

**AD HOC MEETING OF THE  
ECCP STAKEHOLDER GROUP ON EMISSIONS TRADING  
ON THE TOPIC OF BENCHMARKING**

**20 May 2010  
Brussels**

*DRAFT REPORT*

**1. Welcome and introduction**

The Commission welcomed the participants and the agenda was adopted.

**2. Benchmarking and allocation rules – Process update**

The Commission gave a presentation with an update on the current status of the Community-wide allocation rules.

EFMA expressed its concern that if the product benchmark curves only contain greenhouse gas emissions intensity data of the installations that have provided data, the benchmark value based on the average of the 10% best installations, will not be 'correct'. The Commission replied that in cooperation with industry and with the help of consultant contracted for this purpose, everything feasible is done to collect the missing data. However, since there is no obligation to report, data from some installations will be missing.

IFIEC inquired about the definition of electricity generator, and about the relationship between some product benchmarks and financial measures in favour of (sub)sectors deemed to be exposed to a significant risk of carbon leakage due to costs related to greenhouse gas emissions passed on in electricity prices. The Commission replied that the electricity generator definition has been discussed with Member States' experts on several occasions and a guidance paper was sent out, on the basis of which Member States are currently gathering the necessary data. The Commission added that it is not the intention to discuss the mentioned financial measures during the meeting.

CEFIC mentioned it was concerned that the industry cap was set too low because of the definition of electricity generator.

EUROFER agreed with IFIEC and CEFIC on the importance of these issues and suggested to discuss them at a next stakeholder meeting.

EULA underlined the importance of having the same rules for allocation and for monitoring and reporting. The Commission replied that it was aware of the issue, and that a new Regulation on monitoring and reporting would be adopted by the end of 2011.

EUROMETAUX asked the Commission to provide more certainty for new industry investments and was concerned about the EU-wide cap undergoing changes in the future. The Commission replied that even with the cap being fixed in the Directive, a certain degree of regulatory uncertainty can hardly be avoided. The Commission also reminded the industry

representatives of the EU2020 strategy and the promotion of innovation. One of the ways to promote innovation which is under consideration is to reward operators that invest in top performing technology and make significant emission reductions or installations that perform better than the benchmarks by providing additional free allowances on top of what could be expected from a normal implementation of the benchmark rules.

E3G supported the idea of promoting innovation and suggested to develop it further.

CEFIC argued that the Commission Communication to possibly strengthen the ETS cap would have a character of an ex-post adjustment, and also asked for an update on the state of play of the impact assessment and the Entec study which examines, inter alia, reduction potentials in industry sectors. The Commission explained that the Communication does not imply any ex-post adjustments but is instead all about the position of the EU in the international context of combating climate change and driving innovation. The idea would be that in such a case the auctioning allowances would be set aside before the start of the trading period. Furthermore, the Commission clarified that the work on the proportionate impact assessment is ongoing and added that it also draws on the study carried out by Entec, which is both to support the impact assessment and to examine reduction potentials in industry sectors. The Commission has not yet received the final version of the study.

CEMBUREAU asked whether there will be a stakeholder consultation for the impact assessment or if only the Member States would be consulted. The Commission explained that impact assessments are part of an internal process and even the Member States are not consulted. The results of the impact assessment would be presented to Member States' experts during later discussions.

The European Copper Institute suggested that, besides innovation, the Commission should also encourage recycling.

IFIEC was concerned about how to interpret which emissions can be accounted for in the ETS cap adjustment due to the extended scope of the ETS. They underlined the need for a harmonized application of the relevant provisions. The Commission explained that the data collection is done by the Member States and that the Commission is closely working together with them.

### **3. Draft allocation rules**

The Commission gave a presentation on the state of play of the draft allocation rules.

FEVE pointed out that the concept of sub-installations might sometimes be difficult to apply e.g. in case the same furnace produces different products. The Commission acknowledged that the disaggregation of emissions or fuel/heat consumption within an installation that produces more than one product might be difficult but not in all cases this distinction is needed, e.g. if the two products are covered by two product benchmarks. Such cases should not be a reason for the concept of sub-installations to be abandoned, since for most cases it seems very useful.

EAA was concerned that installations included in the ETS only as from 2013 onwards would need greenhouse gas emission permits before 30 June 2011 to be regarded as incumbent, whereas the monitoring and reporting regulation will only be adopted by the end of 2011. The

Commission confirmed that this issue is under discussion with Member States and that already now an amendment to the current MRG decision is being prepared that already incorporates the monitoring and reporting rules for the new sectors and gases. This should make sure that at least preliminary greenhouse gas emission permits can be issued and that preliminary monitoring plans can be made. The Commission also clarified that those greenhouse gas emission permits should not constitute the decisions on how many allowances would be allocated to these operators.

