Questions and Answers[1] on the Commission's decision on national implementation measures (NIMs)

1. How much free allocation will be given in the period 2013-2020 and how does this break down by Member State and by industrial sectors?

Over phase three of the EU ETS (2013-2020), some 43 % (corresponding to 6.6 billion allowances) of the total phase three cap will be allocated for free to industrial installations. Further free allocation will be available to new entrants from the new entrants' reserve.

The table below shows the approximate total amount of free allocation in 2013 to 2020 by Member State (in million allowances).

Member State	Free allowances
Austria	165
Belgium	293
Bulgaria	78
Croatia	40
Cyprus	7
Czech Republic	175
Denmark	75
Estonia	20
Finland	164
France	645
Germany	1 249
Greece	121
Hungary	89
Iceland	11
Ireland	41

Member State	Free allowances
Italy	664
Latvia	18
Liechtenstein	0.1
Lithuania	45
Luxembourg	10
Netherlands	370
Norway	131
Poland	423
Portugal	90
Romania	207
Slovakia	121
Slovenia	19
Spain	526
Sweden	194
United Kingdom	511

[1] Updated 22 October 2013

The table below shows the total amount of free allocation in 2013 to 2020 for the most important industry sectors.

Sector	Free Allocation
Basic iron and steel	1 512 388 225
Cement	1 110 105 321
Basic chemicals (including fertilizers)	998 567 590
Refinery products (including coke)	878 402 084
Pulp and paper	247 316 201
Lime	202 414 638
Extraction of crude and natural gas	176 646 281
Ceramics (including bricks and tiles)	139 715 269
Non-ferrous metals	128 607 153
Glass	121 123 660

It should be noted that these figures are based on installations operating on 1 January 2013. In case of closures, free allocation will be reduced. Free allocation to new installations will not have an impact on the above figures, as they are distributed from a separate account (the new entrants' reserve).

2. When will companies receive their free allowances for 2013?

While clarity has been created with the Commission's decision of 6 September 2013 on the NIMs, further procedural steps are needed before the allowances for 2013 will be credited to companies on their respective registry accounts.

The transfer of allowances to installations in a Member State will take place once the authorities of that Member State have taken a 'final national allocation decision' and updated its National Allocation Table in the Union Registry in accordance with the Commission's decision on the NIMs.

Prior to the transfer, the relevant figures will be checked by the Commission to ensure that they are in line with the Commission's NIMs decision and that the cross-sectoral correction factor is applied. The figures will then be communicated to the ETS Registry. Once this is done, Member States' competent authorities can initiate the transfers of allocations to installations' individual accounts in the Union registry.

The Commission estimates that these further steps will require between one and three months, depending on the administrative procedure in the respective Member State.

Temporary free allocation for power plants pursuant to Article 10c of the EU ETS Directive is not covered by this process. In most of the eight Member States concerned, but not all, additional requirements need to be fulfilled. Some, for example, foresee allocation only upon evidence that appropriate investments have been carried out. No allocations have been made yet and in some cases fulfilling the conditions will require more time.
(see also: http://ec.europa.eu/clima/policies/ets/cap/auctioning/documentation_en.htm)

3. Will installations in those Member States where the NIMs have not been entirely approved have to wait longer for their allowances?

In a few cases the NIMs of Germany and the Czech Republic were found not to be entirely compliant with the allocation rules. The allocation is therefore rejected unless corresponding changes are made before the final national allocation decisions are adopted. Those changes are subject to acceptance by the Commission.

Although this means that an additional step in the process has to be completed, it is not expected that such changes will considerably delay the process of adopting the final national allocation decisions in those Member States. The changes required by the Commission's decision are limited, concern only a few installations and the relevant data should already be available to the relevant Competent Authority. The Commission will swiftly process such amendments.

The changes will neither affect the free allocations of other installations nor the balance between auctioned and freely allocated allowances.

4. How was the data used to determine the free allocation collected from industry?

Free allocation to participants in phase three is subject to EU-wide harmonised rules.

Based on these rules, Member States calculated the allocation of each installation covered by the EU ETS within their territory and submitted a corresponding list of NIMs to the Commission.

In this process, Member States collected all relevant data from industry at installation-level, using a template that was provided for this purpose by the European Commission. The relevant data had to be verified by independent verifiers.

5. How did the Commission conduct compliance checks?

Following the submission of the NIMs, the Commission assessed whether all installations were included and whether the harmonised allocation rules were applied correctly. The ETS Directive mandates the Commission to reject the whole or part of the NIMs if the harmonised allocation rules are found not to have been correctly applied.

