ESD-SIC as SME and energy-intensive silicon carbide (SiC) producer is heavily exposed to carbon leakage. ESD-SIC is the only SiC producer within the current ETS system, because ESD-SIC is unfairly seen as a energy producer and not as a silicon carbide producer. Reason is that ESD-SiC is the only SiC producer world-wide, who recovers process gas for combusting in an energy recovery plant, despite the CO2 emission is a result of the SiC production and not a result of the combusting.

To create a fair level playing field, the following conditions must be regulated:

1. a product benchmark must be introduced for SiC production, then basing the allocation on our production of silicon carbide and not on the combustion of our process gas other. By this way less energy efficient European SiC producers without an energy recovery system are also covered by ETS. Also this will lead to significant less administration costs.
2. The product benchmark should relate to activities of the company itself. Therefor it should relate to activities within the boundaries of the business location. This allows the companies to be rewarded for CO2-reducing activities carried out under their own business regime. Activities of external companies should have no influence om the benchmark.
3. 100% free allocation of direct and indirect costs must be granted for energy-intensive company's who are carbon leakage, such as ESD-SIC.
4. Correction on 100% free allocation should not be applied on those who are most energy-efficient in their (sub)sector (best 10% performance)
5. Other (yearly increasing) reduction factors (as the cross-sectoral correction factor ('CSCF') should not be applied where CO2 is a part of the chemical reaction of the production process, such as the SiC production (SiO2 + 3C + O2 >> SiC + 2CO2) and/or who are heavily exposed to carbon leakage. We as SiC producer can not through pass CO2 costs to our customers, due to the already weak level playing field caused by other 'exclusive' cost-intensive measures and regulations for our company compared with other SiC producers.
6. Stimulating and introducing of green (CO2 reducing)raw materials or energy reducing measures must not lead to lower CO2 allocation in the ETS trading period and also not in the period after, to guarantee the payback of investments. An innovation fund can be the catalyst to initiate innovation by reducing the investment costs. A surplus of CO2 rights generated by innovation can be traded to compensate higher operational costs.
7. Omissions must be lifted, see point 6.2 of our comments on the previous consultation of 13-03-2015.

In general we like to address our concern in our previous view of 13-03-2015 as attached.
Attachment: ETS_Reactie ESD Consultatie EU ETS -Final 13-03-2015 answer2b44e036-1776-4efd-86e9-c853d8bd9306.pdf

Case Id: 2b44e036-1776-4efd-86e9-c853d8bd9306

Consultation on revision of the EU Emission Trading System (EU ETS) Directive

Fields marked with * are mandatory.

Introduction

On 24 October 2014, the European Council agreed on the 2030 framework for climate and energy [1], including a binding domestic target for reducing greenhouse gas (GHG) emissions of at least 40% in 2030 as compared to 1990. To meet this target, the European Council agreed that the emissions in the EU Emission Trading System should be reduced, compared to 2005, by 43%. A reformed EU ETS remains the main instrument to achieve the emission reduction target. The cap will decline based on an annual linear reduction factor of 2.2% (instead of the current 1.74%) from 2021 onwards, to achieve the necessary emission reductions in the EU ETS. The European Council furthermore gave strategic guidance on several issues regarding the implementation of the emission reduction target, namely free allocation to industry, the establishment of a modernisation and an innovation fund, optional free allocation of allowances to modernise electricity generation in some Member States.

The strategic guidance given by European leaders on these elements will be translated into a legislative proposal to revise the EU ETS for the period post-2020. This constitutes an important part of the work on the achievement of a resilient Energy Union with a forward looking climate change policy, which has been identified as a key policy area in President Juncker's political guidelines for the new Commission.

The purpose of the present stakeholder consultation is to gather stakeholders' views on these elements. This consultation focuses on issues not yet addressed in the consultations recently conducted for the 2030 Impact Assessment[2], the Impact Assessment for the carbon leakage list for 2015-2019[3] and the consultation conducted on post-2020 carbon leakage provisions[4].

