

FUELEUROPE POSITION ON EU ETS REFORM



FUELSEUROPE, THE VOICE OF THE EUROPEAN PETROLEUM REFINING INDUSTRY



FuelsEurope represents with the EU institutions the interest of 42 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.

FuelsEurope aims to inform and provide expert advice to the EU institutions and other stakeholders about European Petroleum Refining and Distribution and its products in order to:

- Contribute in a constructive way to the development of technically feasible and cost effective EU policies and legislation.
- Promote an understanding amongst the EU institutions and citizens of the contribution of European Petroleum Refining and Distribution and its value chain to European economic, technological and social progress

EXECUTIVE SUMMARY - KEY FUELSEUROPE RECOMMENDATIONS

FuelsEurope supports the EU ETS as the EU's 'flagship instrument' within its energy and climate policy framework, as a cost-effective market mechanism for emissions reduction in the power and industry sector.

FuelsEurope fully supports the conclusions of the EU Council of October 2014 where the key needs and principles for EU ETS reform were set out: it was stated that the most efficient installations should not face undue carbon costs and that free allocations should take into account both direct and indirect carbon costs. FuelsEurope also welcomes the focus of the Commission in its proposals for amending the ETS Directive on carbon leakage protection and the recognition of the key role of Energy Intensive Industries in the European economy.

However, FuelsEurope's assessment is that the current proposals are not in line with the EU Council conclusions and that within carbon leakage sectors even the most efficient facilities (those at the benchmark level) could face a 10 to 20% shortage on their free allocation by the end of Phase IV. FuelsEurope estimates that Refining would face a total cost of approximately 15 Billion € over Phase IV (with a CO₂ price of 30 €), including indirect costs. This represents more than 10% of average refinery margins which are already eroded by other legislation in the field of air and fuel quality.

Carbon leakage protection is needed to preserve the competitiveness of our industry from international competitors that do not face similar carbon cost. However, such protection does not decrease the incentive for continuous improvement of industry's carbon efficiency.

The EU refining industry is an important contributor to the EU economy and security of supply. In view of its international exposure, it should continue to receive full carbon leakage protection against both direct and indirect costs at the level of realistic benchmarks and based on actual activity levels, without a correction factor.

FUELSEUROPE THEREFORE BELIEVES THAT THE FOLLOWING CHANGES SHOULD BE MADE DURING THE LEGISLATIVE PROCESS:

- In line with the October 2014 EU Council conclusions, best performers in exposed sectors must receive 100% free allocation at the benchmark level. This requires a fair share of the ETS cap for industry free allowances and no correction factor applied to free allocation. FuelsEurope estimates that the auctioning share for the IVth trading period fixed at 57% in the Commission proposal has been over-estimated by up to 7% and that the 400 million allowances used for the Innovation Fund should also be taken from the auctioning share;
- To establish an activity-based allocation mechanism using recent annual activity levels; such an activity-based allocation mechanism will both protect sectors against carbon leakage, serve to not discourage growth (and having to surrender extra allowances) and reduce the potential for an operator to generate windfall profits by cutting production, whilst retaining their full allocation of free allowances;
- Fair benchmarks to be recalculated once before the start of the IVth trading period and remain valid throughout Phase IV. The revised benchmarks should be based on actual verified performance over a representative period (2013-2017) instead of applying an arbitrary flat-rate reduction to the benchmark;

- Benchmark installations have to be representative for the sectors; the benchmark of all industrial sectors with a “steep” benchmark curve, including Refining, must be expanded from current top 10% to include the top 25% to better describe the activities of these sectors;
- 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; to add EU Refining to the list of sectors eligible for compensation in view of its electro-intensity, as these indirect emission costs add to its cost disadvantage vs. international competition;
- To define within the Directive the “technical details” that are key to calculating allowances for all sectors (e.g. reference years for activity levels, elaboration of the benchmarks...). Leaving the definition of these details to delegated or implementing acts significantly reduces investor certainty as these acts are unlikely to be adopted before 2018, leaving very little time to prepare for Phase IV;
- To maintain the possibility to surrender international offsets, where these offer real sustainable emission reductions and are subject to robust monitoring, reporting and verification protocols. This would promote global participation and achieve the lowest cost of carbon abatement.

FuelsEurope believes that an activity-based approach combined with benchmark updates before the beginning of Phase IV will exclude the possibility for windfall profits, whilst ensuring sufficient protection to exposed sectors.

FuelsEurope welcomes the European Council request that administrative complexity should not be increased and believes that this guidance should be a driving principle for revising the ETS Directive.

MAINTAINING A DOMESTIC EU REFINING INDUSTRY

2050

Oil demand is expected to decline by 2050; however, even in the most ambitious IEA scenario, oil will remain the main energy source for transport in 2050 and its applications in other sectors of the economy such as petrochemicals are also expected to be maintained by then.

