

Executive Vice-President of the European Commission
Frans Timmermans (European Green Deal)
Commissioner Thierry Breton (Internal Market)
Commissioner Paolo Gentiloni (Economy)

Brussels, 4 July 2023

Ref: Draft Regulation reviewing the Commission Delegated Regulation (EU) 2019/331 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council

Request:

- Keep the process emissions allocation factor at 0.97
- Ensure no annual reduction factor applied to product benchmarks will be applied to process emissions sub-installations

Dear Vice-President,

Dear Commissioners,

On behalf of the undersigned companies and associations, we would like to address you with regards to the draft **EC proposal for the delegated act on the ETS free allocation rules** and in particular the proposal to review the process emissions allocation factor, currently discussed in the framework of the EC Climate Change Expert Group.

Our sectors, supplying raw materials to all relevant strategic sectors such as renewables, energy storage, E-mobility, ICT, aerospace and defense welcome the Commission's efforts and are fully committed to taking all necessary measures to comply with the EU objectives of achieving the emissions reduction target of 55% by 2030 and climate neutrality by 2050. At the same time, we strongly believe that the reviewed EU ETS Directive together with its implementing and delegated acts, amongst which the Delegated Regulation for harmonised free allocation of emission allowances should be based on what is technically and economically feasible, avoid unbearable increases in costs, undermining the competitiveness of the European industry or discriminating between different European industries. Process emissions are hard and in many sectors even impossible to be abated as they are often related to the raw material used. R&D in the reduction of process emissions is ongoing, however the technologies are not there yet. Please see the further developed argumentation in Annex.

Therefore, we strongly believe that the Commission's draft proposal for the delegated act on free allocation rules should maintain the process emissions free allocations factor at 0.97 of the average emissions during the baseline period and we request your support in keeping it unchanged.

Hoping that our major concern and recommendations have been assessed, we remain at your disposal for any additional information as well as we would appreciate a meeting opportunity on this topic.

Sincerely yours,

(Please see the signatories list below)

Annex.

We are deeply concerned about the Commission's proposal to decrease the 0.97 allocation factor for process emissions sub-installations for the following reasons:

1. **The process emissions allocation factor is not an ETS benchmark and, therefore it should not be compared, assessed, or modified according to the benchmark approach.** The EU ETS Directive contains provisions on such a decrease for product benchmarks only, not to the specific case of process emissions. The difference in nature of process emissions sub-installations has already been recognised and they must not be mistaken with the benchmarks.
2. **A process emissions reduction without a proportional decrease in the production level is technically NOT feasible.** As recognised by the Commission in the Discussion paper, process emissions are often impossible to be abated and there are no technologies in place and accessible to industry in 2021/2022 that could deliver such reductions in process emissions. Process emissions, inherent to the raw material used are the unavoidable result of chemical reactions among the raw materials used in the production process including their thermal decomposition. These emissions, strictly correlated to the production level by a multiplication factor, the so-called stoichiometric factor (deriving from the CO₂ content of the used raw materials - geogenic emissions) are direct and unavoidable.
3. **Any proposal for a change in the process emissions allocation factor value should be preceded by stakeholder discussions as well as a thorough impact study, and a consultation on a methodology used as basis for such calculations.** Moreover, due to the specialty of process emissions no benchmark can exist and therefore it is difficult to make any reductions which are fair for the multitude of various sectors concerned.
4. **The same baseline period should be used when determining the best approach to deal with process emissions:** The updated ETS Directive states that *"for the period from 2026 to 2030, the benchmark values should thus be adjusted within a range of 6 % to 50 % compared to the value applicable in the period from 2013 to 2020."* In this context, all reference to the level playing field, equal treatment as well as available alternatives and options when assessing the process emissions allocation factor should refer to the same timeline, comprised between 2013 and 2020.
5. **Carbon capture and storage or use cannot be used as reference to reduce the free allocation factor as they are different processes, not under the control of process emissions installations and not fully operational for the time period considered. In addition, any option, or alternatives to reduce process emissions supported by the European Commission should be feasible, cost efficient, permanently available, and fully applicable by all process emissions installations.** Due to the individual particularities of each of our sectors, not all available technologies can be automatically and efficiently applied by all process emissions sub installations. With regards to Carbon Capture and Storage (CCS), access and availability of these technologies is greatly limited or even prohibited in some Member States¹. As for Carbon Capture and Use (CCU), the delegated act on the methodology for assessing recycled carbon fuels (RCFs) under RED II introduces a sunset clause so that this transformation will no longer be considered as avoided emissions which jeopardizes the commercial viability of projects utilizing industrial CO₂ that are being launched by our industries. In conclusion, until CCS and CCU are proven efficient, certified, allowed as well as systematically used and monitored by all Member States, they cannot be used as a reason for reducing the process emissions allocation factor.
6. **In some sectors, a reduction of the process emissions allocation factor would penalise recycling operations.** Recycling operations are treated as process emissions sub-installations in some ETS sectors, which means that a decrease in the allocation factor would in particular penalise secondary production processes, which is in contradiction with the EU's objective to increase recycling and move towards a circular economy.
7. **Decreasing the 0.97 allocation factor for process emissions has no legal basis.** The change of the process emissions allocation factor was not foreseen by the co-legislators in the EU ETS Directive review and there is not tangible justification to change this approach. In particular, the revised ETS Directive clearly states that '*benchmark values for free allocation [...] should be reviewed in order to avoid windfall profits and to reflect technological progress.*' As the allocation factor 0.97 for process emissions is not a benchmark there is no legal basis for a similar update of this factor.










¹ https://www.bmwk.de/Redaktion/DE/Downloads/Energiedaten/evaluierungsbericht-bundesregierung-kspg.pdf?__blob=publicationFile&v=1

Signatories:

European Associations:








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