In order to take stock of the EU ETS (established by Directive 2003/87/EC) as a policy measure, this consultation also contains questions concerning the general evaluation of this policy measure. The questionnaire consists of 7 chapters. You are invited to answer questions on the chapters which are relevant to you.

0. Registration

0.1. What is your profile?*

- ○ Business
- ◉ A small and medium enterprise
- ○ Trade association representing businesses
- ○ SME business organisation
- ○ Government institution/regulatory authority
- ○ Academic/research institution
- ○ Non-governmental organisation
- ○ Citizen
- ○ Other

0.2. Please enter the name of your business/organisation/association etc.:*

ESD-SIC B.V.
Silicon carbide manufacturer

0.3. Please enter your contact details (address, telephone, email):*

J.K. Mulder
Manager Corporate Affairs
ESD-SIC BV.
PO box 127
9930 AC DELFZIJL
THE NETHERLANDS
phone 0031596637217
mobile 0031613311677
email kmulder@esd-sic.nl
www.esd-sic.nl

0.4. If relevant, please state if the sector/industry you represent falls under the scope of the EU ETS:*

- ◉ yes
- ○ no
- ○ not relevant

0.5. If relevant, please state what sector your represent:*

- ◉ Energy-intensive industry
- ○ Energy sector
- ○ Other

0.6. The results of this stakeholder consultation will be published unless stated otherwise. Can we include your replies in the publication?*

- (●) yes
- ( ) no
- ( ) partially

0.7. Register ID number (if you/your organisation is registered in the Transparency register):

336

1. Free allocation and addressing the risk of carbon leakage

The European Council has concluded that free allocation to prevent the risk of carbon leakage should not expire as foreseen in the current legislation, but should continue also after 2020 as long as there are no comparable efforts to reduce emissions in other major economies.

Extensive stakeholder consultation was already carried out on the post-2020 carbon leakage provisions, as well as on aspects related to innovation support. The process included three full-day stakeholder meetings (June, July and September 2014) and a written consultation conducted for 12 weeks (8 May – 31 July, 2014). The written consultation covered 23 multiple choice questions with space for motivations, and a question allowing respondents to bring up any other issue they felt was important or insufficiently covered.

The documents and minutes of the meetings, as well as the submissions and the analysis thereof in the case of the written consultation, are available on the Commission website.

Information from the stakeholder meetings:

http://ec.europa.eu/clima/events/articles/0090_en.htm

http://ec.europa.eu/clima/events/articles/0095_en.htm

http://ec.europa.eu/clima/events/articles/0097_en.htm

Replies and summary of the written consultation:

http://ec.europa.eu/clima/consultations/articles/0023_en.htm

The results of the above mentioned public consultation are being taken into account in the preparation of the legislative proposal. In order to reduce the administrative burden for stakeholders and the Commission, the present consultation focuses on issues not already covered in this recently finalised public consultation. Respondents are nevertheless invited to add to the replies provided in the earlier consultations if deemed necessary in the light of the conclusions of the European Council in this area.

1.1 The European Council called for a periodic revision of benchmarks in line with technological progress. How could this be best achieved in your view and, in particular, which data could be used to this end? How frequently should benchmarks be updated, keeping in mind administrative feasibility?

4,500 character(s) maximum

Benchmarks should be updated in line with existing regulation, e.g. the actualization of the IED or each period of ETS and only when technological progress and when energy efficient measures give rise to an update. Therefore, the benchmarks should be periodically reviewed and not automatically revised. Changes and updates should not be implemented in the interim period of ETS, to guarantee legal certainty of the assigned allocations during the whole trading period. If there is no long term guarantee, it will counteract investment initiatives.

