htm

http://ec.europa.eu/clima/events/articles/0097_en.htm

Replies and summary of the written consultation:

http://ec.europa.eu/clima/consultations/articles/0023_en.htm

The results of the above mentioned public consultation are being taken into account in the preparation of the legislative proposal. In order to reduce the administrative burden for stakeholders and the Commission, the present consultation focuses on issues not already covered in this recently finalised public consultation. Respondents are nevertheless invited to add to the replies provided in the earlier consultations if deemed necessary in the light of the conclusions of the European Council in this area.

1.1 The European Council called for a periodic revision of benchmarks in line with technological progress. How could this be best achieved in your view and, in particular, which data could be used to this end? How frequently should benchmarks be updated, keeping in mind administrative feasibility?

4,500 character(s) maximum

Benchmarks should be calculated by reference to actual production and emissions figures for undertakings in the sectors concerned. They should cover undertakings in all 28 Member States and should be set at a level that is technologically and economically achievable so as to encourage investment.

The benchmarks should only be updated between trading periods. More frequent changes would undermine the incentive to invest in innovations by reducing the payback opportunity.

The benchmarks serve two purposes:

- Firstly, they ensure that the most efficient installations in a sector, ie those meeting the benchmarks, do not face "undue costs". These undertakings still have a 'profit driven' incentive to improve their efficiency. They receive allocations up to the benchmarks and, if they beat the benchmark by investing in emission reducing techniques, they can sell the allowances to compensate for the additional investment.

- Second, they set the level of ambition. Undertakings that do not meet the benchmarks are obliged to purchase allowances, creating a 'cost-driven' incentive to improve efficiency, innovate and reduce emissions.

Thus, the benchmarks are a 'break-even point' above which there is a cost penalty for carbon emissions, and below which there is a reward for greater efficiency. The value of the incentive, per ton of carbon, is the same in either case.

This being so, modifying the benchmarks methodology would not create any greater incentive to increase carbon efficiency. It would merely reduce the number of allowances to be allocated, and make it harder for an undertaking to reach the 'break-even point'. If anything, this would increase the costs for an undertaking in the EU, making it less competitive against non-EU competition.

The Benchmarks for indirect emission benchmarks are even more stringent, being set according to "the most efficient technology", (ie the best of the best). This means that it is even more difficult for an undertaking to achieve a 'break-even' in terms of carbon costs through greater carbon efficiency.

For both direct and indirect emissions this problem is further exacerbated by provisions that reduce the level of free allocation even to best performers. The "cross sectoral correction factor" (direct emissions) and the "aid intensity factor" (indirect emissions) mean that even the best of the best have to bear significant carbon costs that cannot be reduced by further efficiency gains, and in many cases make it impossible to achieve the "break-even" in terms of carbon costs.

In light of the above, Cefic maintains that the purpose of providing incentives to investment is best achieved by setting EU-wide performance benchmark levels that are technically and economically achievable. The system should provide undertakings that meet the benchmarks with full free allocation, and leave room for an undertaking to be rewarded for achieving further efficiency gains beyond the benchmark. An undertaking that invested in such gains would not only reduce emissions but could also enhance its competitiveness: and CEFIC therefore calls for this benchmark approach to be applied equally to both direct and indirect emissions.

Any update of the benchmark should reflect technological developments (as stated by the European Council) and the resulting benchmark should be technically and economically achievable for existing undertakings so as to maintain the incentive to invest.

Benchmark levels should only be updated between trading periods and not within a trading period. The procedure of updating the benchmark levels requires a great deal of data and updating the benchmark more frequently would create a large administrative effort for little value.

1.2 The European Council has defined guiding principles for the development of post-2020 free allocation rules which provide inter alia that "both direct and indirect costs will be taken into account, in line with the EU state aid rules" and that "the most efficient installations in these sectors should not face undue carbon costs leading to carbon leakage" while "incentives for industry to innovate will be fully preserved and administrative complexity will not be increased" and while "ensuring affordable energy prices". Do you have views how these principles should be reflected in the future free allocation rules?

4,500 character(s) maximum

The principles can best be reflected by changing the free allocation rules to provide full and effective protection, up to benchmark levels, covering actual prior-year production levels for undertakings. This can be simply achieved by making the MSR a "reserve for growth". Under this system, companies that grow would receive additional allowances (up to the benchmarks) to cover the increased production, while companies that reduce production would give the excess allowances into the reserve.

Comparable arrangements should be introduced for indirect costs.

This system would reduce administrative complexity. It would prevent unnecessary increases in energy prices to best performers: and it would continue to provide incentive for undertakings to meet or exceed the benchmark level of efficiency.

The principle that indirect costs should be taken into account, is not respected by the current system. The compensation for indirect costs

does not provide effective protection from carbon leakage: and patchy adoption by Member States leads to distortion of competition. Compensation for indirect emissions should be harmonised to ensure that energy efficient undertakings do not bear indirect carbon costs that are not borne by their international competitors.

