

Questions for stakeholder consultation on Emission Trading System (ETS) post-2020 carbon leakage provisions

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| 0. Registration | |
| 0.1 What is your profil? -single choice reply- (compulsory) | b) Trade association representing businesses |
| 0.2 Please enter the name of your business/organisation/association etc. (maximum 500 characters): -open reply-(compulsory) | |
| AFEP (French Association of Large Companies) and Cercle de l'industrie. The purpose of AFEP is to present the views of large French companies to the European Institutions and the French authorities, mainly with regard to the drafting of non-sectoral legislation. In 2014, Afep represents more than 100 of the top private sector companies operating in France. Cercle de l'Industrie brings together the Chairmen of 34 French large businesses in all industrial sectors and policy-makers. | |
| 0.3. Please enter your contact details (address, telephone, email): -open reply-(compulsory) | |
| AFEP : www.afep.com (Transparency register identification number: 953933297-85) - Justine Richard - European Affairs Deputy Director 4-6, rue Belliard, 1040 Bruxelles, Belgique E-mail: justine.richard@afep.be Tel: +32 2 227 57 25; Cercle de l'Industrie : www.cerclineindustrie.eu (Transparency register identification number: 60974102057-03) - Marianne Gicquel - Chargée de mission relations institutionnelles - 5, rue Tronchet, 75008 Paris France Email: marianne.gicquel@cerclineindustrie.eu Tél : +33 (0)1 53 05 10 96 | |
| 0.4 If relevant, please state if the sector/industry you represent falls under the scope of EU ETS: -single choice reply-(compulsory) | a) yes |
| 0.5 The results of this stakeholder consultation will be published unless stated otherwise. Can we include your replies in the publication? -single choice reply-(compulsory) | 1) yes |
| I. General: competitiveness, carbon leakage and present free allocation rules | |
| Question 1: Do you think that EU industry is able to further reduce greenhouse gas emissions towards 2020 and beyond, without reducing industrial production in the EU? -single choice reply-(compulsory) | a) yes |
| If you wish, please motivate your answer (max. 1000 characters): | |

-open reply-(optional)

Reducing GHG emissions through low carbon technologies produced in the EU contributes to reduce global emissions, thanks to the effect on the whole sector. The ability to further reduce GHG emissions depends on the level of maturity of the technologies each industrial sector uses in their effort to reduce greenhouse gas emissions. It is essential to distinguish between technical and economic feasibility. Some industrial sectors use technologies that have already reached their maximum level of efficiency regarding greenhouse gas emissions and need to find breakthrough technologies in order to change their technological model. Contrarily, other sectors can improve their carbon efficiency by pursuing their investments in low carbon technologies. However, the decarbonisation cost is already high and is expected to increase in the future. Consequently, in both types of sectors the ability to reduce GHG emissions depends on the effectiveness of protection measures against carbon leakage.

Question 2: Do you think that the EU ETS helps the EU industry to become more energy efficient, and thus contributes to increasing the competitiveness of European industry in the long-term?

a) yes

-single choice reply-(compulsory)

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(optional)

The EU ETS is an adequate instrument to reduce emissions at the lowest costs and must remain the key instrument to reduce GHG emissions. However, improvements should be taken further as ETS has not sufficiently boosted low-carbon investments. It has not increased competitiveness so far: a/ Neither it has succeeded in ensuring confidence and long-term predictability, nor in creating a carbon price signal, this, mainly because its objectives had not been clarified. b/ Currently free allocation mechanisms based on historical data induce additional distortion as enterprises will first adapt production volume rather than energy consumption. Historical volumes are not always the optimum to ensure installation efficiency. To ensure energy efficiency, a dynamic allocation should be put in place. Therefore the answer to this question is yes, but should be conditioned to the revision of ETS. Moreover, EU industry needs an international level playing field to be more competitive in the long run.

Question 3: Do you think the EU needs to provide special (transitional) measures to support EU industry covered by the EU ETS, in order to address potential competitiveness disadvantages vis-à-vis third countries with less ambitious climate policy?

a) yes

-single choice reply-(compulsory)

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(optional)

Transitional measures are needed to establish the level playing field with our main competitors in third countries. As long as there is no international agreement on climate change, significant differences will remain between the national regulations. Up to now, the major competing economies of the EU (USA, BRIC) have neither implemented an equivalent ETS, nor set up similar targets. This widens the existing distortions of external competitiveness on other fields between the EU and these countries. The comparison with major competitors must be carried out on the basis of the climate policy cost paid by the whole industry (the US EPA rule would reduce emissions only from power plants). Furthermore, energy costs for industrial sectors are higher in the EU (and are rising comparing to them): EU industrial retail electricity prices are more than twice those in the US and Russia, 20% more than China's. Concerning gas, prices for EU industrial consumers are 3 to 4 times higher than in the US.