ECONOMIC VALUE OF THE EUROPEAN REFINING AND MARKETING INDUSTRY FOR THE EU

23 B€ /
YEAR

ADDED VALUE
TO EU ECONOMY

5 B€ /
YEAR

AVERAGE
INVESTMENTS

2

FOR SKILLED JOBS
IN MANUFACTURING ★

270 B€ /
YEAR

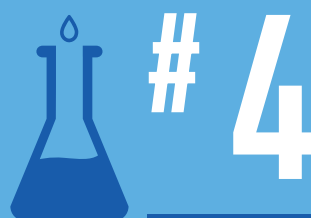
TAXES  

COLLECTED ON FUELS SALES
FOR MEMBER STATES

1



PROCESS
INNOVATION



4

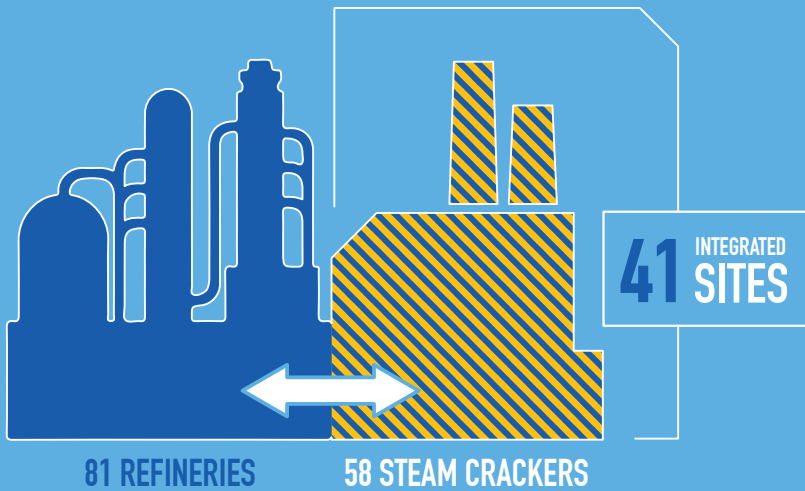
PRODUCTS
INNOVATION

140.000

PEOPLE DIRECTLY
EMPLOYED

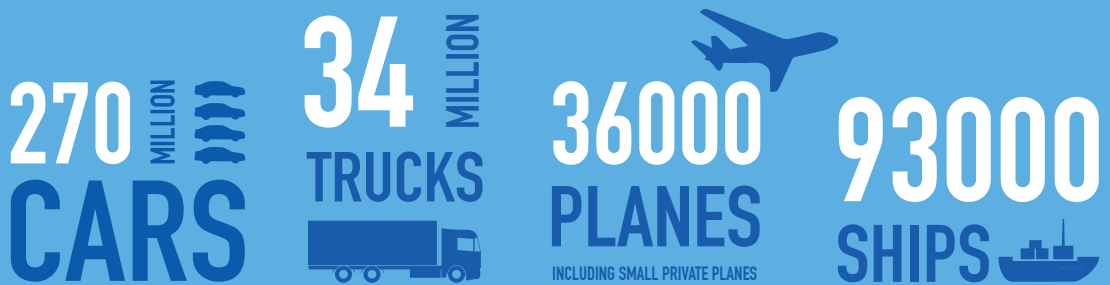


CLOSE INTEGRATION
WITH THE PETRO-CHEMICALS INDUSTRY



A RELIABLE SUPPLIER OF OIL PRODUCTS AND FUELS

Supply Security



90+ days EU supply to
face possible supply crises.



RESPONSIBLE & EFFICIENT

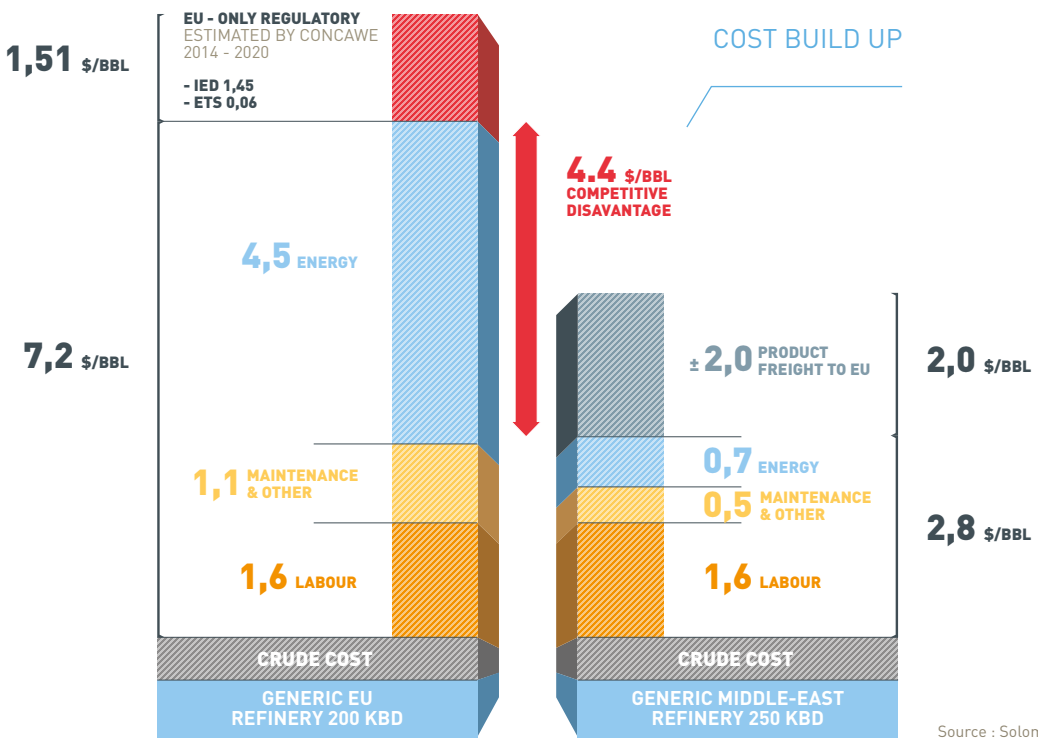
The European refining industry recognises the need for industry and society to use petroleum in the most responsible way. It has therefore developed maximum efficiency, world class water, air emissions and product qualities standards. Also, EU refineries are amongst the most efficient and lowest CO2 emitters in the World.

