

The European Commission is currently analysing internally rules for the free allocation of emission rights in the context of the Emissions Trading Scheme (ETS). Such rules will determine the economic impact of the scheme during 2013-2020 by defining performance reference levels of greenhouse gas emissions for industries that should drive companies towards cost-effectively reducing their emissions on a long range. Whilst the environmental goal is guaranteed through the overall emissions cap as defined in the Directive, the allocation rules will set the cost to EU economy and society.

Emerging details from the internal consultation raise concerns and reveal inconsistencies that would be deviating from the spirit and requirements of the EU ETS Directive - namely to preventing carbon leakage and EU-specific costs for new investment and performance leaders whilst allowing for a smooth transition towards 2020 for the EU industry.

I. The ETS must incentivize, not inhibit carbon-efficient technologies

A) Bring ETS measures in line with real capacity of the Economy

To reduce emissions of greenhouse gases investment in a carbon-efficient economy is needed. A substantial contribution will have to come from the EU economy so as to fund the creation and dissemination of innovative technologies.

⇒ **The collection of data and related baselines must make sense and be representative. A sustainable EU climate policy should not be based on the recent recession data.**

➤ **Therefore:**

The **base period should exclude any unrepresentative year** by adopting the average of 2005-2008 minus the worst year. If the base period extends into the recession years, additional deletion of years is necessary: 2005-2009 minus 2 or 2005-2010 minus 3 years.

B) Investment in new technologies should be promoted

The allocation rules must not put EU innovative capacity at risk. In fact, new capacity is urgently needed to achieve lower emissions without de-industrializing the EU. New investments and expansions use state-of-the-art technologies and practices and are built to run at highest utilisation.

➤ **Therefore:**

- **For extensions and new installations**, a default value for the Standard Capacity Utilisation Factor (SCUF) should be adopted of 95% for the chemical sectors – until subsector specific SCUF values based on the 10% best installations can be derived from the actual data.
- **A threshold for access to the New Entrants Reserve (NER)** should be set at 10% extension above historic activity levels (HAL) or an increase of 10,000 allowances according to the applicable benchmark (product benchmark or fallback) for expansion after June 2011.
- **For expansions before June 2011, no minimum threshold should be applied to avoid retro-active penalization** of past expansion decisions. This is in line with the ETS directive that requires a threshold of 10% only for really new entrants, i.e. expansions after June 2011. These rules should be the same for products not explicitly mentioned in Annex I of the Directive.

II. Bring benchmarks into proper perspective

The performance benchmarking should be based on objective carbon efficiency criteria and a **deliver workable manufacturing perspectives for industries** operating under similar conditions.

A) **Diverse and incomplete reporting**

It is important that member states report data on all ETS phase III activities and gases concerned that will be counted to come to the correct EU-wide basis. Currently, diverse and incomplete reporting from member states carries the risk of under-allocation already in 2013.

➤ **Therefore:**

The EU must ensure proper reporting and avoid arbitrary shortage of allocations to its economic basis.

B) **Benchmarks must be workable perspective for EU companies**

The EU must give industry **lead-time to invest** to reduce emissions instead of extracting needed financial resources to buy allowances.

- This can be done by **phasing-in the benchmark** using as the starting point for 2013 the weighted average performance and allowing for a transition to adopt the “top 10%” benchmark as the target for 2020.

C) **Define a minimum sample size for defining “10% best”**

In some sectors the number of plants is small. However, the average of the **10% best performers must be representative** and **should not equal to only a single plant or technology**.

- The chemical industry request that **benchmarks are based on at least 3-4 best plants** - in case of less than 30 installations to secure an average of best performance and a variety of technologies.

III. Calculation of the maximum amount of free allocation

The definition of an “**installation**” as provided in the EU ETS Directive is **not equally applied in all EU Member States** - depending on their diverse permitting practice. This has led to inconsistent data gathering (see also II.). If ignored, such diversities could lead to wrong calculations of the required allowances amount and to unequal allocation of otherwise identical plants.

➤ **Therefore:**

- **The calculation of the maximum amount of allowances must be independent of member states permitting practices.**