Question 4: In your view, how adequate a policy instrument is free allocation and, in particular, increased free allocation for certain industrial sectors to address the risk of carbon leakage?

b) quite adequate

-single choice reply-(compulsory)

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(optional)

1. Enhanced free allocation is a quite adequate tool for the sectors which are currently on the carbon leakage list. Furthermore, the instruments currently used could be complemented, in order to reduce competitiveness distortions. A better and harmonised compensation of indirect emissions for industrial sectors should be implemented at EU level. 2. The current benchmarks of the EU ETS, based on the first 10 % of best GHG emissions per unit of output, are the most requiring provisions in the world in terms of GHG efforts. The application of the -1.74 %/year coefficient to reduce the cap of allowances will continue to widen the gap between the EU ETS and the other tools across the world and will increase the EU competitiveness disadvantage.

Question 5: In your view, how does free allocation impact the incentives to innovate for reducing emissions? -single choice reply-(compulsory)

a) it absolutely keeps the incentive

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(optional)

Companies have to innovate for reducing emissions in order to be competitive at international level. Free allocation ensures that the investment capacity of companies benefiting from free allowances be maintained. Without any free allocation, ETS sectors would not have been able to bear the climate policy cost. Consequently, they would have not been able to fund their R&D&I processes. Furthermore, when the access to credit and companies' own resources are particularly limited, free allocation maintains companies' financial margins and then their ability to innovate.

Question 6: In your view, is the administrative burden for companies to ensure the free allocation via the implementation of the benchmarking provisions proportionate to the objectives? -single choice reply-(compulsory)

a) absolutely proportionate

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(optional)

The establishment of product benchmarking have been a heavy process at the beginning. However, it has now been completed: allocation methods and methodologies of calculation are implemented and already integrated in companies' processes. Therefore, the investment for companies and administration in terms of costs and time is now paid for itself. Updating benchmarks may not be a heavy working process, as they will be close to the Best Available Techniques.

II. Options for post-2020

A. Strategic choices

Question 7: What share of the post-2020 allowance budget should be dedicated to carbon leakage and competitiveness purposes? -single choice reply-(compulsory)

d) there should be no limit to overall free allocation to industry

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(optional)

The share of free allocation depends on economic data and methodologies of calculation. It cannot be decided in abstracto. To calculate the share of free allowances, the Commission should take into account the investment leakage. This covers the case of missed investments within the EU, which are ultimately directed to third countries because of the EU climate and energy policies. EUAs allocation methodology should be dynamic. The Commission should assess the case of adapting the number of free allowances on the basis of the real level of activity of an installation, for example the production level of the preceding year. This would enable to allocate more allowances for an installation with a higher level of production than expected, and reduce the allocation in the opposite case. The main driver for investment would be to reach the best practices in terms of emissions/unit of production. This would thus avoid the current situation where the production level is an adjustment factor.

Question 8: Currently the European Commission implements the NER300

b) the same share as in Phase 3

programme to provide from EU ETS specific support for large-scale demonstration of Carbon Capture Storage (CCS) projects and innovative renewable energy. 300 million allowances, representing ca. 2% of total phase 3 allowances, are dedicated for this purpose.

What share of the post-2020 allowance budget should be dedicated to such innovation support?

-single choice reply-(**compulsory**)

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(**optional**)

NER 300 has been a successful tool for funding innovative renewable energy. However, conversely to the initial objective of the Commission, CCS programmes have less benefitted from this fund. They require a large amount of investment and long-term capacities from companies. In addition, the lower than expected price of carbon has reduced the total amount for funding. Positive market support together with long term visibility and predictability of expected revenues is needed to incentivize the deployment of the technology. EU should encourage such positive incentive to be implemented at Member State's level for CCS, following the example of the Electricity Market Reform in the UK, where the government plans to set Contracts for Difference for CCS and other low carbon technologies.

Question 9: At the moment, EU ETS rules do not contain a specific support scheme for industrial innovation and deployment of new low-carbon technologies (apart from support for CCS and renewables under the NER300). Do you think there should be such a financial support scheme? -single choice reply-(**compulsory**)

a) yes

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(**optional**)

The EU must reach its targets by using low carbon technologies which are produced in Europe. For this purpose, R&D and financial instruments must be focused on the identification and deployment of low carbon technologies which can help companies to meet the strategic targets for the future. There is a need for support of R&D in favour of low carbon technologies and cross-sectoral building blocks of innovation (upstream), and of constituting sectors that offer competitive industrial solutions (downstream). It is essential to allocate funds to pilot or demonstration projects and to the pre-commercial phase, which play a key role in creating new business opportunities for European companies.