RECENT EVOLUTION OF THE SECTOR

SINCE 2008 EU REFINING CAPACITY HAS DECREASED BY 10%
CORRESPONDING TO 10.000 DIRECT JOBS AND 40.000 INDIRECT JOBS.

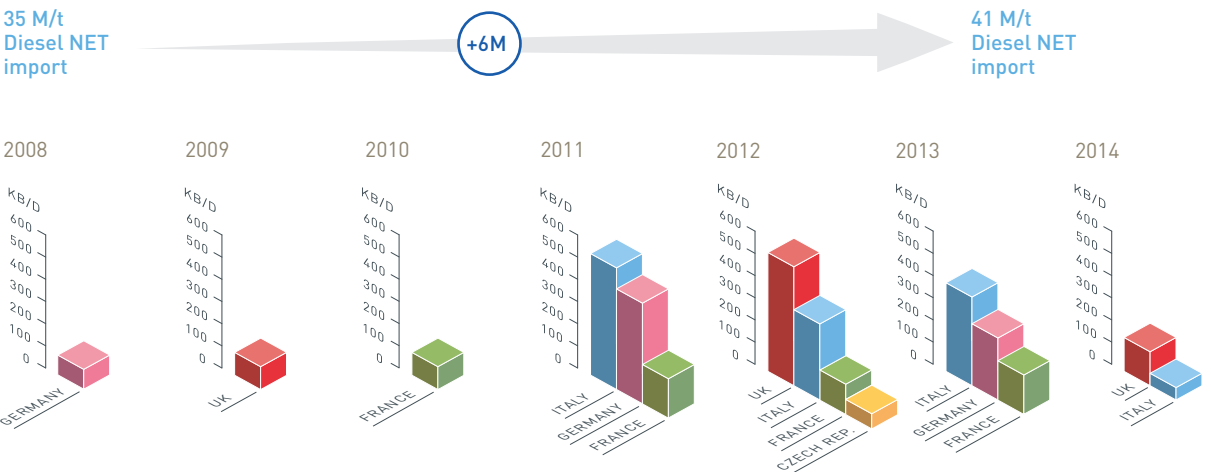
Threats for the competitiveness of the refining industry:

- › Global change in demand and supply patterns
- › Energy and labour costs
- › Diesel/gasoline imbalance of supply vs demand
- › Increasing regulatory burden and unilateral costs imposed on EU refineries



