

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

Fields marked with \* are mandatory.

## Introduction

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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

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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.:\*

Verein Deutscher Zementwerke e.V. (VDZ)  
Kochstraße 6-7, 10969 Berlin, Germany  
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0.3. Please enter your contact details (address, telephone, email):\*

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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):

65263471488786

## 1. Free allocation and addressing the risk of carbon leakage

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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/0090_en.htm)

[http://ec.europa.eu/clima/events/articles/0095\\_en.htm](http://ec.europa.eu/clima/events/articles/0095_en.htm)

[http://ec.europa.eu/clima/events/articles/0097\\_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](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?**

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- Any review of benchmarks should be informed by the benchmark curve (CITL data) for all EU plants. The benchmark should be calculated in a statistically robust way and be updated periodically to ensure predictability. It should be set at an ambitious but reasonable level and should not be distorted by statistical outliers. This can be achieved by defining percentile (e.g. 10%-percentile) or e.g. the average of a range including the 5% to 15% top performers of specific direct emissions (excluding the extreme outliers between 0% and 5%). If the gap between these top performers and worst performers is small most plants are operating at or near best available techniques (BAT). Therefore, any review of benchmarks should focus on these sectors where a huge gap appears between top performers and worst performers, i.e. where more operators are less efficient than the benchmark plants as those sectors show greatest improvement. By focusing the review of benchmarks it will limit the work necessary to update them.
- In addition, a statistical review of the benchmark is needed in the final decision making process. Some sectors did not go through a robust data collection exercise to establish the benchmarks used to date. Any review should focus on these sectors that have not undergone a robust calculation of the product benchmark. Only this way, the benchmarking methodology will achieve sufficient statistical robustness.
- Benchmark should be updated between two trading periods depending on what has been achieved but not during one trading period to give operators clear visibility of the operating conditions for the forthcoming phase to support investment confidence. As such any benchmark revisions should be finalized by at least the mid-point of the preceding phase i.e. 5 years in advance of the first allocations based on the new benchmarks.

**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*

- VDZ advocates a post 2020 improved EU ETS that creates a predictable legal framework and ensures a stable long term globally equalised carbon price to foster investments in low carbon technologies

and eliminate carbon leakage risk

- There should be free allocation if there is not an international agreement which places all competing manufacturers on an equal footing on a global level playing field. Until certain conditions can be met with regard to the veracity of the schemes within other countries then transitional arrangements need to be maintained. Free allocation is the most effective and simple transitional arrangement. The share of allowances dedicated to free allocation should be sufficient to avoid carbon leakage. To uphold this principle that carbon leakage should be minimized, instead of a cross sectoral correction factor one should adjust the auctioned amount to maintain the cap trajectory. This would re-establish the Benchmark principle of Article 10a paragraph 1 and 12 and could result in the deletion of Article 10a paragraph 5. That does not mean “a free ride for industry” but it would mean that sufficient allowances are provided for the most efficient producers because at present the CSCF has the ability to reduce free allocation beyond what is technically possible. It is therefore important that top performers in every sector receive full allocation up to the benchmark and based on real/recent production levels, so as not to penalise early action or go beyond technological potential both of which undermine investment certainly in the EU and increase risk of carbon leakage. .

- In conjunction with this, allocation of allowances should be dynamic and match actual/ recent production levels. Alternatively allocation in year n should be based on the verified average production of years n-1, n-2 (and possibly n-3). As such a calculation of the historical activity level (HAL) might be challenging for installations that have extended shutdowns or breakdowns provisions for these exceptional HAL circumstances. A dynamic allocation based on real or recent HAL has potential to reduce undue complexity and benefit the ETS by being able to simplify the new entrants, partial cessation and plant closure rules.

- In any case, a special treatment of process emissions by giving full free allocation for these emissions should be considered, as these emissions are irreducible and cannot be improved by economically viable technological means, such as energy efficiency measures. This would be consistent with our request of article 10a paragraph 5 deletion.

- The carbon leakage list must be determined on the basis of the cumulative direct and indirect CO2 cost burden and be applicable for both free allocation and compensation for indirect. It should be fixed for the whole phase, in the same way as the benchmark (see 1.1). Fixing the list will give capital intensive businesses with long investment cycles increased certainty and predictability about EU investments.

- VDZ does not favour including compensation for indirect costs in the benchmarks. The solution to be developed should be applied to all carbon leakage sectors and be independent from State Aids as to avoid discriminations between sectors and countries. The Commission shall consider an EU mechanism to compensate for indirect carbon costs resulting from this Directive so as so to ensure a global and EU level playing field.