Question 10: If innovative low carbon technologies in the industry are to be further supported, which could be possible sources of funding?

-single choice reply-(**compulsory**)

b) It should be funded through a new dedicated scheme financed by the revenues from auctioning (e.g. x% of the auctioning revenues);

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(**optional**)

Auctioning revenues must be collected wholly (100%) and directly at EU level (binding earmarking), and dedicated to fund R&D projects in low carbon technologies and to compensate indirect emission costs. This would create a critical mass, enabling to finance large-scale projects. In this context, clear and strong governance is needed to ensure that intellectual property rights (IPRs) are duly enforced: there must be a guarantee that companies' IPRs will be used only in the framework and for the purpose of the R&D or innovation projects, especially when those projects have an international dimension (since the enforcement of IPR is still limited by national legal and judiciary frameworks).

Question 11: In your view, is there a need for additional measures beyond free allocation and EU-level innovation support to address the risk

a) yes

of carbon leakage for energy intensive sectors covered by the EU ETS, post-2020? -single choice reply-(**compulsory**)

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(**optional**)

1/Project-based mechanisms succeeded in driving investments all over the world. The use of CDMs should thus be allowed not only for LDCs, but also for low emitting developing countries, as long as there is no satisfactory international agreement. 2/Companies should be authorised to conclude long-term energy supply contracts (more than 15 years) to rely on stable energy supply at reasonable cost. The conformity to EU competition rules should be ascertained at an early stage to ensure legal certainty and stability. The development at EU level of mechanisms such as Exeltium in FR or Mankala in FI, should be explored. 3/The EIB's role must be reassessed and oriented more strongly on supporting non-financial companies' investments in R&D&I. 4/The potential of unconventional hydrocarbons must be assessed. R&D must be carried out into exploration/exploitation conditions that are compatible with environmental protection rules. 5/Generally, all CL sectors should benefit from these measures.

II. Options for post-2020

B. Allocation modalities

Question 12: Currently there are two categories for sectors in terms of exposure to the risk of carbon leakage: sectors are either deemed to be exposed to such risk (the sectors on the carbon leakage list) or not (sectors not on the carbon leakage list). Should the system continue with two carbon leakage exposure groups or is some further differentiation needed? -single choice reply-(**compulsory**)

a) the present two groups should remain

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(**optional**)

In order to preserve predictability, and avoid changing the whole spectrum of rules after each period, the two groups of sectors (exposed and not exposed to the carbon leakage risk) should remain.

Question 13: Under the current system, exposure of sectors to the risk of carbon leakage is primarily measured by the share of 'carbon costs' in their gross value added (GVA) and by the intensity of trade with third countries. What carbon leakage criteria should be defined for the post-2020 period? -single choice reply-(**compulsory**)

a) the present criteria should remain

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(**optional**)

Idem question 12. In order to preserve predictability, and avoid changing the whole spectrum of rules after each period, the present criteria (carbon costs and trade intensity) should remain.

Question 14: What thresholds should be defined for the criteria measuring the risk of carbon leakage? -single choice reply-(**compulsory**)

a) the present threshold (30% for the stand-alone criteria and lower values for the combination of several criteria) should be maintained

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(optional)

Idem question 12 and 13. In order to preserve predictability, and avoid changing the whole spectrum of rules after each period, the current thresholds should be maintained.

Question 15: In the current system, there is a possibility to assess the exposure of sectors to the risk of carbon leakage also based on qualitative criteria (abatement potential, market characteristics and profit margins). Do you think that similar qualitative criteria should be maintained to complement the quantitative criteria? -single choice reply-(compulsory)

a) yes, it is important to maintain a certain level of discretion in the system for justified cases

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(optional)

Idem questions 12, 13 and 14. In order to preserve predictability, and avoid changing the whole spectrum of rules after each period, the qualitative assessment should remain.

Question 16: Currently, the list of sectors exposed to the risk of carbon leakage is valid for five years. What should be the validity of the list for the post-2020? -single choice reply-(compulsory)

d) in line with the duration of ETS Phase 4

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(optional)

In order to ensure predictability and legal certainty over the period, the validity period of the list should be the same as the ETS phase, which is not the case up to now.