On this moment there is no product benchmark for the silicon carbide industry. The possibility must be there for enterprises to initiate product benchmarks on own initiative, based on uniform, simple and acceptable criteria. The production quantity of silicon carbide and the calculated CO2 emission as outcome of the continuous measure system of our process gas collecting system are usable to calculate an emission factor (x ton CO2/ton SiC)

For ESD-SIC as SME a product benchmark is not available, yet highly desirable. It will save many administra-tive costs, it's transparent and can be easily applied for multiple purposes such as ETS, but also for national regulation e.g. in relation to (mandatory) energy saving targets, permits and energy-tax. Counter-effective results, such as hampering of energy efficiency improvement by selling waste gas to a third party, can be solved by implementation of a product benchmark.

1.2 The European Council has defined guiding principles for the development of post-2020 free allocation rules which provide inter alia that "both direct and indirect costs will be taken into account, in line with the EU state aid rules" and that "the most efficient installations in these sectors should not face undue carbon costs leading to carbon leakage" while "incentives for industry to innovate will be fully preserved and administrative complexity will not be increased" and while "ensuring affordable energy prices". Do you have views how these principles should be reflected in the future free allocation rules?

4,500 character(s) maximum

For energy intensive processes that are heavily exposed to carbon leakage, as the silicon carbide production is, 100% free allocation for indirect and direct emissions without correction or reduction factors and capping is absolutely necessary. As a result of many innovative process improvements, ESD-SIC is the most environ-mental friendly and most energy efficient silicon carbide producer world-wide. However, ESD-SIC is constantly confronted with new regulations. This leads to an increasing cost price, what affects our competition position in a significant negative way and results in very low benefits or even a negative results. This restricts our investment possibilities what has a negative effect on energy efficiency and environmental benefits.

Dynamic allocation seems to be the best option. However, there is one aspect of dynamic allocation that wor-ries ESD-SIC: financing of CO2 costs in advance will undermine the cash position and could lead to a bank-ruptcy. For energy intensive SME companies as ESD-SIC the current financial position is already unstable. and the CO2-costs are a significant part of the total costs. Compensation during the production year is preferable with a final settlement in the following year. A product benchmark will be helpful to realize such regulation.

Finally, it is important to note that the energy prices are creating continuously incentives for energy intensive industries. Therefore, 100% free allocation for indirect and direct emissions do not lead to less reductions in innovations because investments in energy efficiency are already essential for energy intensive industries.

1.3 Should free allocation be given from 2021 to 2030 to compensate those carbon costs which sectors pass through to customers? How could free allocation be best determined in order to avoid windfall profits?

4,500 character(s) maximum

Hundred percent free allocation should only be given to (sub)sectors who are convincingly exposed to carbon leakage, without the possibility to pass through their costs to customers. For example, ESD-SIC is very en-ergy intensive and operates in a world market, where prices are dictated by Chinese producers and traders with a production capacity and a production level of (more then) 2/3 of the world, operating in a regulated economy. As a result of this dictated market situation by China and other manufacturers outside Europe, ESD-SIC has no possibility to pass through their CO2 costs to customers. As long as there is no general ETS, which applies to all manufacturers world-wide, the risk of carbon leakage can be easily and convincingly demonstrated. ESD-SIC feels that full compensation should be restricted to cases where the risk of carbon leakage is clear. On the other hand, manufacturers inside the EU capable to pass through their CO2 costs to customers, are not exposed to carbon leakage and should not get free allocation.

1.4 Are there any complementary aspects you would like to add to the replies given to the previous written consultation in the light of the European Council conclusions?

4,500 character(s) maximum

All the revenues of the auctioned CO2 allowances of all member states must be given back to the sectors falling under ETS instead of extra income for the member states what is the current situation. Revenues must not only be available for innovation and modernization, but also for compensation for the companies exposed to carbon leakage with the best performance. This will be an incentive for those companies who perform below best practice.

2. Innovation fund

The European Council has concluded that 400 million allowances in 2021 to 2030 should be dedicated for setting up an innovation fund to support demonstration projects of innovative renewable energy technologies, carbon capture and storage (CCS) as well as low carbon innovation in industrial sectors. To make this fund operational, a legal basis has to be created in the EU ETS Directive while further implementation modalities can be set out in secondary legislation. The work can build on the experience with the existing "NER300" programme which made available 300 million allowances for CCS and innovative renewable energy technologies[1].