### **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*

- As the electricity supply sector has the ability to pass on all of the carbon cost to customers, it should therefore not receive any free allocation to avoid windfall profits. Cost pass through is difficult to determine in sectors other than electricity supply. For industrial sectors cost pass through potential will be defined by a range of factors, however, CO<sub>2</sub> intensity (CO<sub>2</sub> costs as proportion of GVA) is likely to be one of the most important criteria; as such the direct plus indirect CO<sub>2</sub> cost/GVA 30% carbon leakage test should remain. Historic trade intensity is a less important determinant regarding pass through rate because trade intensity will increase if costs increase. Therefore, VDZ strongly supports the retention of the direct plus indirect CO<sub>2</sub> cost/GVA 30% test as a cumulative test.

- Carbon costs post 2020 will be much higher so the current €30 EUA price assumption should be the minimum start point for assessing carbon leakage. Initiatives such as the MSR, and the more demanding cap proposals, will increase the EUA price dramatically. Forecast EUA prices resulting from the MSR are almost all predicting EUA prices higher than €30/tCO<sub>2</sub>. Indirect costs of EU ETS are set to increase and therefore should continue to feature as an element of the cumulative carbon leakage exposure test

- As CHP or waste heat recovery for electricity generation are essential means to improve energy efficiency and therefore reduce carbon emissions, these activities should continue to receive free allocation where they are associated with an industrial activity vulnerable to carbon leakage.

For benchmarked free allocation to industry the activity level should be as close as possible to the actual production levels to avoid potential surplus issues experienced when using historic production followed by an industry recession.

## 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*

- The cement industry is fully committed to reducing GHG emissions in line with overall EU policy objectives. This has been demonstrated by investments over the past 20 years which have driven down CO<sub>2</sub> emissions from clinker production and by our sector roadmap to go much further in the coming decades. To achieve this, industry needs to innovate and invest. This requires a return on investment above the cost of capital and a predictable policy framework that promotes the competitiveness of the sector and allows for a secure access to raw materials and affordable energy prices. The cement industry in Europe needs a stable legal framework with predictable CO<sub>2</sub> prices in order to justify and allocate scarce investment funds to realize CO<sub>2</sub> emission reduction ambitions. 2030 targets have to take into account each sector specific roadmap. Differentiated levels of efforts are needed for different sectors (manufacturing industry, power, building, and transport) based on the ability to pass the cost on to the end user.
- As additional qualitative carbon leakage criteria, the European Commission shall take into account the compliance of the quantitative conditions in a representative percentage of countries.
- The EU ETS excludes waste incineration CO<sub>2</sub> from its scope and yet the combustion of the same material in a cement kiln has its CO<sub>2</sub> regulated by the ETS. There is an obvious and distortive inconsistency which should be addressed by either including waste incineration in the EU ETS or considering co-incineration of waste in the cement industry as zero emission factor under the Monitoring and Reporting Regulation. This would enhance the use of alternative fuels in the cement industry and hence contribute to the circular economy.

## 2. Innovation fund

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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*

The first call for proposals the European Commission made funding awards for a total value of €1.1 billion to 20 renewable energy projects. Under the second award decision in July 2014 the European Commission awarded a total of €1 billion in funding to 18 renewable energy projects and one carbon capture and storage project. More efforts must be devoted to launching European demonstration projects for industrial CCS. The deployment of CCS involves the development of breakthrough technologies, which enable the cement industry to reduce emissions further by up to 80% as shown in the CEMBUREAU Low-Carbon Economy Roadmap. Technical and financial risks are part of such development. Public financing aims at mitigating the financial risk involved and at providing incentives for private operators to engage in projects which would normally not be financed based on market returns on investment.

In this context, public incentives should:

- Acknowledge the technical risks involved and provide financing for the development stage without coupling the actual payment to a successful outcome. Currently, the EU Emissions Trading Directive makes the awarding of allowances from the NER 300 dependent upon the “verified avoidance of CO<sub>2</sub> emissions”: this not only requires the project to be successful (i.e. excluding any risks) but also makes funding available only at the end of the project;
- Foresee, in a proper and predictable legal framework, for any upfront public funding or additional financial resources from national governments: the need to go through separate state aid notifications for these national funding measures, combined with the uncertainty caused by such reviews, does not allow for the development of a viable business plan at the conception phase of the project.