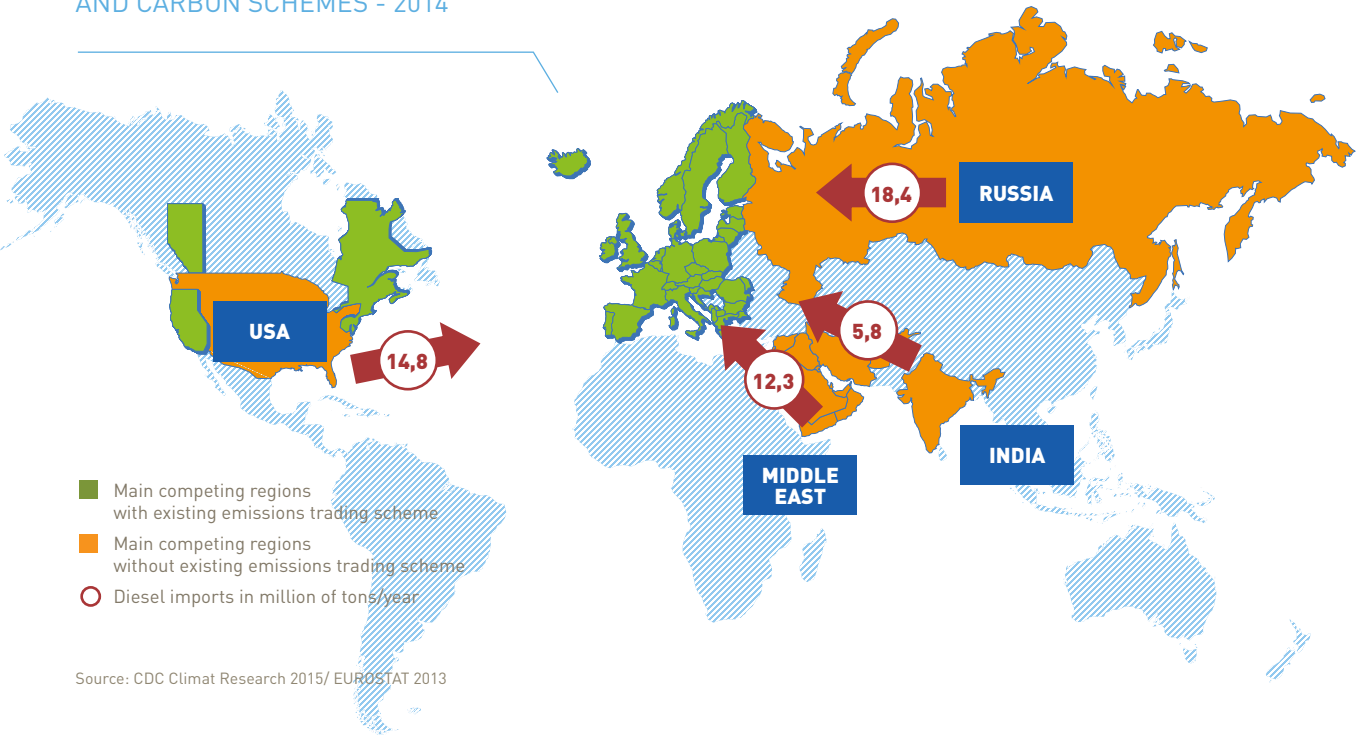
RECENT REDUCTIONS IN EU'S REFINING CAPACITY

EU refining needs to adapt its capacity to the decrease in demand but since 2008 refinery shut-downs were coupled with an increase in diesel imports indicating a loss of competitiveness.



HIGH TRADE EXPOSURE AND ENERGY-INTENSIVE PRODUCTION EXPOSE EU REFINERIES TO THE RISK OF CARBON LEAKAGE

MAJOR DIESEL IMPORT TO THE EU AND CARBON SCHEMES - 2014



- › EU refining manufactures products which are subject to competition from imports.
- › Refining products are priced on transparent and highly competitive regional and/or international markets.
- › Despite recent progress and the take-up of carbon pricing schemes around the globe, EU refineries are still significantly exposed to the risk of carbon leakage, as a vast majority of their competitors do not face similar cost of carbon to manufacture oil products.

“REFINING PARADOX”

Having to meet legislative requirements on the quality of fuels to further abate (non-GHG) emissions requires increased conversion of heavy residues into lighter products. This in turn results in the increase of refineries’ energy and GHG intensity.

Any qualitative analysis of the level of exposure of the Refining industry to the risk of carbon leakage should also take this into account.



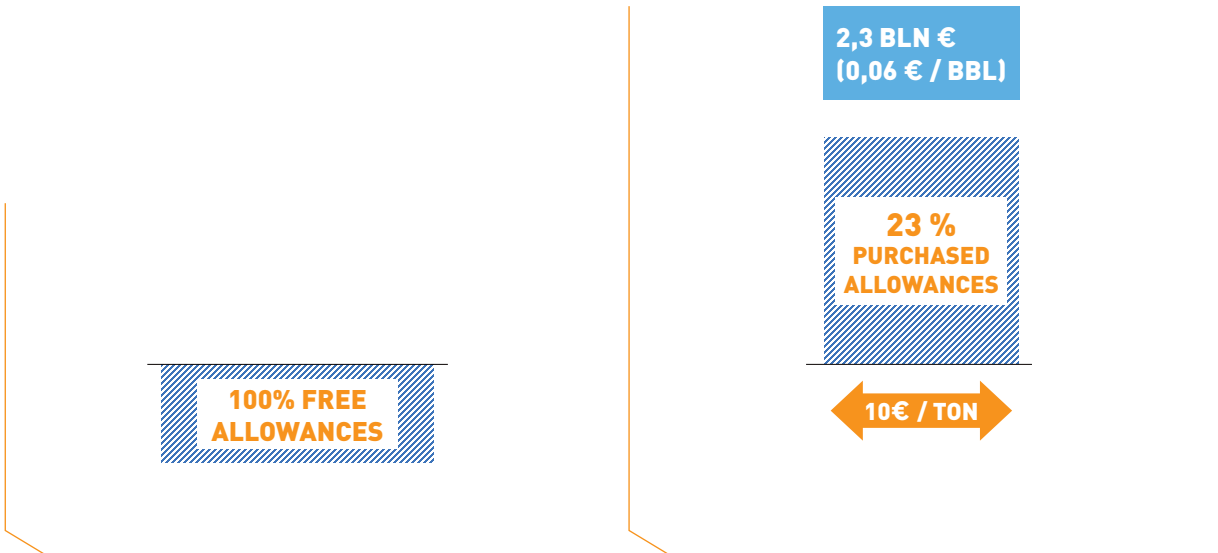
- › Relocation of production outside the EU would have negative consequences on global GHG emissions: according to a study recently conducted for the UK government, every 100 units of CO₂ emissions reduced in the EU are replaced in average by 135 units outside it.