With regard to establishing a legal basis for the innovation fund as part of the revision of the EU ETS Directive, the Commission seeks feedback on the following questions:

2.1 Do you see reasons to modify the existing modalities applied in the first two calls of the NER300? Are there any modalities governing the NER 300 programme which could be simplified in the design of the innovation fund? If you see the need for changes, please be specific what aspects you would like to see changed and why.

4,500 character(s) maximum

2.2 Do you consider that for the extended scope of supporting low-carbon innovation in industrial sectors the modalities should be the same as for CCS and innovative renewable energy technologies or is certain tailoring needed, e.g. pre-defined amounts, specific selection criteria? If possible, please provide specific examples of tailored modalities.

4,500 character(s) maximum

2.3 Are there any complementary aspects regarding innovation funding you would like to add to the replies given to the previous written consultation in the light of the European Council conclusions?

4,500 character(s) maximum

Stimulating and introducing of green (CO2 reducing)raw materials or energy reducing measures must not lead to lower CO2 allocation in the ETS trading period and also not in the period after, to guarantee the payback of investments. An innovation fund can be the catalyst to initiate innovation by reducing the investment costs. A surplus of CO2 rights generated by innovation can be traded to compensate higher operational costs.

Important is that no CO2 rights are taken out of the market but that the revenues of the auctioning of these rights are used to stimulate better performance (see also our remark at 1.4).

3. Modernisation fund

The European Council has concluded that 2% of the total EU ETS allowances in 2021 to 2030 should be dedicated to address the particularly high investment needs for Member States with GDP per capita below 60% of the EU average. The aim is to improve energy efficiency and to modernise the energy systems of the benefitting Member States. The fund should be managed by the beneficiary Member States, with the involvement of the European Investment Bank (EIB) in the selection of projects. To make this fund operational, a legal basis has to be created (in the EU ETS Directive), while further implementation modalities can be set out in secondary legislation.

With regard to establishing a legal basis for the modernisation fund as part of the revision of the EU ETS Directive, the Commission seeks feedback on the following questions:

3.1 Implementation of the modernization fund requires a governance structure: What is the right balance between the responsibilities of eligible Member States, the EIB and other institutions to ensure an effective and transparent management?

4,500 character(s) maximum

3.2 Regarding the investments, what types of projects should be financed by the modernisation fund to ensure the attainment of its goals? Should certain types of projects be ineligible for support?

4,500 character(s) maximum

3.3 Should there be concrete criteria [e.g. cost-per-unit performance, clean energy produced, energy saved, etc.] guiding the selection of projects?

4,500 character(s) maximum

3.4 How do you see the interaction of the modernisation fund with other sources of funding available for the same type of projects, in particular under the optional free allocation for modernisation of electricity generation (see section 4 below)? Would accumulation rules be appropriate?

4,500 character(s) maximum

For modernization, leading to e.g. lower energy consumption or lower CO2 emission, we refer to our remarks at 1.4 and 2.

3.5 Do you have views how the assessment of the projects should be reflected in the forthcoming 2030 governance process (e.g. national climate programmes, and plans for renewable energy and energy efficiency)?

4,500 character(s) maximum

3.6 Should the level of funding be contingent on concrete performance criteria?

4,500 character(s) maximum

4. Free allocation to promote investments for modernising the energy sector

The conclusions of the European Council provide for the continuation after 2020 of the mechanism foreseen in Article 10c of the EU ETS Directive, which allows some Member States to opt to hand out free allowances to power plants in order to promote investments for modernising the energy sector. The current Article 10c modalities, including transparency, should be improved to promote investments modernising the energy sector, while avoiding distortions of the internal energy market.

With a view to reviewing and improving the current modalities as part of the revisions to the EU ETS Directive, the Commission seeks feedback on the following questions:

4.1 How can it be ensured that investments have an added value in terms of modernising the energy sector? Should there be common criteria for the selection of projects?

