EU Green Deal (greenhouse gas emission allowance trading "ETS'')

FuelsEurope supports the EU's goal of climate neutrality by 2050 and the 2030 target of 55% emissions reductions recognising this will require breakthrough technologies, significant investments and an enabling policy framework.

Carbon pricing, together with renewable mandates, will need to play an important role in decarbonising industry and help create a market for low carbon products.

To ensure Europe's refining industry can remain globally competitive whilst transforming in alignment with the EU's climate targets, we support effective measures that preserve a global level playing field.

The European Emission Trading System (ETS) has proven to be an effective instrument for greenhouse gas (GHG) emission reduction. The strengthened ambition of the EU ETS, commensurate with the economy-wide net GHG emissions reduction target of 55 % by 2030, can contribute to additional emission reductions in a cost-effective and economically efficient manner and further encourage investments in low carbon technologies and renewables, but only if it remains closely coupled with effective carbon leakage protection measures.

As recognised in the EU Green Deal, it is indeed vital to strengthen the protection against the risk of carbon leakage where the EU ambition is further unilaterally increased.

Effective and sustained carbon leakage protection for the EU refining industry

1. **A cross-sectorial correction factor shall be avoided**

The proposal by the Commission to align the cap of the ETS with the 2030 target through a combination of rebasing and a steeper linear reduction factor, heightens the importance of effective carbon leakage protection. Sectors covered by the ETS may need tailor-made solutions, as one size does not fit all. Industry needs an effective basket of measures to ensure adequate protection against the risk of carbon leakage. In assessing the vulnerability of sectors, the ability of EU undertakings to abate emissions shall be determined based on the access to best available decarbonisation technologies (which ones and by when) while considering exposure to competition from non-EU industries.

Energy intensive industries – engaged as they are in the low-carbon transition to contribute to the 2050 climate neutrality objective – are particularly vulnerable to international competition.

In particular, the amount of free allowances that is supposed to be allocated for free to exposed sectors in the period 2026-2030 would dramatically be reduced as a result of the combination of, amongst others, the following elements:

- A freezing of the share of free allocation (43 % of the EU cap) where the near to mid-term potential to economically abate GHG emissions in the manufacturing sectors is much lower than the one expected in the power sector (see section 9.4.2 of the SWD (2020) 176 final, part 2/2);
- A set-aside of allowances emanating from the free allocation share to feed into the innovation fund;
- The conditionality clause to receive free allocation set forth in the art. 1.12 of the proposal amending art. 10a of the ETS directive.

Our first calculation indicates that the significant shortage already faced by our sector in the period 2021-2025 (35%) under the current ETS directive could be further exacerbated in the period 2026-2030 (around 60 %) as a result of the application of a cross sectorial correction factor far below 1. That is not sustainable for our industry since even the best performing installations would have to carry a large uncompetitive cost burden versus non-EU producers.

This is in total contradiction with the initial objective of the ETS that aimed at rewarding the best performers, early movers in the road to decarbonisation.

Absence of adequate, effective and sustained carbon leakage protection will make lower carbon projects unattractive in the EU.

2. Benchmark for refining products and impact on free allocation

FuelsEurope also warns that an unrealistic tightening of the benchmarks could lead to a further weakening of the carbon leakage protection, and, above all, reduce the ability of our industry to do the necessary investments. Moreover, due to resource constraints, only realistically achievable benchmarks across the whole EU should be established.

The existing directive foresees that the Union-wide ex-ante benchmarks will be reviewed before the period from 2026 to 2030. However, the proposal includes a provision that may have far reaching consequences on the free allocation for the period at stake as it would potentially modify the definitions and system boundaries of existing product benchmarks (see article 10.a.1 sub§3).

For the EU refining industry and the establishment of a refining products benchmark, the definitions of products covered and the processes and emissions covered (system boundaries) have been established after consultation with experts from our sector, ahead of ETS phase 3. Those definitions are still valid today.

For the period from 2026 to 2030, the benchmark values shall be determined on the basis of information submitted for the years 2021 and 2022 by the ETS installations (data collection to be performed in 2024). It is highly likely, based on information in our hands today, that a very limited amount of new technologies will be applied by the end of the year 2022. Compared with the years 2016 and 2017 (used for the period from 2021 to 2025), that will lead to a potentially small revision of the annual reduction rate, recently calculated at 1.51 % per year). However, if the changes resulting from modified definitions/boundaries would have the consequence of significantly modifying the number of installations on the benchmark curve, allowing outliers to be artificially compared with the 82 mainstream refineries operated across the EU, that would not allow the determination of a true, technically and scientifically based, benchmark.

Any suggestion to modify the definitions and system boundaries of the existing refining products benchmark should be carefully considered and shall be discussed with the refinery experts at the earliest stage. By no means, those potential changes should have any impacts on the update of the refining products benchmark for the allocation period 2026-2030.

Indirect Cost Compensation

The general revision of the ETS directive represents the right opportunity to review the indirect cost compensation framework.

In particular, FuelsEurope recommends to install an EU-wide harmonised system of financial compensation for indirect emission costs in order to remedy the current distortions to the internal market due to national compensation schemes. The revised ETS Directive should therefore explicitly foresee a mandatory compensation for all eligible sectors on an EU-wide basis.

Regarding the Impact Assessment

A comprehensive impact assessment is essential for a well-informed decision-making process.

On the contrary, the impact assessment does not provide a comprehensive analysis of the impact of the 14 July Commission proposal, since key elements (e.g. ambition, carbon leakage provisions, Innovation Fund, MSR) have been assessed only in isolation, each of them through different policy options.

Furthermore, it does not present a proper assessment of its impact on sectors like refining significantly exposed to the risk of carbon leakage, underestimating fundamental issues such as the impact of the carbon price, the capital expenditure needed to reach high reduction targets and overestimating the free allocation share when combining all elements of the proposal.

Regarding a Carbon Border Adjustment Mechanism and the potential inclusion of refining products within the scope of the proposed regulation (see EC proposal COM(2021) 564)

Any CBAM should primarily be designed such that it supports the effectiveness of policies aimed at fighting climate change not just in the EU but globally. Any CBAM should be designed to improve the effectiveness of the EU ETS by complementing and, only once proven, replacing the current free allocation system. It should address both imports and exports (the current CBAM proposal is inadequate in that respect).

FuelsEurope, the voice of the European petroleum refining industry

FuelsEurope represents with the EU institutions the interest of 41 companies operating refineries in the EU. Members account for almost 100% of EU petroleum refining capacity and more than 75% of EU motor fuel retail sales.

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