In terms of revenues from auctioning, Article 10(3) (e) of the EU Emission Trading Scheme (EU-ETS) states that at least 50% of the auctioning revenue should go to a number of listed priorities, amongst which carbon capture and storage, including in industrial sectors. This provides the legal basis for complementing funding from the NER 300 through auctioning revenues.

In addition to financing issues, legal aspects and public acceptance must not be overlooked to ensure a prompt start up of projects.

Nevertheless, the most important point for CCS is that the operational costs of a plant equipped with post-combustion carbon capture technology are expected to be double the cost of a conventional cement plant. Oxyfuel use would incur 25% higher operating costs. Consequently, the EU-ETS should play a role in making CCS technologies increasingly competitive in the market. Within that context, policies aimed at promoting CCS have to be accompanied by mechanisms which offset the costs for industries exposed to global competition whenever appropriate.

**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*

Given the issues related to CO<sub>2</sub> storage, R&D related to new alternatives to reuse or valorize the CO<sub>2</sub> captured should be promoted and financially supported. Support for further development of these breakthrough technologies should put at the same level as CCS. Additionally, regulatory barriers, such as the one related to the "Transferred CO<sub>2</sub>" (included in the MRV of the EU-ETS for the period 2013-2020) which only allows the subtraction of the transferred CO<sub>2</sub> if it will be "for the purpose of long-term geological storage" should be removed. A greater share of NER funding has to be directed toward industrial operations with a high carbon intensity i.e. particularly those with the highest proportion of irreducible 'process' emissions as well as towards plant rationalisations. Especially these sectors demand support to further invest in R&D in breakthrough technologies, such as reuse or valorisation of captured carbon.

## 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*

The cement industry is fully committed to reducing GHG emissions in line with overall EU policy objectives. This has been demonstrated by investments over the past 20 years which have driven down CO2 emissions from clinker production and by our sector roadmap to go much further in the coming decades. To achieve this, industry needs to innovate and invest. This requires a return on investment above the cost of capital and a policy framework that promotes the competitiveness of the sector and allows for a secure access to raw materials and affordable energy prices. The cement industry in Europe needs a stable legal framework with predictable CO2 prices in order to justify and allocate scarce investment funds to realize CO2 emission reduction ambitions. 2030 targets have to take into account each sector specific roadmap. Differentiated levels of efforts are needed for different sectors (manufacturing industry, power, building, and transport) based on the ability to pass the cost on to the end user. In the current ETS phase low carbon transition funding focus has rightly been on decarbonisation of power generation. With the expected increase in EUA prices resulting from MSR and other moves, the time is right to switch the innovation funding focus to energy intensive manufacturing industry. There is a strong argument that with the high carbon prices that MSR will generate that power generation does not need a high level of innovation funding and could justify investments using the higher EUA price and their ability to pass on the full EUA cost.

## 3. Modernisation fund

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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*

The EIB should be wholly responsible so as to ensure consistency and transparency across Member States.

**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*

Furthermore, projects should not be supported where sufficient EU funding programmes are already being accessed to avoid double benefit.

**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*

Yes, but criteria should focus on abatement potentials and take sector-specific improvement potentials into consideration.

**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*

Double support must be avoided. VDZ does not agree with free allocation to power generation so the removal of this support would remove any possibility for double benefit (see answer to question 1.3).

**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*

Assessments of projects should inform national climate programs to be able to develop reasonable national targets and national projects to improve energy efficiency.

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

*4,500 character(s) maximum*

No comment.

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

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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*

There is no added environmental or economic value for 'largely western' European countries subsidising electricity generation reform in 'largely eastern' European countries when the costs of those investments can be passed on to consumers.

**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*

VDZ does not support free allocation provision for the electricity sector in any member state, as it can fully pass on carbon costs. On the contrary, VDZ advocates that industry should receive 100% of their needs based on reasonable benchmarks and real/recent production levels, using a reserve to correct the volumes for auction.

**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*

VDZ agrees that there is a need to simplify and streamline the current separate processes for reporting on renewable energy, energy efficiency and greenhouse gas reduction for the period after 2020, and to have a consolidated governance process with Member States. VDZ supports meeting the relevant targets by a mix of Union measures but believes that unilateral national measures by Member States' should be discouraged, particularly where they interfere in the single Union carbon market, such as the UK's Carbon Price Support. VDZ supports a renewables target for the power generation sector because it requires a technological shift whereas a lack of renewables target and reliance on the EU ETS alone could result in a cost shift as power generators pass on the carbon costs and modify their technology at a slower speed.

