

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.:*

EUROGYPSUM- the European plaster and plasterboard manufacturers association.

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

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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

The Gypsum Industry is represented by a relatively flat benchmark curve. This demonstrates that many installations are approaching full optimization through the use of best available techniques and as a result, we have very limited capacity to significantly reduce our emissions without breakthrough technologies. The European Union should support innovation through financial incentives to promote breakthrough technologies for significant carbon emissions reduction.

In addition, the previous benchmarking exercise created an important administrative workload on both the industry, the administration and also triggered some issues regarding commercially sensitive information. Eurogypsum believes that any update should only be undertaken between trading periods (not within emissions trading periods) and when sufficient evidence exists of technological progress. It is important to underline that the technological state of the art is not always representative of what can be achieved in practice.

Any update in the benchmarks should only take into account innovations that have been proved to be commercially viable and that have been successfully implemented on site. The benchmarks should further take into account each sectors characteristics, such as the existence of several end-products and the fact that new products may have a higher carbon intensity during the manufacturing process, but lower emissions over the product life cycle. In addition, the benchmarks should ensure that recycling is not penalized if this increases manufacturing emissions, but displaces other emissions that would have resulted from the end of life of the product.

Updating the benchmark could be a sustainable and fair alternative instead of trying to quantify qualitative criteria's or other methods to reduce the number of CL sectors. This will always lead to a disorientation in the market between the energy intensive sectors. With an updated benchmark all sectors could eventually contribute in a fair way to reduce free allocation and emissions

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

Eurogypsum supports the inclusion of both direct and indirect costs as part of the allocation rules. Any additional costs linked to the EU ETS can lead to a loss of competitiveness and should therefore be addressed for the sectors that are deemed exposed to carbon leakage.

The most GHG Efficient installations exposed to carbon leakage should receive 100% free allocation and the EU ETS should not restrain the growth of industry, nor recycling & the sustainable use of natural resources.

Any increased level of ambition in Europe towards 2030/2050 should lead to increased protection against carbon leakage whilst equivalent measures are lacking in non-EU Countries.

The European Commission should, in its revision of the EU ETS post 2020, take full account of the cumulative burden of the EU framework on the basis of a thorough impact assessment. Several other EU measures have an impact on the EU's industry competitiveness (renewables, energy efficiency). The Commission should ensure an integrated approach and prevent dual or conflicting regulation.

Regarding energy costs, the European energy policy should strive to build a fully integrated and well-functioning electricity and natural gas market. This energy policy should further:

- Consider integrating energy requirements in international negotiations;
- Guarantee a diverse and more competitive energy supply in Europe;
- Realize the internal market of energy in order to reduce the differences of energy prices within Europe

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

As per the qualitative assessment performed by the Gypsum Sector in 2012 & 2014, the plaster and plasterboard market is cyclical: the presence of high fixed costs makes its profitability particularly sensitive to economic downturns. In addition, plaster and plasterboard are commodity products produced using standardized technologies across the industry. The industries are very sensitive to energy and raw material price fluctuations because these represent a large part of their total costs and they are unable to pass through cost increases to downstream users.

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

Eurogypsum believes that the current & future EU climate policy does not sufficiently take into account the following issues:

The distortion of competitions between products

The carbon leakage status is necessary to avoid distortion of competition between competing construction products falling under the scope of the EU ETS. Therefore the qualitative assessment should be maintained. The future ETS should maintain fair competition between products inside the internal market. Competitors with the same market structure must have a level playing field (i.e. all in or out of the carbon leakage list but not one in and one out).

The cumulative burden of the EU framework

Several other EU measures have an impact on the EU's industry competitiveness (renewables, energy efficiency etc. The Commission should ensure an integrated approach and take a holistic view on the cumulative impact of the various measures.

Energy costs

Energy costs represent a significant portion of the Gypsum industry's manufacturing costs. Like for many energy intensive industries, having access to energy at an affordable cost is an essential condition for operating in the EU and for maintaining its competitiveness.

Further adequate incentives for low carbon investments

As a general principle, revenues from the EU ETS should go back to industry to enable & incentivise investments in low carbon solutions. Part of the revenues could, for example, be used to provide cheaper loans for low carbon investments in installations falling under the EU ETS.

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

No opinion

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

No opinion

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

Eurogypsum welcomes the Council push towards incentivising low carbon innovation as this will be critical to achieving the longer-term and more stringent targets as part of the 2050 roadmap. The degree of support made available will need to be proportionate to the ambition of EU Objectives in the longer-term and the 2030 Framework will also need to ensure that Industry has adequate access to funding or allowances from the innovation fund. It seems like funding in modernization and energy efficiency is very much limited to SME's and I somewhat intransparent. So funding could be more oriented towards R&D industrial sectors.

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

No opinion

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

As a principle, private and public projects should be on an equal footing, and industrial actors should be eligible.
Not a certain types of projects should be preferred but the criteria of direct and indirect CO2 reduction potential should be main focus

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

No opinion

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

Accumulation should be strictly avoided to give different sectors and industries a chance. More transparency and information about funding is most important.

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

No opinion

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

4,500 character(s) maximum

Yes

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

Yes, for instance direct or indirect CO2 emissions

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

Make sure that the distribution of financial resources is fair and attributed according the EU policy priorities.
Accumulation of funding should not be feasible.

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

No opinion

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

No opinion

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

- yes
 no

If so, which of the following areas, if any, currently supported through investments for modernisation of electricity generation up to 2020 should be prioritised for support up to 2030 and why?

