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IMPLEMENTATION OF THE REVISED EMISSION TRADING SCHEME DIRECTIVE BUSINESSEUROPE VIEWS ON CARBON LEAKAGE, COMPENSATION AND ALLOCATION RULES

BUSINESSEUROPE supports ambitious international and EU action to combat climate change. Emission trading can lead to cost-efficient reductions of greenhouse gas emissions. However, the implementation of the revised ETS Directive must seek to prevent negative direct and indirect effects on business competitiveness in the absence of an international agreement with equivalent burdens for all industry outside Europe.

Hence, crucial details of the ETS Directive that aim at protecting EU competitiveness and preventing carbon leakage need to be rapidly determined to provide business with the long-term predictability that it needs to take decisions.

These details include:

- Sectors and sub-sectors exposed to “a significant risk of carbon leakage”
- Rules and procedures to compensate for indirect effects relating to CO₂ costs passed on in electricity prices
- Allocation rules for distributing free allowances to individual installations.

In the current difficult economic situation it is vital that business is given predictability as soon as possible. BUSINESSEUROPE therefore insists that industry, and in particular the industrial sectors concerned, are closely involved in a well-structured, fair, transparent and predictable stakeholder consultation process¹: This process must also allow industrial sectors to present their specific cases to the Commission’s Climate Change Committee, in particular to the Working Group III.

In addition, as regards data, there must be sufficient time to review and discuss discrepancies between the Commission’s and industry’s data.

European Industry urges the Commission to take into consideration the following principles related to “carbon leakage” calculations, compensation and allocation rules:

¹ Business has observed a greater use of external consultants to ‘inform’ decision-making, as officials are understandably unable to know everything about industrial processes. However, this has sometimes led to issues that consultants’ time constraints can lead to reports containing opinions or facts that have been shown to be erroneous. Industry attempts to genuinely correct inaccuracies in consultants’ reports can give rise to misperceptions of the reasons for the concerns that business is expressing. Officials should work to improve their understanding of the complexity of modern manufacturing and how the many policies impact different businesses, potentially through study tours and short-term secondments. Greater transparency of the consultants’ timelines and methodology could also help to resolve these issues.



A. Determination of sectors exposed to a significant risk of carbon leakage

1. Appropriate value of the carbon price

Article 10a (14) stipulates that the “carbon leakage” calculations must be based on an average carbon price according to the Commission’s impact assessment, which used a range of carbon prices from 30 to 47 €/tCO₂. This range of figures must be kept to analyse the post-2012 impact on production cost, despite the current market value of CO₂ allowances. The current exceptional situation is unlikely to reflect either the future production level or the future market value for allowances. This is especially true as market conditions will change considerably following the increased shortage of certificates in 2013-2020.

2. Determination of Gross Value Added (GVA)

Several studies have already used GVA as a factor to calculate the ETS impact on the value of different sectors based on national statistics publications. Official statistics should remain the starting point for assessments but in the case of discrepancies with industry’s data, the Commission should undergo a constructive dialogue with the sectors concerned to determine an effective and practical process to improve data quality, accuracy or representativeness.

3. Determination of additional costs

The calculation of additional costs induced by the Directive is complex. The reference for comparison must be the situation of 100% auctioning, which defines the intended ultimate scenario for all sectors after transitional exemptions. Any cost assessment must take into account the full costs for the industry sector concerned based on CO₂ emissions and indirect costs and not just be based on a benchmark level set at the best performers.

4. Identification of relevant sectors and subsectors

Recital 25 provides for an assessment of the exposed sectors or sub-sectors as defined with the 3-digit level (NACE-3 code), or where appropriate and where relevant data are available, at a 4-digit level (NACE-4 Code). This should be used as the basis for evaluating the carbon leakage risk according to article 10a (15). As a general rule, only if an assessment using NACE 3 as a wider definition of sectors does not lead to an identification of carbon leakage risk, the Commission should use a more narrow definition of sectors for its assessment.

In the case of sectors where NACE revision 2 (2008) is introducing fundamental changes compared to NACE revision 1, the level of aggregation of the former should be used so as to ensure greater consistency among the carbon leakage assessments foreseen every five years.