The remaining principles, apply equally to direct and indirect costs. They can best be reflected in the future rules for direct costs as follows:

How can 'most efficient undertakings' be exempted from undue carbon costs?

The term 'most efficient undertaking' should be taken to mean an undertaking that meets the benchmark level of carbon efficiency. Undertakings that have achieved that level of carbon efficiency should not bear carbon costs. This can be achieved by amending the free allocation rules to provide for dynamic allocation based on EU-wide performance benchmarks and actual levels of production.

This system can be introduced by integrating the "Market Stability Reserve" into the current arrangements. Undertakings that grow their business would receive additional free allowances out of the MSR to cover additional production. Undertakings that reduce their production would not receive free allowances in respect of the 'lost' production. The excess allowances would be placed into the MSR. Thus EU manufacturers would receive full protection up to benchmark standards of carbon efficiency: and, if they meet those standards, would be able to grow without incurring additional carbon costs.

How can incentives to innovation be preserved?

The dynamic allocation system preserves incentives to innovate. The system would continue to be based on benchmark standards of efficiency. An undertaking that does not meet the benchmark would continue to incur a cost penalty: and an undertaking that invests to beat the benchmarks would be able to sell 'earned' allowances to offset the costs of investment. This would be a real incentive to innovate.

How can administrative complexity be avoided?

The current system is made unnecessarily complex by the need for rules to account for changes between the historical base period and the present day (complex rules for new entrants, production cessations etc.). This is further exacerbated by specificities of national implementation (set-up of monitoring plans, annual monitoring, reporting). The red tape and administrative burden of the current system is such that moving to a system of allocation based on actual prior-year production will reduce administrative complexity.

How can one ensure affordable energy prices?

The term “affordable” with regard to energy prices is subjective. Industry cannot “afford” anything that increases energy prices and undermines our competitiveness. Measures that are designed to increase the carbon price until conventional energy is made less competitive than uncompetitive renewable energy cannot “ensure affordable energy prices”.

If such measures are to be pursued, it becomes essential that industry is given full and effective protection against the risk of carbon leakage in respect of actual production and, in particular, growth in production. This requires the introduction of a dynamic allocation system as described above.

1.3 Should free allocation be given from 2021 to 2030 to compensate those carbon costs which sectors pass through to customers? How could free allocation be best determined in order to avoid windfall profits?

4,500 character(s) maximum

The cross-sectoral correction factor requires even the most carbon efficient undertakings to buy increasing amounts of allowances to cover their needs. Moreover, the chemicals industry estimates that carbon efficiency gains of c.1% per year are achievable, but face a future linear reduction factor of 2.2%. Thus, best performers are facing undue costs that cannot be offset by further investment: and which inhibit investment and growth.

Energy users competing in global commodity markets cannot pass on EU cost burdens that are not imposed elsewhere. In reality, windfall profits arise because the ex ante allocation system rewards undertakings that reduce production. The dynamic allocation system described above closes this loophole.

The suggestion that there are not enough allowances to provide full carbon leakage protection to all sectors on the current list is not sustainable at a time when so many, so-called, “surplus allowances” are to be placed into a Market Stability Reserve. These allowances should be available to support industrial growth, under an “ex post” allocation system using the MSR as a dynamic reserve for growth: and would be in addition to the available allowances for manufacturing industries under the ETS cap.

The principle that carbon efficient undertakings should not bear carbon costs should be applied generally to all energy intensive industrial users. A ‘carbon leakage list’ based on arbitrary criteria would serve no purpose other than to restrict access to carbon leakage protection.

The dynamic allocation system outlined in answer to question 1.2 would prevent windfall profits from the sale of free allowances. An

undertaking that reduces production in the EU would not receive free allowances on the basis of historical production levels. Any excess of allowances would be placed into the MSR: which would become a “reserve for growth”.

Sectors that are allocated free allowances could only pass carbon costs on to consumers in the absence of effective competition in the market. This is not the case for the chemicals industry, and other energy intensive industries, which compete on price in global commodity markets. The fact is that for industrial energy users in competitive international markets the savings resulting from the allocation of free allowances will be passed on to customers and there would be no windfall profits.

The first question implies that sectors should pass on the costs when it is possible to do so. This raises the question of the carbon leakage list which attempts to estimate which sectors cannot pass on costs by virtue of their exposure to international competition and the significance of carbon costs in their overall costs.

These calculations use criteria and set arbitrary thresholds that do not reflect the real climate policy cost to industry. Undertakings in the chemicals industry compete for investment in a global market and compete for sales in global commodity markets. Critical success factors are profitability and return on capital employed relative to third country competitors. The current calculations do not estimate these factors.