**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*

In the interests of market liquidity and stability it would seem sensible to distribute the allowances evenly over the period but once again VDZ advocates that industry should receive 100% of their needs based on reasonable benchmarks that reflect BAT performance levels and real/recent production levels, using a reserve to correct the volumes for auction.

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

- yes  
 no

**If so, which of the following areas, if any, currently supported through investments for modernisation of electricity generation up to 2020 should be prioritised for support up to 2030 and why?**

- Interconnectors  
 Smart Grids  
 Super-critical coal  
 Gas  
 Renewable energy  
 Energy storage  
 Energy efficiency  
 Other (please elaborate)

**Please explain in detail:**

*4,500 character(s) maximum*

- Modernized and improved interconnectors benefit not only the Member States receiving the modernisation fund. This also improves the competitive situation of industry in Europe, as it allows a harmonization of the electricity market that translates in a level playing field in Europe.
- Funding for renewables allows triggering a needed technological shift for decarbonisation in the electricity sector in a cost-efficient manner, as it can help lessening the burden of indirect costs for European industry, whose global competitiveness is negatively impacted by the electricity sectors ability to fully pass through.

**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*

Yes

## 5. SMEs / regulatory fees / other

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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*

Small sources such as Bottled Gases (Acetylene, LPG) and Gas Oil use which account for less than 100t CO<sub>2</sub>/annum must be removed from EU ETS entirely. Counting bottles of acetylene to add a few kg of CO<sub>2</sub> which is insignificant in comparison to the emissions stemming from their main process is a significant resource burden for plants that are attempting to accurately account for millions of tonnes of CO<sub>2</sub> from their main process.

**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*

MS should continue to have the possibility to exclude small emitting installations. Small emitters with historical emissions less than 10,000 tCO<sub>2</sub> per annum average over period 2016 - 2018 should be given the option to remain an excluded small emitter or be excluded from reporting CO<sub>2</sub> altogether.

Small emitter reporting rules can be simplified by (1) being allowed to use Tier 1 for reporting at all times or using higher tier if they so wish. (2) Be allowed to self verify without providing any information to competent authorities apart from CO<sub>2</sub> emission subject to random audit.

(3) Be allowed to provide independent verified opinion and therefore not be subject to random audit.

The simplified approach could be harmonised at EU level but still be a MS option to adopt. To further simplify the burden on small emitters, small emitters (that are already temporarily excluded at MS level) should also be allowed to remove the reporting of small sources such as bottled Gases and Gas Oil which account for less than 100t CO<sub>2</sub>/annum?.

**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*

High level security is absolutely necessary. The current Registry is user friendly enough - one improvement would be the ability to generate Account reports covering 1 full year so all transactions are visible. Currently this is restricted to 1 month report generation at a time which is burdensome and not user friendly.

No Registration fees should be applied as this is a pan European Registry and fair allocation of costs would be difficult per installation.

**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*

No Registry fees should be applied at all.

If applied any discrepancies between Member States will have minimal impact

Alignment at EU Level may actually increase cost for some Registry fees already being applied

**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*

No, hypothecation should exist for all auction revenues. VDZ believes that those sectors with the greatest decarbonation challenges should receive support via recycling of auction revenues.

## 6. General evaluation

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## 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*

- The objective of EU ETS is to deliver emissions reduction for power and industrial sectors at lowest cost. The reducing cap aligns with the end result needed. The ETS therefore aligns with EU Climate Policy. The MSR will make emissions reductions higher in cost than it would otherwise have been in a market without intervention. It also increases the risk of carbon leakage and undermines investment confidence in the EU because it is a further example of market interference which adds policy uncertainty and undermines investment confidence in the EU.
- The EU ETS Directive is adapted to subsequent technological and scientific changes for industrials through the BM x Production allocation system. For those not subject to CL protection the declining cap principle with auctioning of allowances is aligned with scientific evidence of the need to reduce emissions.
- The current rules for access to the NER do not stimulate investment. The current NER rules make it almost impossible to secure capital funding for investment in new carbon efficient plants in capital intensive and carbon intensive sectors like cement. Not knowing if sufficient free allocation will be available or if the specific plant can access the NER introduces an investment risk which can completely undermine an investment.