Question 17: Currently benchmarks are set to the average greenhouse gas emission performance of the 10% best performing installations in the EU for a given product. What adaptations of benchmarks for 2021 onwards should be considered, if any? -single choice reply-(compulsory)

c) the approach should be less stringent (please specify)

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(optional)

The current EU ETS benchmarks, which gives free allowances based on the first 10 % of best GHG emissions per unit of output, are too restrictive as they are the most requiring provisions in the world in terms of GHG efforts. Basically, the general approach should be less stringent. In addition to the 10% rate, the implementation of the cross-sectoral correction factor further caps the amount of free allowances. It reduces the financial capacity for EU industry – which is still recovering from the economic crisis – to invest in the low-carbon technologies that are needed to reach its GHG reduction objectives. In accordance with the dynamic allocation approach (see Q°7 and 19), the repartition of allowances given for free and to be auctioned is not prefixed while respecting the cap. Then the cross-sectoral correction factor must be removed.

Question 18: Should the benchmarks be revised to reflect the technological state of the art? -single choice reply-(compulsory)

b) no

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(optional)

Benchmarks could be revised in principle, especially to lead to representative values, every 5 to 10 years. However they must not be revised to reflect the technological state of the art. A continuous revision of benchmarks would result in an "unsteady benchmark" and

undermine the incentive to invest in the long term, as the investment decisions would be quickly out-dated. Benchmarks should be representative of the whole installations, and therefore be based on sectoral evolution of “best in class” installations.

Question 19: Currently, historical production data are used to determine the allocation due to each installation. Operators had the possibility to choose between 2005-2008 or 2009-2010 as basis years. Should the production data used to calculate allocations in Phase 4 (post 2020) be updated? -single choice reply-(compulsory)

c) other (please specify)

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(optional)

Historical data are not adapted to the actual level of the activity of an installation: this leads to use the production level as an adjustment factor. In order to avoid this current situation and support investment in low-carbon technologies rather than the reduction of production, EUAs allocation methodology should be dynamic. It would be interesting for the Commission to assess the case of adapting the number of free allowances on the basis of the actual level of the activity of an installation, i.e. the production level of the preceding year. This would enable to allocate more allowances for an installation with a higher level of production than expected, and reduce the allocation in the opposite case. In both situations, the main driver for investments would be reaching the best practices in terms of emissions/unit of production existing in the same field of activity.

Question 20: Is there a case for any deviations from general harmonised allocation rules, and what would be the risks involved? -single choice reply-(compulsory)

a) no, there should be no deviations

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(optional)

In order to achieve an efficient and integrated energy market at EU level, rules have to be harmonised. Any deviation would create differences among national policies, and therefore distortions between the Member States, undermining the functioning and efficiency of the market. Therefore they should be forbidden. Should any deviation such “safe harbour clause” be authorised, it is essential that it is strictly defined and applied at EU level, on the basis of common criteria.

Question 21: Should there be a harmonised EU-wide compensation scheme for indirect costs, i.e. for increases in electricity costs resulting from the ETS? -single choice reply-(compulsory)

c) yes, in the form of additional free allocation

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(optional)

French companies very much support the harmonisation at EU level of the compensation scheme for indirect emissions. To be effective, it should not depend on the difficult and long EU budget negotiations. This could indeed delay the implementation of support mechanism, then maintaining the current competition distortions between EU companies. It should thus be given in the form of additional free allocation.

II. Options for post-2020

C. Innovation support

To implement a small-scale prototype -single choice reply-(compulsory)

Least important

At the conception stage -single choice reply-(compulsory)

Less important

To implement a large-scale pilot -single choice

Most important

reply-(compulsory)

At the commercialisation stage

Important

-single choice reply-(compulsory)

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(optional)

1. The 4th stage mentioned in this question (« at the commercial stage ») must be understood as « at the PRE-commercial stage ». 2. This ranking is elaborated without prejudice of sectoral specificities. 3. Beside the emission issues, potentially fundable projects could also include R&D on GHG use and valorisation.

Question 23: Should the allowances funding low-carbon innovation support come from the Member States' auction budgets or from free allocation? -single choice reply-(compulsory)

a) from the Member States' auction budgets

If you wish, please motivate your answer (max. 1000 characters):

-open reply-(optional)

The allowances funding low-carbon innovation support should come from the Member States' auction budgets or any kind of budget, with the exception of free allowances. For example, a share (in %) could be withdrawn from each auctioned allowance and dedicated to a European fund. At least, Article 10 paragraph 3 of the ETS Directive should be modified in order to oblige Member States to use auctioning revenues to fund low-carbon technologies. However, the allowances should not come from free allocation. Indeed, should the allocation of free allowances be dynamic, it cannot be rationed on the long term.

Section II:

D. Other issues

Question 24: Are there any other issues you would like to raise? -open reply-(optional)

Currently indirect emissions guidelines introduce competition distortion between the Member States as well as between technologies (heat vs electricity or air vs industrial gases such as oxygen). List of exposed sector to indirect emissions should therefore be revised to include additional sector and correct competition distortion cases.