Once the carbon leakage provisions are modified to create a dynamic allocation system, based on the MSR, EU manufacturers would receive full protection up to benchmark standards of carbon efficiency: and, if they meet those standards, would be able to grow without incurring additional carbon costs. Incentives in this system would be maintained by setting benchmarks above which there is a cost penalty for carbon emissions, and below which there is a reward for greater efficiency. (See answers to questions 1.1 & 1.2 above).

Most sectors are at risk of carbon leakage. Changing these criteria to disqualify more sectors, simply to shorten the list, serves only to demonstrate how arbitrary the process is. The review of these arrangements would allow the EU to move away from an arbitrary carbon leakage list: and to apply the underlying principle that an undertaking meeting the required standard of carbon efficiency should not bear carbon costs. The principle has a general application, and is equally valid whether or not an undertaking meets arbitrary criteria as to the risk of carbon leakage. The free allocation of allowances could be extended to all energy intensive industrial energy users up to relevant benchmark standards of carbon efficiency: thereby further reducing administrative com

1.4 Are there any complementary aspects you would like to add to the replies given to the previous written consultation in the light of the European Council conclusions?

4,500 character(s) maximum

The existing carbon leakage provisions do not conform to the principles set out in the European Council Conclusions and they are not fit for purpose. The fact that the Commission found little evidence of carbon leakage in 2014 is not due to these provisions but to the fact that undertakings were not required to purchase allowances until 2013: moreover this finding ignore the increasing body of evidence for investment leakage in the energy intensive industries.

The dynamic allocation system outlined above would bring the existing carbon leakage provisions into conformity with above principles: and offer more effective protection against carbon and investment leakage.

The European Council Conclusions are clearly directed towards ensuring that full and effective protection against investment and carbon leakage is built into the ETS post-2020. Moreover, this protection should cover both indirect and direct emissions: it should ensure that the most carbon efficient undertakings do not bear carbon costs: and that the protection reflects actual rather than historical production levels.

These principles would not be met by measures that simply move the goal posts. Measures such as:

- changing the criteria for sectors at risk carbon leakage in order to limit the scope of the protection:
- changing the benchmarks in order to redefine 'most efficient undertakings' and limit the level of protection: or
- changing the baseline for ex ante allocation so as to discount emission reductions and efficiency gains since 2008-2010.

These measures are designed to preserve the current system. It has been defended on the grounds that there is a limit to the number of allowances available. At a time when there is concern that there are too many allowances in the system this looks more like an attempt to set artificial limits on number of allowances available for carbon leakage protection while setting huge numbers of allowances aside in the MSR. This does not conform to the principles set out in the European Council Conclusions and the resulting carbon leakage protection would not be fit for purpose. Each measure, in its own way, would limit the scope and level of carbon leakage protection. The system would continue to penalise growth in Europe and to reward undertakings that reduce production: and it would fail to prevent accelerating carbon and investment leakage as the carbon price inevitably rises. It would create a system for decarbonisation through deindustrialisation.

In our answers to the preceding questions we offer alternative measures, that would reform the carbon leakage provisions, providing effective protection to undertakings that produce and grow in the EU while

removing the perverse incentives (and windfall profits) for undertakings that relocate production out of the EU. Taken together these measures would ensure that the carbon leakage provisions support rather than undermine the possibility of an industrial renaissance in the EU. They can be summarised as follows:

- Creating a system of dynamic allocation based on actual production levels. This can be achieved by making the MSR a “reserve for growth”. Undertakings that reduce production in the EU would see the surplus allowances placed into the reserve: while undertakings that grow in the EU would receive additional allowances from the reserve.
- Maintaining the incentives to improve carbon efficiency and to innovate by setting realistic benchmarks above which there is a cost penalty for carbon emissions, and below which there is a reward for greater efficiency.
- Applying the above system to all energy intensive industrial energy users, such that undertakings that meet benchmark standards of carbon efficiency do not bear carbon costs.
- Introducing equivalent measures to ensure that undertakings meeting benchmark standards are also protected from indirect carbon costs.

This system will offer full and effective carbon leakage protection to EU industry and remove the perverse incentives to relocation in the present rules. It can be introduced in such a way that it reduces the administrative complexity of the ETS and the current carbon leakage arrangements: and is therefore in full conformity with the principles in the European Council Conclusions.

2. Innovation fund

The European Council has concluded that 400 million allowances in 2021 to 2030 should be dedicated for setting up an innovation fund to support demonstration projects of innovative renewable energy technologies, carbon capture and storage (CCS) as well as low carbon innovation in industrial sectors. To make this fund operational, a legal basis has to be created in the EU ETS Directive while further implementation modalities can be set out in secondary legislation. The work can build on the experience with the existing "NER300" programme which made available 300 million allowances for CCS and innovative renewable energy technologies^[1].