CEFIC enquired whether heat from electricity generators would be eligible for free allocation. The Commission replied that there will be free allowances but the question remains how they would be allocated. CEFIC was also concerned about the mentioned levels of a reduction factor in case of the allocation method based on historical emissions. The Commission replied that the issue is still under discussion. CEFIC also asked for an update on the state of play on the reference period for activity data, and argued that for extensions of capacity during the reference period or before 30 June 2011, no threshold (as envisaged for defining significant extensions during the trading period) should be introduced. The Commission replied that the choice of the reference period is being discussed with the Member States' experts and added that the median value of the years 2005-2009 may be a compromise. As for a threshold for significant extensions during the reference period or before 30 June 2011, this may ensure equal treatment with extensions during the trading period.

In addition, CEFIC expressed concerns that the capacity which would be relevant to evaluate any extension or reduction would be limited to the capacity of a relevant Annex I-activity that is carried out. It enquired if – in case no product benchmarks apply – this capacity could not be related to the heat consumption capacity. The Commission replied that the definition of capacity is still under discussion with the Member States' experts. Concerning the threshold of 10 or 20%, CEFIC was of the opinion that 20% is too high and would be disadvantageous for large installations. The Commission explained that a higher threshold may guarantee a level playing field among new entrants across the Union. CEFIC also favoured a second threshold that would make an installation eligible for an extension, i.e. an increase of emissions by 10,000 tons calculated on the basis of the applicable allocation method.

Concerning the standard capacity utilisation factor (SCUF), CEFIC announced their support to the Commission's view to base it on the utilisation factor of the 10% most efficient installations.

EFMA raised the issue of heat exports and expressed its preference for allocating allowances to the heat consumer. EFMA added that exothermic heat with no greenhouse gas emissions should be rewarded. The Commission replied that its reflections on the exothermic heat are in progress. The discussion on cross-boundary heat flows is also still ongoing with the Member States' experts.

The European Copper Institute asked for a copy of the presented draft allocation rules paper. In addition, a comment was made that processing capacity should be taken into account when extensions are evaluated towards the eligibility as new entrant. The Commission replied that the next version of the draft paper will be shared also with industry.

CEMBUREAU announced its support for the proposal that new existing installations should have the same allocation formula as new entrants. A concern was raised about different rationalisation rules among the Member States when installations are closing and transfer

production to other existing installations. The Commission replied that indeed some Member States have experiences with rationalisation rules. It explained that for the moment no priority is given to the establishment of such rationalisation rules, as in most cases the new entrant and closure rules should be sufficient.

EUROMETAUX criticised basing the fuel benchmark on natural gas and announced expected closures in their sector (e.g. Sardinia). Concerning process emissions the association argued that no effort sharing factor should be introduced, since process emissions cannot be reduced in most cases and since high-tech recycling might be negatively affected.

IFIEC reiterated that the standard capacity utilisation factor should also apply for some significant extensions before 30 June 2011 and repeated that the proposed threshold for being eligible as new entrant should not be applied for extensions during the reference period and before 30 June 2011. IFIEC was also concerned about the extension of capacity of non-Annex I activities and the resulting possible unequal treatment of heat. The Commission repeated its previous remarks, and pointed out that by including specific rules for specific sectors unequal treatment may be introduced.

CEFS explained that its common raw material (sugar beet) is only available in the winter months and for this reason sugar beet factories usually need to be 3-4 times bigger in order to process the whole amount of beet. After the EU reform of the sugar sector some installations have closed and have transferred the production to some other installations. However, given the already large capacity of the installations, no extension of the capacity was needed as only the capacity utilisation was increased. CEFS therefore called on the Commission to take into account their specific definition of capacity increase.

Regarding cross-boundary heat flows, CEDEC asked whether the allocation to the heat consumer is covered by the Directive or whether there would be an amendment. The Commission replied that the current thinking seems to be in line with the Directive. The Commission also clarified that the approach foresees allocation to heat consumers only where this consumer is an ETS-installation. If this is not the case, the allocation would go to the producer, using the exposure factor for a sector deemed to be exposed to a significant risk of carbon leakage if the producer provides evidence to the competent authority that a consumer is in a sector deemed to be exposed. If not, the non-exposure factor would be used as default.

EXCAA explained that they represent one of the sectors with the smallest amount of emissions and deemed to be exposed to a significant risk of carbon leakage. The sector uses waste as substitute for fossil fuels and argued that the fuel benchmark should give incentives to continue doing so. In addition, they claimed that the process emissions could not be reduced as they are the result of a chemical process and thus argued against any reduction factor for process emissions not covered by product benchmarks. The Commission explained that a reduction factor is still under consideration.

FR stressed that the allocation rules need to define as precisely as possible the boundaries between heat and fuel benchmarks. It also argued that for increases of capacity after the reference period the standard capacity utilisation factor should be used. The Commission replied that provisions regarding extensions after the reference period are envisaged and will be elaborated further.