## 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*

### Strengths:

- ETS is a market driven system the price of emissions being determined by market forces which in theory delivers the environmental outcome at lowest cost
- Cap trajectory is foreseen and provides environmental certainty
- Partial protection against Carbon leakage
- Established market with 10 year history

### Weaknesses:

- Market based but not the whole global market so carbon leakage remains a threat
- A market based system should result in price discovery but intervention such as the MSR undermine the integrity of the market based approach. Introduction of an MSR will increase carbon price and could make it very difficult to achieve cost effective carbon reductions. This could lead to emissions reductions being met through carbon leakage.
- Carbon leakage protection is undermined by the CSCF
- 5 year carbon leakage reviews undermine investment confidence. If carbon leakage status is lost the case for EU manufacture is increasingly undermined
- Complexity/uncertainty of allocation for New Entrants or changes to installations does not encourage investment.
- The use of historic activity levels for free allocation has not reacted well to the economic recession.
- Inclusion of small emitters and small sources introduces a huge complexity, with impact on company and verifier resources for negligible environmental gain
- As the EUA price increases so do indirect costs of the EU ETS. Reliance upon the currently limited list of sectors in the EU ETS Indirect CO2 State Aid Guidelines to access compensation against the increasing cost is insufficient. The indirect CO2 State Aid guidelines need reviewing to include those sectors that are highly vulnerable due to their direct+indirect cost exposure.

**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*

- As there are no specific support measures for the cement sector that result from the auction revenues, the ETS is a cost to cement businesses with no direct and reciprocal benefit.

- It should be noted that a carbon price alone is not enough to drive innovation. Much of the emissions reduction achieved in the power sector has been as a result of separate government support even through the power sector can pass on the additional costs. Similar levels of support are needed to decarbonise manufacturing that cannot pass on the higher costs of decarbonisation. Some sectors receive financial compensation for the indirect costs of the ETS but at present the cement sector does not. As such the EU ETS State Aid guidelines concerning indirect CO2 costs should be immediately reviewed for pre-2020 implementation.

- The costs of the EU ETS are not proportionate to the benefits because there is not a clear link between the finances raised by the system and technological development. As such there is a need to consider the different technological potentials of sectors using sector roadmaps as a guide in order that a competitive cement sector is retained in the EU during the intervening period when technologies can be developed and deployed.

As 60% of the emissions in the cement sector are irreducible process emissions, the Cross-Sectoral Correction Factor puts the cement sector under a unique burden, because as presently structured free allocation will sink below a level that demands emissions reductions that are technical not possible without public support for the introduction of breakthrough technologies, such as carbon capture for storage, reuse or valorisation.

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

*4,500 character(s) maximum*

The EU ETS should indeed not be viewed in isolation. While CO<sub>2</sub> costs are important the entire economic situation needs to be addressed and a positive overall industrial policy strategy be developed as to allow industry to have the means to invest in innovation and research. Europe should set a single target for industrial growth and reflect on interdependent criteria that would contribute to that target in the different policy areas. Priority should be given to measures that facilitate growth, investment and innovation. Then under that single target, mutual interactions between EU wide policy targets have to be considered. Targets are required to derive actions. For that purpose, there are two fundamental objectives that could cascade into targets: i) secure access to energy at competitive prices, ii) reduce carbon emissions produced and consumed in Europe. There are several instances where the two objectives lead to consistent and overlapping actions, however there are also cases where this is not the case e.g. CCS reduces emissions but significantly increases energy demand, hence costs). Therefore, to achieve its goals, the European Commission should set targets and establish policies accounting for their mutual interactions, and not as standalone packages.

There should be in no case duplication of legislation. From that perspective the cumulative burden of especially the energy efficiency Directive, Ecodesign measures and the IED should be carefully assessed. In the former Waste Incineration Directive aspects of the now Industrial Emissions Directive the cement industry as a co-incinerator of waste and the waste industry as an incinerator of waste compete within the same regulatory constraints. The EU ETS excludes waste incineration CO<sub>2</sub> from scope and yet the combustion of the same material in a cement kiln has its CO<sub>2</sub> regulated by the ETS. There is an obvious and distortive inconsistency which should be addressed by either including waste incineration in the EU ETS or considering co-incineration of waste in the cement industry as zero emission factor under the Monitoring and Reporting Regulation. This would enhance the use of alternative fuels in the cement industry and hence contribute to the circular economy.

**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*

Until there is an international agreement that delivers comparable efforts from all competing nations there is no added value from the isolated EU ETS.

EU ETS, at present only attempts to harmonise emissions reduction and its cost within the EU and therefore lacks the reach necessary to provide an answer to global temperature rise.

National action alone, however, would be even less effective at dealing with a global problem.

**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*

In the context of discussions on more radical changes to the Climate Change policy, VDZ is ready to engage in a discussion on alternative solutions to an emissions trading system.

**Contact**

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