With regard to establishing a legal basis for the innovation fund as part of the revision of the EU ETS Directive, the Commission seeks feedback on the following questions:

2.1 Do you see reasons to modify the existing modalities applied in the first two calls of the NER300? Are there any modalities governing the NER 300 programme which could be simplified in the design of the innovation fund? If you see the need for changes, please be specific what aspects you would like to see changed and why.

4,500 character(s) maximum

The chemicals industry is an innovator and as such we support an innovation fund dedicated to support industrial demonstration projects that give rise to commercially exploitable innovations. The funding support from the NER300 or alternatively a future NER should be allocated to the most cost efficient technology developments. Innovating down the cost of renewable energy technologies, promoting CCS demonstration projects and alternative CCU projects, and electricity storage should be the main priorities of the innovation fund.

It is also critically important that auction revenues go back to industry, ensuring that means are available for investments in production capacity and innovation. Therefore, innovation support should not counteract carbon leakage protection measures. Innovation centers are closely linked with production and therefore we both need measures to keep manufacturing clusters in Europe and to promote research and development.

It should be noted that innovation (partly) based on funding dependent on fluctuations in the carbon price has serious flaws with regard to predictability.

To this aim a future NER must be designed more efficiently than the existing program. This concerns project applications which should be designed less bureaucratic; faster granting procedures, or facilitated cross-border projects. This fund should be also complementary and in full co-ordination with existing EU Research and Innovation programs, such as Horizon 2020, as well as the forthcoming Investment Plan.

In general, positive investment signals depend on a range of policies not just the EU ETS, and therefore a coherent and coordinated approach will be indispensable to tackle the question of how the EU policy on Innovation and the regulatory framework can be improved.

2.2 Do you consider that for the extended scope of supporting low-carbon innovation in industrial sectors the modalities should be the same as for CCS and innovative renewable energy technologies or is certain tailoring needed, e.g. pre-defined amounts, specific selection criteria? If possible, please provide specific examples of tailored modalities.

4,500 character(s) maximum

Investments in innovation and innovative production should not depend upon, but in the best case be strengthened through temporary kick-start funding. Projects should be assessed in a harmonized, technology-neutral way.

The development of new and commercially viable low carbon technologies follows a pre-defined long and highly uncertain path (from research, development to large scale demonstration projects and commercialisation). It is important to adequately define the appropriateness of granting aid. Support is necessary at development and pre-deployment stage in order to overcome the market barriers and failures that could undermine its scalability and commercialisation.

It should be mentioned that especially the power sector has received excessive amounts of funds outside of the EU ETS in the form of the RES-E support schemes in the different Member States. However, investments in innovation and innovative production should not depend upon, but in the best case be strengthened through temporary kick-start funding.

In this regard, candidate projects dealing with different low carbon technologies should be assessed at EU level in a harmonized, technology-neutral way taking into account both their potential of reducing greenhouse gas emissions and long term economic viability.

2.3 Are there any complementary aspects regarding innovation funding you would like to add to the replies given to the previous written consultation in the light of the European Council conclusions?

4,500 character(s) maximum

Although the innovation funding itself is very important it should be considered only in conjunction and in a complementary way with the dynamic allocation system described in Chapter 1.2 where undertakings have a real incentive to invest and innovate and not having windfall profits by reducing their production.

Technologies in industry to meet the 2050 reduction targets are not yet available or even invented. It is therefore crucial that R&D EU Policy is further strengthened.

The revenues from auctioning should be reinvested for low carbon technology support, for compensation of indirect carbon costs as foreseen in the ETS Directive, or energy efficiency. They should be used by Member States to stimulate economic growth and research and development.

The ETS directive states that half of auctioning revenues should be spent on decarbonisation measures. This has not been the case so far: a missed opportunity to pursue an active industrial policy (i.e. through a large breakthrough technology programme for innovation in energy intensive industry). However, such support must not reduce the free allocation volumes and weaken carbon leakage provisions. Furthermore, policy-makers must refrain from raising the costs of decarbonisation policies in order to increase revenues that would otherwise be needed to address those costs.

3. Modernisation fund

The European Council has concluded that 2% of the total EU ETS allowances in 2021 to 2030 should be dedicated to address the particularly high investment needs for Member States with GDP per capita below 60% of the EU average. The aim is to improve energy efficiency and to modernise the energy systems of the benefitting Member States. The fund should be managed by the beneficiary Member States, with the involvement of the European Investment Bank (EIB) in the selection of projects. To make this fund operational, a legal basis has to be created (in the EU ETS Directive), while further implementation modalities can be set out in secondary legislation.

With regard to establishing a legal basis for the modernisation fund as part of the revision of the EU ETS Directive, the Commission seeks feedback on the following questions:

3.1 Implementation of the modernization fund requires a governance structure: What is the right balance between the responsibilities of eligible Member States, the EIB and other institutions to ensure an effective and transparent management?