Source : Case studies, Report prepared for DECC, Vivideconomics, June 2014

COST OF ETS FOR EU REFINING

EXPECTED EVOLUTION OF ETS COST FOR EU REFINERIES FROM PHASE I TO PHASE IV

 CUMULATIVE ETS COST



EU ETS Phase I (2005-2007 trial phase) and Phase II (2008-2012)⁽¹⁾:

- These 2 phases were characterised by free allocation based on ex-ante grandfathering regardless of the actual levels of industry activity.
- During these Phases, industrial activity declined, energy efficiency improved and renewables increased their share. Consequently, the price of carbon remained low and there were no significant EU ETS costs incurred by the oil refining sector as a whole. Therefore lack of evidence of carbon leakage for Phase I and II cannot be used for future decision-making.

EU ETS Phase III (2013-2020)⁽²⁾

The entry into force of Phase III represents a step change as:

- Benchmarks replaced grandfathering and only the top 10% best performing installations theoretically are granted 100% free allocation.
- There is no free allocation for electricity. This impacts the Refining sector both directly (for refineries producing their own electricity) and indirectly (for refineries importing electricity);
- The application of a cross-sectoral correction factor (CSCF) whose timing and magnitude was unforeseen³. The CSCF penalises even most efficient ETS installations as it is applied in a uniform manner to all installations across all sectors;

Refining has been the most impacted sector by these changes and faces the biggest shortage of free allocation (29Mt in 2013) during Phase III, mainly due to:

- A very stringent benchmark not particularly representative of the overall performance of the industry;
- The impact of the economic crisis on activity levels was higher for several other sectors than for refineries. However, since the CSCF equally cut back free allocation to all sectors regardless of their needs, refining was more penalised.

(1) Note that in Phase II surplus allowances to the estimated value of 750 M€ were allocated (Source: JRC draft Refining Fitness Check report).

(2) Source: Concawe, based on Linear Reduction Factor 1.74% per year and impact of CSCF, assuming total refining throughput at 650 Mt/y and cost of ETS certificate at 10 €/ton.

(3) Commission Decision 2013/448/EU which fixes the level of the cross-sectoral correction is currently subject to several prejudicial questions in front of the European Court of Justice as the calculation of the CSCF and the lack of transparency around those has been challenged by several ETS installations.

(4) Source: Concawe, based on the 15th July 2015 COM proposal for revision Linear Reduction Factor 2.2% per year and estimated impact of a CSCF, assuming EU refining throughput at 600 Mt/y, 0.5% yearly improvement in carbon efficiency and cost of ETS certificate at 30 €/ton.

(5) Gross margin estimated by WoodMacKenzie for a NWE Brent cracking refinery.

10,3 BLN €
(0,23 € / BBL)

30 %
PURCHASED
ALLOWANCES

30€ / TON

EU ETS Phase IV (2021 – 2030) ⁽⁴⁾

Unless allocation shortages are resolved via the revision of the Directive, Phase IV is expected to increase the cost of compliance dramatically, also as a result of an expected increase in carbon price.

Although Commission proposals limit the application of a CSCF, industry would still face a total deficit of free allocation of around 350Mt over Phase IV, even assuming realistic improvements in refinery carbon efficiency. Assuming a CO₂ price of 30 €/ton (also as a result of the application of the Market Stability Reserve mechanism), this would lead to a cost of approximately 10 Billion € for direct costs plus 5 Billion € for indirect costs.

This amounts to an additional 0.23 € per barrel (accounting only for direct costs) on top of existing costs for EU regulatory compliance, which are already very significant, leading to erosion of EU refining gross margins, which have fluctuated between 0 and 4 € over the last five years⁵.

This additional cost challenge will occur at a time when refineries will be required to make significant investment in additional emissions abatement (Industrial Emission Directive) and product quality improvements (Fuel Quality Directive and marine fuels legislation).

COST PASS THROUGH

The competitive worldwide environment in which EU refineries operate prevents pass through of these carbon costs without losing competitiveness.