PL stated that fuel specificity should be considered in the allocation rules. They also argued against any reduction factor for allocation based on historical emissions.

Ceramunie was concerned about Member States providing the relevant data for installations that only will be covered by ETS as from 2013. They also enquired whether there will be any specific rules for small installations that could be exempted. Another concern raised was about the heterogeneity in their sector and the differences in processes and process emissions. Ceramunie stressed the need for a reasonable improvement factor for process emissions. The Commission replied that on the data collection, several presentations have been given during MS meetings to ensure that the Commission receives data. On the equivalent measures for small emitters, the Commission referred to non-papers drafted during the negotiation process.

Euromines announced its support for a 10% capacity extension threshold and argued that additional allowances for significant capacity extensions should be allocated from the incumbents cap and not from the new entrants reserve. The Commission clarified that allowances due to significant extensions before 30 June 2011 would come from the incumbents cap, and allowances due to significant extensions after 30 June 2011 would come from the new entrants reserve.

Europia announced its support for the 10% capacity extension threshold, which they believe to be in line with the Directive recital, and the proposal by CEFIC and FR concerning capacity extensions before 30 June 2011 and argued that in case of a recent addition to capacity a representative reference period would be needed. Europia also argued that the definition of capacity should reflect the definition used in the product benchmarks. Furthermore they informed the other stakeholders that process emissions are included in the refineries product benchmark and that should be taken into account in the severity of the benchmark.

DE commented that the proposal of the Commission should be in the form of a Regulation instead of a Decision.

OGP argued that a 20% threshold for significant extensions would not be in line with a recital in the Directive. Furthermore, they suggested using the wording 'either 10% or 50 000 tons'. Also, they commented that installations allocated via fallback methods should be eligible for significant extensions.

EAA stressed that in their sector there are a number of installations that cannot use natural gas or biomass and therefore the fuel benchmark would not be an improvement incentive but a penalty.

COGEN EUROPE argued that a criterion of 50 000 tons for capacity extensions would mean a steep step for heat production and would put some installations at disadvantage. COGEN EUROPE also took a strong stance against setting the heat benchmark value at a 93% boiler efficiency and argued that it might result being inconsistent with previous EU policies.

#### **4. Stakeholder interventions**

Eurofer gave a presentation on waste gases.

CEFIC asked the Commission about the state of play on this issue. The Commission replied that its position has not changed since the last stakeholder meeting.

COGEN EUROPE asked for a clarification whether the linear reduction factor would be applicable to the new entrants reserve cap or to new entrants' individual free allocation. The Commission replied that the latter is the case.

Regarding the issue of interchangeability of fuel and electricity, CEFIC made a proposal to have two benchmark values to avoid that electro-intensive installations receive an allocation that is lower than the value of direct emissions. Those installations should also be eligible for financial compensation for their indirect emissions. The Commission replied that it proposes to follow the approach proposed in the Ecofys study: the benchmark value would be based on total emissions but as there is no free allocation foreseen for electricity, when the allocation to an individual installation is calculated, the share of direct emissions in total emissions of the installation will be multiplied with the benchmark value.

IFIEC announced its support to CEFIC on the need for financial compensation.

## **5. Product Benchmarks**

The Commission presented an update on the product benchmarks and the verification of benchmark curves.

Regarding the verification reports, EUROFER raised concerns about possible identification of single installations. The Commission replied that it is not necessary to include the name or location of the installations and added that there seems to be no problem with this in other sectors.

In reply to a question from CEFIC on the final format of the legal text, the Commission explained that it foresees the product definitions and system boundaries from the rulebooks to be annexed to the legal text.

EUROPIA asked that the Commission clarify how and under what conditions of confidentiality the various pieces of information on the sector benchmarks, rules book etc. would be transmitted to the Member States. It requested further stakeholder meetings until the proposals are final.

E3G requested to see the benchmark curves. The Commission replied that it is too early as not even the Member States' experts have seen them. UK and EUROPIA supported E3G with a request for continued transparency in the process.

## **6. AOB**

The Commission explained the concept of the technology innovation accelerator.

OGP commented that the concept seems a good idea. Furthermore, they enquired if not all allowances not allocated for free would have to be auctioned according to the Directive. The Commission replied that it will of course not bring forward a proposal that would be in breach of the Directive.

UK enquired whether the technology innovation accelerator would be a bottom-up approach only applied if there is a surplus of allowances. The Commission confirmed.

E3G suggested using also the new entrants reserve for this technology innovation accelerator.

IT asked about the state of play of Art 10a (4). The Commission replied that it is still reflecting on the issue.

## **7. Close of meeting**

The Commission thanked the participants for their attendance and concluded the meeting.