4,500 character(s) maximum

3.2 Regarding the investments, what types of projects should be financed by the modernisation fund to ensure the attainment of its goals? Should certain types of projects be ineligible for support?

4,500 character(s) maximum

3.3 Should there be concrete criteria [e.g. cost-per-unit performance, clean energy produced, energy saved, etc.] guiding the selection of projects?

4,500 character(s) maximum

The selection of projects should be technology-neutral and made on the basis of cost-efficiency criteria which should be defined under the specificities of a project (e.g. cost-per-unit performance). Not only production costs, but also collateral costs such as backup costs, energy storage or cost of volatility, required additional grid connections for decentralized power production, etc. should be included in a transparent manner.

3.4 How do you see the interaction of the modernisation fund with other sources of funding available for the same type of projects, in particular under the optional free allocation for modernisation of electricity generation (see section 4 below)? Would accumulation rules be appropriate?

4,500 character(s) maximum

Public modernization funds should be non-discriminative, technology-neutral and accessible to all sectors - not exclusively to electricity generation. Key in a transition to a global low-carbon and competitive economy will be private investment in cost-competitive technologies that will drive improvements in energy efficiency and emissions reductions.

The European chemical industry is essential in the value chain of the European economy. Operating in a fiercely competitive, international environment, we contribute €527 billion to the EU economy producing 17% of the world's chemicals, and employ 1.2 million workers. The EU chemical Industry supports the fight against climate change and will invest in efficiency improvements as they are a simple necessity in a competitive international environment. Energy is a substantial part of our operating costs; efficiency therefore is not only a growth but also a survival strategy as it contributes essentially to business opportunities.

3.5 Do you have views how the assessment of the projects should be reflected in the forthcoming 2030 governance process (e.g. national climate programmes, and plans for renewable energy and energy efficiency)?

4,500 character(s) maximum

3.6 Should the level of funding be contingent on concrete performance criteria?

4,500 character(s) maximum

Yes, the level of funding should be in adequacy with the performance criteria and business plan of the project. Focus should be given to cost efficiency and long-term viability in a market.

Performance criteria should safeguard that public funding will be non-discriminative, technology-neutral and accessible to all sectors - not exclusively to electricity generation. Key in a transition to a global low-carbon and competitive economy will be to attract private investment in cost-competitive technologies that will drive improvements in energy efficiency and emissions reductions. Funding schemes should be temporary, not guarantee profits or long-term subsidies.

4. Free allocation to promote investments for modernising the energy sector

The conclusions of the European Council provide for the continuation after 2020 of the mechanism foreseen in Article 10c of the EU ETS Directive, which allows some Member States to opt to hand out free allowances to power plants in order to promote investments for modernising the energy sector. The current Article 10c modalities, including transparency, should be improved to promote investments modernising the energy sector, while avoiding distortions of the internal energy market.

With a view to reviewing and improving the current modalities as part of the revisions to the EU ETS Directive, the Commission seeks feedback on the following questions:

4.1 How can it be ensured that investments have an added value in terms of modernising the energy sector? Should there be common criteria for the selection of projects?

4,500 character(s) maximum

In the EU chemical industry, business plans demonstrate whether or not investments will bring an added value in a functioning market. This principle should be valid for, and applied by, any other sector including the energy sector. Modernising the energy sector should be enabled through a functioning Internal Energy Market attracting private investment. Only exceptionally, public funding may provide additional, temporary (kick-off) support, if needed.

In any case, a modernized energy sector should be able at the end to provide both customers and business with reliable and competitively priced energy and feed stock. This would send a clear signal to industrial investors that a well-functioning internal market in Europe, in the context of a European Energy Union, will also be an engine for growth.

4.2 How do you see the interaction of the free allocation to energy sector with other sources of funding available for the same type of projects, e.g. EU co-financing that should be made available for the projects of common interest under the 2030 climate and energy framework? Would accumulation rules be appropriate?

4,500 character(s) maximum

No free allocation should be given to the power sector, other than the one agreed in the European Council in October 2014 for Member States with a GDP per capita below 60% of the EU average (para 2.5 of the EU Council Conclusions). However, as mentioned in para 1.2 of this document, in order to establish common rules at EU level and a real level playing field, power producers could be prevented from passing on carbon costs to industrial users up to benchmark levels of energy efficiency.

The ETS should in principle not become a source of income to be spent on other purposes but instead the ETS market should drive the achievement of agreed emission reductions at the lowest cost.

4.3 Do you have any views how the assessment of the projects should be reflected in the forthcoming 2030 governance process (e.g. as regards improving transparency)?

4,500 character(s) maximum

Projects should be peer-assessed by independent reviewers. There should be a consolidation procedure included where the combined effects (including unwanted side effects) are being discussed and evaluated. Stakeholders should be consulted early in a transparent fashion including legal rights.