4,500 character(s) maximum

No comments.

4.2 How do you see the interaction of the free allocation to energy sector with other sources of funding available for the same type of projects, e.g. EU co-financing that should be made available for the projects of common interest under the 2030 climate and energy framework? Would accumulation rules be appropriate?

4,500 character(s) maximum

4.3 Do you have any views how the assessment of the projects should be reflected in the forthcoming 2030 governance process (e.g. as regards improving transparency)?

4,500 character(s) maximum

4.4 The maximum amount of allowances handed out for free under this option is limited. Do you think eligible Member States should use the allowances for a period of time specified in advance (e.g. per year), or freely distribute them over the 2021-2030 period? (Please explain your motivation.)

4,500 character(s) maximum

4.5 Should there be priorities guiding the Member States in the selection of areas to be supported?

- yes
- no

4.6 How can improved transparency be ensured with regard to the selection and implementation of investments related to free allocation for modernisation of energy? In particular regarding the implementation of investments, should allowances be added to auctioning volumes after a certain time period has lapsed in case the investment is not carried out within the agreed timeframe?

4,500 character(s) maximum

5. SMEs / regulatory fees / other

In order to allow taking stock of the EU ETS aspects beyond those examined by the European Council, respondents are also invited to provide feedback on certain other questions.

The Commission ensures that better regulation principles govern all of the policy work, including that the specificities of small and medium sized enterprise (SMEs) are taken into due consideration. Member States can exclude certain small installations from the EU ETS in the current trading period (2013-2020) if taxation or other equivalent measures are in place that will cut their emissions. If such a possibility was to be reviewed, a legal basis would have to be created in the EU ETS Directive.

The accurate accounting of all emission allowances issued is assured by a single Union Registry with strong security measures. The operations were centralised in a single Registry operated by the Commission, following a revision of the ETS Directive in 2009. This has replaced Member States' national Registries. Despite the considerable resources from the EU budget required for maintaining the EU Registry, as does supporting work on auctioning, the Commission does not have the possibility to charge any fees. However, Member States administrators may still charge Registry fees to account holders administered by them. There are discrepancies in fees across different Member States.

5.1 Are there any EU ETS administrative requirements which you consider can be simplified? Do you see scope to reduce transaction costs, in particular for SMEs? If yes, please explain in detail.

4,500 character(s) maximum

The introduction of simple product benchmarks for SME's will lead to less administration costs and less coun-ter-productive effects, such as the case described in our remark 6.2. Another counter-productive effect solved by an SiC product benchmark concerns the level playing field within the EU. As a result of a product bench-mark, same rules would apply to all SiC manufacturers, irrespective of waste gas collection and treatment. Under the current rules, the absence of waste gas collection and treatment is “rewarded” by ETS rules. ESD-SIC considers this a perverse and counter-productive effect A possibility for SME's to initiate product bench-marks by themselves, based on simple and transparent rules, must be created.

5.2 Member States had the possibility to exclude small emitting installations from the EU ETS until 2020. Should this possibility be continued? If so, what should be the modalities for opt-out installations to contribute to emission reductions in a cost-effective and economically efficient manner? Should these be harmonised at EU level?

4,500 character(s) maximum

No comment.

5.3 How do you rate the importance of a high level of security and user-friendliness of the Union Registry? Do you think the costs for providing these services should be covered via Registry fees?

4,500 character(s) maximum

No comment.

5.4 Do you consider discrepancies in Registry fees in different Member States justified? Should Registry fees be aligned at EU level?

4,500 character(s) maximum

A level playing field is preferred.

5.5 Under the current EU ETS Directive, at least 50% of the revenues generated from the auctioning of allowances should be used by Member States for climate-related purposes. For the calendar year 2013 Member States have reported to have used or to plan to use 87 % on average to support domestic investments in climate and energy. Do you consider the current provisions regarding the use of the revenues adequate for financing climate action? If not, please explain why?