For the non-EU competitors who are not exposed to carbon cost, there is the option to either undercut EU refined products market prices – thereby gaining market share – or to increase their sales margin with respect to the EU competitors.

In both cases the competitiveness of ETS installations would be impaired, with the potential for a relocation of production activities and investment off-shore.

INTRODUCTION

On July 15th, 2015, the European Commission published its proposal for a revision of the ETS Directive and its Impact Assessment. Whilst FuelsEurope welcomes the focus of the Commission on carbon leakage protection and the recognition of the key role of Energy Intensive Industries in the European economy, the proposal falls short of European Council Conclusions, in particular regarding the absence of discrimination for European energy intensive industries when compared to their main international competitors.

1. THE REFINING INDUSTRY IS FULLY EXPOSED TO THE RISK OF CARBON LEAKAGE

The EU oil refining sector constitutes a substantial part of the world's total refining capacity and accounts for a visible share of the manufacturing value added in Europe, contributes to employment, and demonstrates a substantial turnover. The refining products continue to play an important role in satisfying the energy demand in Europe and are an essential component of the EU's energy security. Furthermore, the refined petroleum products are an important element of extra-EU trade, accounting for the major part of the EU energy exports and imports. JRC Report - EU Petroleum Refining Fitness Check

2. FREE ALLOCATION AND ADDRESSING THE RISK OF CARBON LEAKAGE

A. BENCHMARKS

Benchmarks must recognise and reward GHG performance differences in a sector. FuelsEurope is against the application of a flat-rate factor on all current benchmark values and the second update of the benchmark in the middle of Phase IV as proposed by the Commission. The Refining industry already has a very stringent benchmark. The proposed arbitrary flat rate set-up does not reflect actual performance of best in class refineries and, combined with two updates of the benchmark, would penalise them even further.

The proposed flat rate is also in contradiction with the guidance from the European Council, which foresees that the benchmarks will be "reviewed in line with technological progress in the respective industry sectors".

Instead, FuelsEurope supports a complete updating of sector benchmarks before start of Phase IV in 2021, to be used throughout Phase IV. This would not create additional administrative burden since the Commission proposal already foresees a "reality-check" of the 1% improvement factor via a data-collection exercise to be undertaken by the Member States in the framework of National Implementation Measures. Data on production activity, transfers of heat and gases, electricity production and emissions for the period 2013-2017 can be used in order to update the benchmark.

Furthermore, benchmark installations have to be representative for the sectors. The current use of the median of the top 10% to set the benchmark has penalised the refining sector, which more than other industrial sectors, is characterised by multiple configurations and crude sources). FuelsEurope therefore believes that the benchmark for all industrial sectors with a “steep” benchmark curve, including Refining, must be expanded from the current top 10% to the top 25% to better describe the activities of these sectors.

B. PRODUCTION LEVELS

The Commission’s proposal to update activity levels in the middle of Phase IV and to allow additional free allocation for significant production increases is a step in the right direction, but the activity-based approach must be more firmly established in the revised Directive. Moving to an allocation methodology closely aligned with real/recent production levels would:

- provide the required allowances at the level of the benchmark to companies expanding or restarting production to avoid undue additional EU ETS costs;
- help prevent over- or under-allocation;
- stop rewarding ETS participants for moving production overseas, taking advantage of the high thresholds for partial cessation of operation;
- ensure simplified and fairer rules as regards new entrants, capacity increases or decreases, plant rationalisation and partial cessation. For example, the reference period could be the rolling year n-2 or a two-year rolling average (to alleviate concerns over confidentiality of data for a single year).

In FuelsEurope’s view, claims that an activity-based system would create unacceptable administrative burden are over-stated. Indeed, most data regarding levels of activity and emissions are already collected in the frame of monitoring, reporting and verification. Some difficulties remain regarding the attribution of emissions to each installation, but such problems could be solved by more solid and transparent data gathering processes.

FuelsEurope believes it is urgent to create an EU mandated common data reporting language for annual emissions reporting. With this common data, a European online EU-ETS data collection platform directly linked to national platforms becomes credible. Such EU-wide platform would:

- reduce the level of administrative burden by automatising data consolidation;
- reduce the risk of errors in calculations;
- allow improved access to solve the lack of transparency (whilst protecting confidential information) which is the basis for legal cases against the calculations of the CSCF;
- allow the data needed for an activity based allocation approach to also be collected;
- by extension, support electronic reporting to EU ETS aviation and for EU shipping emission MRV;

To increase transparency and confidence in the system, FuelsEurope also requests a fit-for-purpose re-categorisation of main activity type codes in the EU ETS public data reporting framework.

C. COMPENSATION FOR INDIRECT

FuelsEurope welcomes the Commission’s proposal to use auctioning revenues “to fund financial measures in favour of sectors and sub-sectors that are exposed to a genuine risk of carbon leakage due to significant costs that are actually from GHG emission costs passed on in electricity prices”. The European Council also asked for indirect carbon costs to be taken into account, in line with the EU state aid rules so as to ensure a level-playing field .