5. Qualitative assessment criteria

The Directive allows for sectors or subsectors not directly meeting the quantitative criteria defined in article 10a (15) to be still regarded as at risk of carbon leakage in accordance with article 10a (16). Cases could arise from inadequate definitions of sectors as explained above, or from special circumstances requiring different thresholds or considerations. In particular, available public information and historical data might not be sufficient to reflect the current or future market situation of certain (sub-) sectors (for example the expected drop in prices and further market opening to non-EU imports in the sugar market). In such cases, the Commission should pay particular attention to projected data at the specific level of the (sub-) sectors concerned.

B. Compensation for indirect costs related to the ETS

Electricity-intensive sectors are exposed to a significant risk of carbon leakage due to ETS-related costs in electricity prices. While it is helpful that the revised Directive allows Member States to adopt financial (state aid) measures in favour of these sectors, these must be in a harmonized manner through the EU and the state aid rules need to be adapted to permit this. This process should begin as soon as possible.

There is no need for an additional European process to qualify sectors for compensation for indirect costs if they are classified to be at risk of carbon leakage by the quantitative analysis. Nevertheless any additional sector or sub-sector classified to be at risk of carbon leakage by the qualitative analysis should also be eligible to receive compensation for the CO₂ cost pass-through in electricity prices. The compensation should be based on the full CO₂ costs paid by the companies.

It is anticipated that the need to compensate electro-intensive industries for the risks of indirect carbon leakage following the conclusion of an international agreement in Copenhagen may continue.

C. Allocation rules for distributing free allowances to individual installations

Detailed views on allocation will be addressed primarily by individual sector federations who have the expertise necessary to provide technical comments on the work being undertaken by the Commission. BUSINESSEUROPE can provide a role, alongside the Alliance of Energy Intensive Industries, to ensure, where possible, a structured approach to the allocation issue.



On the issue of benchmarking, BUSINESSEUROPE would specifically like to emphasise the following points:

General principles:

Benchmarks must:

- be in line with the objective of the ETS Directive to promote reductions of GHG emissions in an economically effective and efficient manner;
- encourage efficiency improvements and at the same time guarantee that installations receive a sufficient quantity of allowances to avoid the risk of carbon leakage;
- reward early movers and incentivise and promote carbon efficient techniques;
- be applied on the basis of community-wide rules to avoid distortion of competition within the Community;
- where possible, be compared with those that other regions may establish in future for the allocation of CO₂ allowances, in order to ensure that the international competitiveness of EU installations is not compromised;
- be based on a single reference period to give predictability for business decisions;
- distinguish between different qualities of raw materials;
- distinguish between unevenly distributed fuel availability.

Furthermore, the process of defining benchmarks must take into account:

- confidentiality of the data of companies/installations/sectors involved;
- available technologies that can be applied economically on an industrial scale;
- financial and economic possibilities/limitations;
- the potential effects of and conflicts with other environmental regulation;
- intermediate goods that are traded as such;
- whether product or production processes are suitable for benchmarking, for example in case of a small number of installations, heterogeneous processes etc; in these cases, alternative approaches should be applied.

Specific issues:**1. Defining the 10% most efficient installations**

The Directive defines as starting point for calculating benchmarks the “average performance of the 10% most efficient installations in a sector or sub-sector.” However, these very low emitting installations have specificities (such as production level, raw materials, fuel mix) that are not available for all installations of the same sector. Therefore, when defining the best performers, this issue of “outliers” must be solved. “Outliers” could be defined by these specificities above. The practicability of using a statistical approach to identify these “outliers” could be investigated.



2. Product- and Process- benchmarks

A benchmark requires a uniform perimeter to lead to a meaningful comparison. Product benchmarks can be applied when installations and products are similar enough to be merged into a similar benchmark or when emissions can be allocated to individual products. However, in complex or co-production processes, process specific benchmarks might be required.

3. Inter- and intra-sectoral equity

Equity within sectors and between sectors is a key issue, and should be thoroughly discussed with industry. Possible corrections must be done if there are obvious discrepancies in the burden sharing, which cannot be justified by early movers.