- Interconnectors
 Smart Grids
 Super-critical coal
 Gas
 Renewable energy
 Energy storage
 Energy efficiency
 Other (please elaborate)

Please explain in detail:

4,500 character(s) maximum

Energy efficiency, because pay back periods for these projects very often do not fulfill the requirements for investments in capital intensive industries

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 opinion

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 EU ETS could be simplified to either remove very small emitters from its scope or there could be a form of "EUETS-lite" for very small emitters. Opt out could be made available for small emitters to allow them to be excluded, but it would be prudent to give small emitters this choice because in some cases, they could opt-out of the EUETS and by doing so, could be impacted by another scheme with more significant costs or administrative burdens. The old IPPC regime also looked at things like "general binding rules" to make the administrative burden easier and more proportionate to the very small installations - perhaps a similar measure could apply to SME's under the EUETS.

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

The system should be continued and should remain an option. To ensure a level playing field, however, all member States should be required to offer this option. In order to make this practical and less bureaucratic, it would be beneficial to have the framework set at EU level, thus avoiding potentially significant disparities. Having a common framework would also reduce the administrative burden for each of the various Member States i.e. they would not have to design and implement a system of equivalent measures. Such an EU framework would also give greater certainty of outcome to the small emitters i.e. if it was clear at the EU level what they could opt-out into and the expectation of emission cuts that would be placed upon them by opting out of the EUETS.

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 registry must be user friendly to avoid accidental mistakes, but it also needs to be secure as significant amounts of money may be involved in allocation, transfer and surrender of allowances. To maintain the credibility and integrity of the scheme, it must not be open to fraud.

**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

No opinion - provided the discrepancies do not have a material impact upon installations.

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 revenues of the EU ETS should come back to the industry to support the transition to a low carbon economy (innovation support, research, funding, sponsoring of breakthrough technologies etc.). This could also play an important role in reducing the competitiveness gap compared to non-EU Countries who do not face equivalent measures. There should be audits and transparency in how auction revenues are spent and clarity regarding how to access potential revenues. This is essential to maintain credibility and ensure that the revenues are allocated towards genuine emissions reductions.

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

2 key components of EU climate policy are to take a leadership position on climate change and to reach an international agreement, thereby establishing a level playing field within which Countries and Companies can play their part in making the necessary reductions in GHG emissions. One of the initial objectives of the European Commission was to link the EU carbon market to other initiatives in non-EU Countries. However, 7 years after the initial proposal, there is still no concrete path showing the way to an international agreement and there is also a persistent lack of equivalent measures outside of the EU. The EU ETS therefore remains a unilateral tool.

Within this context, the EUETS does fit well with the first aspect of EU policy and it has also been important in providing a cost-effective tool to achieve emissions reductions. By providing for carbon leakage protection - the EUETS Directive has helped to prevent competitiveness impacts, whilst at the same time using benchmarks and correction factors to help drive emissions reductions.

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 EU is on track to deliver its 2020 commitments and the carbon price has reduced in light of the very significant recession in the past few years, so this indicates that the ETS system has been successful to a large extent i.e. emissions reductions have occurred without undue costs. Therefore, whilst the ETS is not perfect - it has demonstrated that it is able to adjust to the conditions that have prevailed in the EU so far.

Going forward, the EUETS needs to operate in and address the entire economic situation and it should also be linked with a positive industrial policy and economic growth. A declining industry will not have the means to invest in innovation and research, nor potentially in emissions reductions. The cumulative burden of the EU legal framework (renewables, energy efficiency etc.) should be kept in mind.

Furthermore, other sectors that are responsible for significant CO₂ emissions (agriculture, transport etc.) and which are not subject to the EUETS should share in the burden of CO₂ emissions reduction because it is not equitable to expect industry to shoulder all of the burden alone.

With respect to a long term vision for investment, the EU ETS should give a clear and predictable signal and allow the investments to take place in the most cost-effective manner

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

The costs and impacts of the EUETS in the past are not indicative of the likely costs and impacts in the future due to the financial climate of the past few years. Therefore, care should be taken not to extrapolate historical impacts forward into the future. In light of this, a forward looking EUETS needs to ensure that industry is not competitively disadvantaged relative to non-EU producers and in addition, must make sure that some sectors are not competitively disadvantaged relative to other sectors within the EU.

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

4,500 character(s) maximum

The European Commission should, in its revision of the EU ETS post 2020, take full account of the cumulative burden of the EU framework on the basis of a thorough impact assessment. Several other EU measures have an impact on the EU's industry competitiveness (renewables, energy efficiency). The Commission should ensure an integrated approach and avoid dual or conflicting regulation. The Commission should also take into account the heavy administrative burden for declarations, management, collect rights, verifications, etc. It seems that the ETS administration and constraints for industry is not fully taken into account. Simplification of ETS administrative burden is most than welcome.

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

This is difficult to assess given that it requires significant speculation. At the same time, Phase 3 of the EUETS has brought greater harmonization and the scale of the climate change challenge would seem to fit with a more harmonised EU approach rather than a patchwork of National measures. The critical next step is to translate an EU approach to a globally harmonised approach

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

Eurogypsum supports a global approach that is cost-effective, takes into account energy prices, takes into account the capacity of sectors to reduce their emissions without breakthrough technologies and that also provides flexibility. A piecemeal approach (backloading, Market Stability Reserve etc.) harms the confidence of the industry and does not achieve clarity and predictability.

Furthermore, Eurogypsum believes that the Cross-sectoral correction factor should be removed, in order to ensure that the best performers benefit from 100% free allowances.

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