However, the lack of a harmonised EU-wide approach in the Commission proposal contributes to market distortions and does not allow a level-playing field between intra-EU competitors. The revised ETS Directive should therefore explicitly foresee a mandatory compensation for all exposed sectors, including the refining industry, on an EU-wide basis.

Current high thresholds for eligibility currently leave EU Refineries - for whom indirect costs currently represent almost 30% of total ETS costs - unprotected vis-à-vis global competitors benefiting from lower energy prices. Therefore criteria to define eligible sectors for financial compensation for indirect costs should be based on total electro-intensity reflecting total consumption, as per the Environmental and Energy State Aid Guidelines (in line with the European Council's guidance). These must be established in the Directive.

D. CARBON LEAKAGE GROUPS AND CRITERIA

The new carbon leakage eligibility criteria proposed by the Commission will result in less sectors being eligible (according to the Commission Impact Assessment, an unnamed 50 sectors will be eligible, compared to 152 under Phase III), but will only result in a very limited change regarding the proportion of emissions covered (94% compared to 96% under Phase III).

FuelsEurope welcomes the proposed simplifications for calculating each sector's exposure to carbon leakage (no reference carbon price required and no need for the so-called "auctioning factor"), but more stringent thresholds could have potentially negative overspill effects on other industries (e.g. for the oil Refining industry which is inter-connected with oil production, hydrogen manufacturers and petro-chemical sites). FuelsEurope welcomes the equal treatment of Refining and hydrogen/syngas regarding the update of benchmark values, to maintain a level-playing-field, but for the same reasons would welcome the same non-distortionary approach regarding qualification for carbon leakage protection. Last but not least, whilst calculating the level of exposure of industrial sectors, the Commission should stick to the current approach which is based on total induced carbon costs (direct + indirect).

Past assessments by the European Commission have under-estimated the real level of exposure of the EU refining industry.

Currently the refining sector is penalised because carbon leakage assessments are based on EUROSTAT data where Refining is described under NACE category of activities '19.2 Manufacture of refined petroleum products'. This category covers far more installations than the number of mainstream refineries that FuelsEurope / CONCAWE recognise and that are subject to ETS.

NACE code 19.2 covers also smaller installations:

- *that are not covered by the EU ETS;*
- *producing highly specialised petroleum-based products (e.g. lubricants, greases, solvents, coatings, etc.) that are not considered as mainstream refineries;*
- *that generally manufacture product with greater value added and generate less GHG emissions € emissions to GVA ratio is on average lower than mainstream refineries;*

In the context of the Refining fitness check and the Commission's move in favour of more focused carbon leakage protection, it is essential that the current situation is rectified and that data used for ETS carbon leakage assessments only cover ETS refineries.

E. ENSURING SUFFICIENT FREE ALLOCATION FOR INDUSTRY TO AVOID UNDUE COSTS FOR BEST PERFORMERS

The application of a significant cross-sectoral correction factor over Phase III of the ETS has and is expected to reduce the effectiveness of carbon leakage protection considerably. The effect of the cross sectoral factor (CSCF) is that even the best performers at risk of carbon leakage do not receive full protection. The CSCF has therefore turned the EU ETS into a penalty system rather than an incentivising system.

A correction factor is still foreseen by the Commission in the event that preliminary free allocation is above the available free allocation budget fixed by proposal. The likelihood of a correction factor is expected to diminish by updating the benchmarks, but pending changes in production levels, it would still lead to undue costs for best performers and would penalise growth (especially if thresholds for partial cessation remain unchanged).

By proposing a fixed auctioning share for phase IV in line with phase III, the yearly auctioning volume will decrease by ~20% as a result of the linear reduction factor. However, current price assumptions for phase IV are at ~30 euro/T (3 to 4 times current price). Member states income from auctioning would increase more than twofold, whilst at the same time an additional cost disadvantage of more than 10 billion euro is imposed on the refining industry. We would hope for a more positive signal towards safeguarding competitiveness (and future income) rather than increasing immediate member states income.

If a limit on the overall amount of available free allocation is fixed, FuelsEurope believes that such cap should be reviewed because:

- The auctioning share in the proposal is based on Commission Decision 2013/448/EU, which fixed the share of industrial emissions versus emissions of the power sector, and is incorrect. This decision is currently subject to several prejudicial questions in front of the European Court of Justice as the calculation of the CSCF and the lack of transparency around those has been challenged by hundreds of ETS installations; this means that the CSCF could have been underestimated by up to 15% impacting the phase III auctioning volume by up to 5%;
- In calculating the auctioning share for Phase IV, the Commission has confiscated unallocated allowances from Phase III –equivalent to at least 2% of the total EU ETS cap – with the argument that the Directive prescribed their return to auctioning. This is unfair to industry as it extrapolates the pains from the 2009 recession well into phase IV (and possibly beyond).