4.4 The maximum amount of allowances handed out for free under this option is limited. Do you think eligible Member States should use the allowances for a period of time specified in advance (e.g. per year), or freely distribute them over the 2021-2030 period? (Please explain your motivation.)

4,500 character(s) maximum

4.5 Should there be priorities guiding the Member States in the selection of areas to be supported?

- yes
- no

Please explain in detail:

4,500 character(s) maximum

Member states should decide on their priorities, but coordinate with neighboring countries.

4.6 How can improved transparency be ensured with regard to the selection and implementation of investments related to free allocation for modernisation of energy? In particular regarding the implementation of investments, should allowances be added to auctioning volumes after a certain time period has lapsed in case the investment is not carried out within the agreed timeframe?

4,500 character(s) maximum

No free allocation should be given to the power sector, other than the one agreed in the European Council in October 2014 for Member States with a GDP per capita below 60% of the EU average (para 2.5 of the EU Council Conclusions). However, as mentioned in para 1.2 of this document, in order to establish common rules at EU level and a real level playing field, power producers could be prevented from passing on carbon costs to industrial users up to benchmark levels of energy efficiency.

The ETS should in principle not become a source of income to be spent on other purposes but instead the ETS market should drive the achievement of agreed emission reductions at the lowest cost.

Unused allowances should be made available in a flexible reserve for free allocation for growth, based on agreed benchmarks.

5. SMEs / regulatory fees / other

In order to allow taking stock of the EU ETS aspects beyond those examined by the European Council, respondents are also invited to provide feedback on certain other questions.

The Commission ensures that better regulation principles govern all of the policy work, including that the specificities of small and medium sized enterprise (SMEs) are taken into due consideration. Member States can exclude certain small installations from the EU ETS in the current trading period (2013-2020) if taxation or other equivalent measures are in place that will cut their emissions. If such a possibility was to be reviewed, a legal basis would have to be created in the EU ETS Directive.

The accurate accounting of all emission allowances issued is assured by a single Union Registry with strong security measures. The operations were centralised in a single Registry operated by the Commission, following a revision of the ETS Directive in 2009. This has replaced Member States' national Registries. Despite the considerable resources from the EU budget required for maintaining the EU Registry, as does supporting work on auctioning, the Commission does not have the possibility to charge any fees. However, Member States administrators may still charge Registry fees to account holders administered by them. There are discrepancies in fees across different Member States.

5.1 Are there any EU ETS administrative requirements which you consider can be simplified? Do you see scope to reduce transaction costs, in particular for SMEs? If yes, please explain in detail.

4,500 character(s) maximum

The current system's complexity and the thick rule book for allocation result mainly from rules to account for any changes between the historical base period and now. Here is massive red tape and administrative burden.

The complexity of the system primarily results from:

- The rules to account for any changes between the historical base period and now. Here is massive red tape and administrative burden, which could be avoided by a better alternative: allocation based on actual production data.
- Specificities of national implementation. The national monitoring and reporting burdens should be reduced to a minimum. The most efficient set-up European-wide should be implemented on a national basis.

An ETS consequently based on actual production would therefore not raise the administrative burden on the installation level. Concerning administrative complexities for authorities potential additional burdens can be significantly minimized through a smart and lean design.

Generally, the potential for raising the thresholds in Annex I of the Emissions Trading Directive ("categories of activities to which this directive applies") should be explored in order to remove less relevant sources of emissions from the scope of the directive (apply the 80/20 rule: cover 80% of industrial emissions, remove thousands of SMEs that only add administrative burden without covering relevant emission reduction potentials). Environmental, energy efficiency and other regulations apply also to SMEs. A thorough Impact Assessment should clarify whether their competitiveness can be improved by not subjecting them to the ETS in the future.

5.2 Member States had the possibility to exclude small emitting installations from the EU ETS until 2020. Should this possibility be continued? If so, what should be the modalities for opt-out installations to contribute to emission reductions in a cost-effective and economically efficient manner? Should these be harmonised at EU level?

4,500 character(s) maximum

Yes, small emitting installations should continue to be allowed to be excluded in the future. The modalities for this should be based on best practice experiences in Member States.

Generally, the potential for raising the thresholds in Annex I of the Emissions Trading Directive (“categories of activities to which this directive applies”) should be explored in order to remove less relevant sources of emissions from the scope of the directive (apply the 80/20 rule: cover 80% of industrial emissions, remove thousands of SMEs that only add administrative burden without covering relevant emission reduction potentials). Environmental, energy efficiency and other regulations apply also to SMEs. A thorough Impact Assessment should clarify whether their competitiveness can be improved by not subjecting them to the ETS in the future.

5.3 How do you rate the importance of a high level of security and user-friendliness of the Union Registry? Do you think the costs for providing these services should be covered via Registry fees?