4,500 character(s) maximum

The use of revenues for climate related purposes must be encouraged, but it must not lead to a correction or a reduction factor or capping the free allocation for companies who are really exposed to carbon leakage. As stated before in our remarks at question 1.4 and 2, ESD-SIC whishes to emphasize the importance of using auction revenues for the right purposes: stimulating those companies affected by ETS, improvement of energy efficiency and reduction of green house gas emissions.

6. General evaluation

6.1 How well do the objectives of the EU ETS Directive correspond to the EU climate policy objectives?
How well is the EU ETS Directive adapted to subsequent technological or scientific changes?

4,500 character(s) maximum

Carbon leakage protection by 100% free allocation of direct and indirect costs is necessary for those who are exposed to carbon leakage.
Also, the current Directive, in its attempt to create uniform rules, hampers innovative improvements of energy efficiency. At the same time, it fails to address all manufacturers of SiC within the EU. Particularly the less energy efficient manufacturers appear to operate outside the scope of the Directive, even though their direct CO2 emissions are at the same level.. In conclusion, ESD-SIC feels that, due to its complexity, the Directive is far less effective than desired.

6.2 What are the strengths and weaknesses of the EU ETS Directive? To what extent has the EU ETS Directive been successful in achieving its objectives to promote emission reductions in a cost-effective manner compared to alternatives, e.g. regulatory standards, taxation?

4,500 character(s) maximum

The current ETS regulation contains an omission which concerns CO2 -emissions related to the combustion of our process gas generated by the production of silicon carbide. At this moment our process gas is used in our combustion plant to generate electricity what is used for our energy intensive production process. There is no purpose for the waste heat on this moment. However, there is a new possibility for a third party to use our process gas whereby the process gas is used for generating electricity and for reuse of the heat for a drying process. This results in a significant higher energy efficiency rate. If ESD-SIC would sell too much process gas, this will be interpreted as an activity below 50% of the HAL, even though the primary process, the production of SiC, is at reference level. ETS hampers an innovative process improvement, which could result in a significant enhancement of energy efficiency. ESD-SIC feels that this is an example of the counter-effective results of ETS.

In our case this measure works contra productive and does not stimulate energy efficient measures in the chain. By introducing a product benchmark and basing the allocation on our production of silicon carbide and not on the combustion of our process gas, this will repair the omission and stimulate these kind of initiatives.

6.3 To what extent are the costs resulting from the implementation of the EU ETS Directive proportionate to the results/benefits that have been achieved, including secondary impacts on financing/support mechanisms for low carbon technologies, administrative cost, employment impacts etc.? If there are significant differences in costs (or benefits) between Member States, what is causing them?

4,500 character(s) maximum

No comment.

6.4 How well does the EU ETS Directive fit with other relevant EU legislation?

4,500 character(s) maximum

More direct CO2-reductions will not automatically lead to more energy use reductions and vice versa. For those measures indirect savings in the chain also need to be considered.

A product benchmark will give insights in how energy efficient a company is. The product benchmark must also be applicable to other European or National initiatives related to energy efficiency (and other regulations such as energy tax and the IED regarding permit regulations to guarantee a level playing field.

6.5 What is the EU value-added of the EU ETS Directive? To what extent could the changes brought by the EU ETS Directive have been achieved by national measures only?

4,500 character(s) maximum

In our opinion this will lead to sub regulations where upscaling of the regulation and a level playing field world-wide is a necessity.

6.6 Do you have any other comment on the revision of the EU ETS Directive that you would like to share?

4,500 character(s) maximum

ESD-SIC whishes to stress once more the importance of clear and transparent rules for ETS. The current Directive is too complicated and, as a result, often fails to stimulate what it is supposed to stimulate: reduction of greenhouse gas emissions. At the same time, the Directive still fails to include all EU manufacturers of SiC in ETS. Drastic simplification, with a keen eye on the purpose of ETS, is highly necessary.

Contact

✉ CLIMA-ETS-STRUCTURAL-MEASURES@ec.europa.eu