FuelsEurope therefore estimates that the auctioning share for the IVth trading period fixed at 57% in the Commission proposal has been over-estimated by up to 7%. FuelsEurope welcomes the Commission proposal that in case of surplus at the beginning of Phase IV, such additional free allocation will be left for later years in case of shortage, but asks that this provision would be detailed further in the Directive. In particular we request that this provision would be applied year by year to minimise its impact.

Bearing in mind Europe's desire for industrial renaissance and to ensure sufficient free allocation at the level of the benchmark for installations, let alone increasing production, a reserve for growth is needed. This reserve for growth would act as a buffer to ensure predictable access to both free allocation whilst respecting the overall cap. An additional advantage of the reserve for growth is that it would avoid the need for a New Entrants Reserve and the complex and arbitrary procedures that govern allocation to new installations.

FuelsEurope therefore welcomes the precedent of Commission's proposal to make 250 Million unallocated allowances available for industry but believe that such amount should be increased to at least all unallocated allowances.

F. USE OF INTERNATIONAL CREDITS

To promote global participation and achieve the lowest cost of carbon abatement, FuelsEurope supports the use in the EU ETS of international offsets that have real sustainable emission reductions and are subject to robust monitoring, reporting and verification protocols. Their use in EU ETS should however not lead to the erosion of free allocation as carbon leakage protection. Mutual recognition of GHG emissions reductions schemes would also support emission-abatement at the lowest cost.

3. INNOVATION

The EU Refining industry, which faces intense competition from overseas, has always been a highly innovative sector in order to stay at the forefront of the global competition race. This is in contrast with the general perception and language used in the Energy Union package, which dismisses petroleum products and refining as involving 'old technologies'. The reality is exactly the opposite: according to the European competitiveness report 2013, the refining industry has ranked first in process innovation.

The extension of innovation support to highly innovative, low-carbon in the European energy and industry sectors is therefore welcome. However, it should not happen at the detriment of carbon leakage protection by reducing or limiting the amount of free allocation. FuelsEurope therefore deplores that, according to Commission proposals, the 400 Million allowances that will feed the innovation fund will be deducted from industry's free allocation. As the innovation fund will support not only industry but also renewables and CCS/CCU, FuelsEurope believes that these 400 Million allowances should be deducted from auctioning.

Concerning the design of the innovation fund, FuelsEurope believes that:

- Selection criteria must be as technology-neutral as possible;
- Support for innovative renewables must be time- and cost-limited; All energy sources should be integrated into the market under normal market conditions, without subsidies (including system connection, balancing cost and exposure to price risk) as soon as possible;
- Projects must be evaluated based both on solid cost-benefit analysis, on their level of innovation and replicability in other sectors in order to be of general benefit to European industry, in order to make the funding more cost-effective;

The innovation fund should complement existing EU (Horizon 2020, 7th Framework and SET-Plan) and national schemes, allowing projects access to one or more funding mechanisms.

4. IMPLEMENTATION – DELEGATION OF POWER

The revision of the ETS Directive will also seek to transpose the following provisions considered as non-essential elements of the Directive, in compliance with the new rules of the Lisbon Treaty:

- Transitional Community-wide rules for harmonised free allocation including the reference period to determine activity levels, the update of the benchmark, benchmark values for fall-back approaches, and percentage thresholds for partial cessation;
- Procedures for unilateral inclusion of additional activities and gases: such inclusion should happen before the beginning of a trading phase;

Such provisions require transparency and significant stakeholder engagement since they have a marked effect on the level of carbon leakage protection for ETS installations. They should therefore be specified in the Directive rather than being implemented by delegated/implementing act.

FuelsEurope welcomes the EU's Better regulation package, which aims at greater transparency in delegation of power and implementing procedures.

5. THE REVISION OF THE EU ETS IS AN OPPORTUNITY TO REDUCE ADMINISTRATIVE COMPLEXITY

The Council conclusions asked that 'administrative complexity will not be increased' and that transparency should be improved. To these ends:

- The EU ETS needs an EU mandated common data reporting language for annual emissions reporting, in order to ensure a smooth and harmonised flow of information from installations to competent authorities and to the Commission. This builds on the Commission's 'DECLARE' project. This allows development of database tools to track the evolution of the EU ETS and to enable better analysis of the installations - hopefully reducing the bias for intervention;
- The EU ETS should move to an activity-based allocation system supported by annual activity data collection and verification. This allows the calculation of free allocation for all existing installations and new entrants as a product of their activity level and the sector benchmark. This eliminates the need for current onerous procedures for proxy partial cessations and capacity changes. It also eliminates the need for a NER and a SCUF;
- On data transparency the Commission needs to revise the main activity type codes captured in the annual installation level emissions and allocation reporting; This would harmonise reporting by Competent Authorities and enable sub divide code 1 combustion plant installations into industry sectors and power generation to allow correct calculation of the CSCF and categorisation of electricity generators according to Article 3(u) of the Directive.

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