4,500 character(s) maximum

The high level of security and user-friendliness of the Union Registry is important, but should not come at further cost increases for the industry. Costs resulting from carbon price and the reporting requirements of the ETS already lead to a significant burden which should not be increased by additional costs.

Concerning user-friendliness it should be explored how monitoring requirements could be simplified for small emitting installation and how the Registry could be freed from administrative requirements. As an example, at the moment it is incomprehensibly complicated to apply for reading rights for several countries as this involves administrative procedures in each individual country where those rights are desired. This could be massively facilitated if a finalised application procedure in one country was accepted in all other Member States.

**5.4 Do you consider discrepancies in Registry fees in different Member States justified?
Should Registry fees be aligned at EU level?**

4,500 character(s) maximum

When implementing the most efficient national reporting system as described under 5.1 and the EU-wide Union Registry, discrepancies in Registry fees between Member States are not justified. Therefore the Registry fees should be aligned between countries.

5.5 Under the current EU ETS Directive, at least 50% of the revenues generated from the auctioning of allowances should be used by Member States for climate-related purposes. For the calendar year 2013 Member States have reported to have used or to plan to use 87 % on average to support domestic investments in climate and energy. Do you consider the current provisions regarding the use of the revenues adequate for financing climate action? If not, please explain why?

4,500 character(s) maximum

The ETS Directive states that half of auctioning revenues should be spent on decarbonisation measures. As revenues are generated by sectors that are part of the ETS, this is a noteworthy opportunity to pursue an active industry policy (i.e. through a large breakthrough technology programme for innovation in energy intensive industry). However, such support must not cannibalise the free allocation volumes and carbon leakage provisions. Furthermore, policy-makers must refrain from raising the costs of decarbonisation policies in order to increase revenues that would otherwise be needed to address those costs. Any support has to be technology-neutral.

6. General evaluation

6.1 How well do the objectives of the EU ETS Directive correspond to the EU climate policy objectives?

How well is the EU ETS Directive adapted to subsequent technological or scientific changes?

4,500 character(s) maximum

The current design with the CSCF and LRF that brings allocation below feasible performance levels is driving investments and thus emissions out of Europe. This contradicts the EU climate objectives that aim at preventing global warming above 2°C. Shifting emissions to other regions is not contributing to that aim, in the contrary, it can lead to even higher emissions while weakening Europe's economy and innovation power. Therefore an absolute target for ETS as well as a cap on carbon leakage protection is a bad strategy in fulfilling the long term objectives for climate, which can only be met by strong innovation power that leads to solutions that can be implemented in and outside Europe. Emission trading on a global scale would be an effective and efficient market based instrument providing climate protection at lowest costs by introducing a carbon factor in decision making on investment and efficiency improvements. However, as long as there is no global system, a robust carbon leakage protection is needed. Otherwise, the additional costs due to the EU ETS - actual and expected - harm competitiveness and the willingness to invest in the EU, reducing in that way the progress in energy efficiency that could have been reached in a prosperous investment climate. Furthermore, the unilateral and absolute cap on emissions is limiting industrial growth potentials. Despite these influences, EU industry is already very carbon efficient and the ETS targets have been achieved through a number of measures taken by the installations involved. However, with the implementation of the market stability reserve, Europe is giving the wrong signal to the worldwide community, leading to even slimmer chances to introduce a worldwide ETS. It is clear that this strategy is not offering a solution to the current issues of the system. More should be invested in stimulating innovation and creating a positive investment climate.

To enhance efficiency improvements and investment in the energy-intensive industries, the ETS carbon leakage measures must be revised to better protect competitiveness and at the same time set incentives for efficiency improvements. This purpose would be served by free allocation with no further reduction factors based on actual production volumes and realistic benchmarks. Fallback sectors should be adjusted equally towards a technologically feasible emission reduction path.

Free allocation should be based on the most actual data to better reflect the need for free allocation of the companies and to allow for industrial growth. This way significant faults and undesired developments of the current system, (e.g. over- and under-allocation to the most efficient producers, incentives to reduce EU production and sell the freed allowances) would also be avoided. Basing allocation to industry on actual production, furthermore, puts carbon efficiency improvements into the focus, because any improvements then bring a direct and logic financial benefit.

6.2 What are the strengths and weaknesses of the EU ETS Directive? To what extent has the EU ETS Directive been successful in achieving its objectives to promote emission reductions in a cost-effective manner compared to alternatives, e.g. regulatory standards, taxation?

4,500 character(s) maximum

The potential of European chemical industries to further reduce our GHG emissions depends heavily on an enabling industrial policy in Europe and on equitable, global climate policies. In order to improve the investment climate for innovations and efficiency increases, and to achieve the declared target of a 20% industrial share in GDP, the EU needs to return to a more focused industry policy.

EU industries need a stable investment framework and an international level playing field. Only if comprehensive carbon leakage protection measures are established, the ambitious target of 40% GHG reductions until 2030 will be reached without significant relocations of production facilities. Only such measures create the necessary conditions for investments and growth.

Cefic welcomes that the European Council has urged to continue measures against carbon leakage after 2020 in its conclusions in October 2014. However, the continuation of the existing system will not be sufficient to prevent large scale relocations of production facilities in the long run as it would entail a stricter linear reduction and cross-sectorial correction factor (CSCF) and, hence, lead to a dramatic shortfall of EU Allowances (EUAs) in energy intensive industries by 2030.

The EU ETS could be cost-effective, technology-neutral and fully compatible with the EU internal energy market (that is yet to be completed). For globally competing sectors, alternative instruments, such as emissions performance standards or national GHG reduction policies are counter-productive and would lead to higher overall costs.

The EU ETS has been distorted by numerous structural defaults, such as carbon leakage issues; and an emissions cap beyond the technologically and economically achievable reality. This problem is aggravated by one-off measures tackling only partial aspects of the system (e.g. MSR, backloading).

Focus should be given to innovation and growth. Restrictions on production and growth and an unattractive investment framework will hinder the necessary innovation steps to further reduce. EU should aim at improving its climate policy by providing a positive and stable investment climate and through stimulating innovation in order to attract investments in new, more efficient and cleaner installations.

6.3 To what extent are the costs resulting from the implementation of the EU ETS Directive proportionate to the results/benefits that have been achieved, including secondary impacts on financing/support mechanisms for low carbon technologies, administrative cost, employment impacts etc.? If there are significant differences in costs (or benefits) between Member States, what is causing them?

4,500 character(s) maximum

Uncertainty caused by incoherent EU and national climate and energy policies has directly affected investments and employment in a negative manner.

6.4 How well does the EU ETS Directive fit with other relevant EU legislation?

4,500 character(s) maximum

The current EU ETS Directive in combination with other energy and climate policies (Energy Efficiency Directive, Renewable Energy Directive, IED, air quality, waste management etc.) is driving costs for industry significantly up. Instead of several energy and climate policies, a single, realistic energy and climate ambition addressing GHG emissions which depends on a global level playing field should be pursued. This approach must be complemented by an equally-ranked target for industrial growth. Instruments, such as energy efficiency and renewable energy policies can support this objective when applied in a smart way that avoids counterproductive effects, e.g. distortions on the electricity market or increasing electricity. Experience from the 2020 framework has shown that several different targets can interact in ways that reduce the framework's overall effectiveness. This should by all means be avoided.

Policy makers should review national and EU targets and national and EU climate change policies if a global level playing field would not be achieved by 2020.

To achieve further emission reductions cost-efficiently, the effort sharing between ETS and non-ETS sectors should be in line with the findings of the impact assessment for the Energy Efficiency Directive: accordingly, the remaining economic potential is much larger in other sectors (building, power, transport) than in manufacturing industries.

The EU ETS must also be realized in the framework of a more consistent and aligned overall energy and climate policy on EU and on Member State level with the objective to bring energy prices down and in line with those in competing regions.

6.5 What is the EU value-added of the EU ETS Directive? To what extent could the changes brought by the EU ETS Directive have been achieved by national measures only?

4,500 character(s) maximum

Climate change is a global issue. The EU's share in world CO₂ emissions is about 10 %. Hence, substantial emission reductions on a global scale are necessary to stay within the 2°C limit. In this context, addressing climate change at the European level should be proportionate and realistic. We support a binding global agreement at COP21 which leads to comparable action thereby strengthening Europe's industrial competitiveness. As long as no equitable action is taken, Europe's energy intensive industries exposed to global competition should be adequately shielded i.e. from the decarbonisation cost of the power sector. At the same time, it must be ensured that national policies (such as additionally defined national reduction targets) do not undermine the value-added of an EU-wide or even globally harmonised system.

6.6 Do you have any other comment on the revision of the EU ETS Directive that you would like to share?

4,500 character(s) maximum

This consultation on carbon leakage is welcome. Resulting policy initiatives should frame the system in the medium term perspective. Any decisions should allow for industrial growth and the climate change policy of the future should fit with the EU's industrial renaissance strategy.

The results of COP 21 and in general the commitment of the major world regions to climate change policies are a precondition that EU climate policies will have a future in the manner we see it today.

Whether avoidance of carbon leakage is really feasible with the high carbon reduction targets foreseen depends on a number of breakthrough technologies. Whether these breakthroughs will come is uncertain. The EU can help such developments with focused support of innovation and R&D. Providing funds for these purposes to supplement private industry investment is a no regret strategy.

Isolated, unilateral policy approaches should be replaced by policies reaching out to and linking with, other regions e.g. through supporting cost-efficient emission reduction projects through international credits.

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