The scrutiny of the NIMs was carried out through a process entailing an assessment of the documentation submitted by Member States, risk assessments, specific assessments of individual allocation decisions and, when considered necessary, country visits.

6. What about the EEA-EFTA states? Is the process similar? Will there be differences?

Since the EEA-EFTA states participate in the EU ETS, installations in Norway, Iceland and Liechtenstein are also entitled to receive free allocation on the basis of the same rules/benchmarks. The assessment of the NIMs of these countries has been carried out by the EFTA Surveillance

Authority in the same way as the Commission has assessed EU Member States' NIMs. By decision of the EFTA Surveillance Authority of 10 July 2013, the NIMs of Norway, Iceland and Liechtenstein have already been approved.

7. Why has the process taken so long?

Because the Commission's utmost concern has been to ensure a fair and consistent application of the harmonised EU-wide allocation rules.

Following adoption of the Benchmarking Decision in April 2011, Member States were required to submit their NIMs by September 2011. While all Member States eventually submitted their NIMs to the Commission, most did so after this deadline. The last NIMs were notified only in September 2012. Checking the allocation for around 10 000 installations in 28 countries was a complex and time-consuming task.

The Commission has done its utmost to check thoroughly the documentation submitted and ensure that the free allocation for the individual installations is calculated correctly and fully respects the harmonised allocation rules as the allocation decisions will cover the full 8-year period of phase 3 of EU ETS. Furthermore Member States took a considerable time to reply to the Commission's various questions. Some Member States also needed quite some time between finalisation of the NIMs and formal (re-) notification.

For other elements included in the decision, such as the total cap for phase three and the cross-sectoral correction factor, the final pieces of information needed became available only several months after the end of the second trading period on 31 December 2012 and the last compliance deadline of 30 April 2013.

8. Will the decision affect new entrants to the EU ETS?

In principle, the NIM decision does not affect new entrants to the EU ETS. However, together with the decision on the NIMs, the Commission has also adopted a decision on standard capacity utilisation factors per benchmarked product. This technical decision determines the amount of free allocation for all new installations that will produce benchmarked products. On this basis EU Member States and EEA-EFTA countries can calculate preliminary allocations for new entrant installations (new installations or existing installations that increase their capacity). Preliminary allocations will be checked by the Commission before they can be provided to the installation's accounts.

Questions and Answers on the cross-sectoral correction factor (CSCF)

1. Where is the CSCF defined?

The rules for the cross-sectoral correction factor are laid down in the revised EU ETS Directive, and therefore its application is the consequence of a mechanical application of the Directive. The value of the CSCF is the result of mathematical calculations based on verified Member State data.

The cross-sectoral correction factor is a backstop provision in the ETS Directive which caps the total amount of allowances that can be handed out for free to industry sectors. If the bottom-up calculation on the basis of the NIMs results in an allocation exceeding this amount, the factor reduces the allocation for all installations that are not electricity generators by the same proportion.

2. Why does the CSCF apply?

The CSCF is the result of a comparison between the bottom-up sum of preliminary free allocation and the top-down calculation of the maximum amount that can be handed out for free. The CSCF applies because the amount of free allocation on the basis of the NIMs exceeds the maximum amount of allocation available to industry. The main reasons for this are the following:

Firstly, each installation could choose between two baseline periods (2005-2008 and 2009-2010) for the production data used in the determination of the amount of free allocation. Naturally, each installation finds it in its self-interest to choose the period with higher production levels, as higher production multiplied by a given benchmark translates into more free allowances. Allowing each installation to make this choice has resulted in an inflated aggregate production level for allocation purposes. The correction factor eliminates this inflation element.

Secondly, the current carbon leakage list has had a considerable impact. For installations from sectors and sub-sectors included in the carbon leakage list the allocation is multiplied by a factor of 1 (100%) while for other sectors the allocation will be multiplied by a lower figure (80% in 2013, reducing every year to reach 30% in 2020). With many sectors featuring on the current carbon leakage list, many installations receive a high level of free allocation.

Moreover, free allocation is in principle based on ambitious product benchmarks. However, sometimes it was necessary to apply fall-back options (heat and fuel benchmarks) which on average are more generous. The generosity of the fall-back approach also contributed to a higher overall allocation to European industry.

3. Does the application of the correction factor mean that free allocation is not generous and that industry has to make further emission cuts?

The fact that the CSCF will be applied also implies that the maximum amount of free allowances that is available for phase three is actually shared out among industry. In other words, free allocation is as generous as the ETS Directive allows. Another aspect to note is that the application of the CSCF does not affect the total amount of allowances put in circulation during phase three, as that is based on the calculation of the cap. Hence no additional abatement of emissions for installations covered by the EU ETS is required due to the factor.

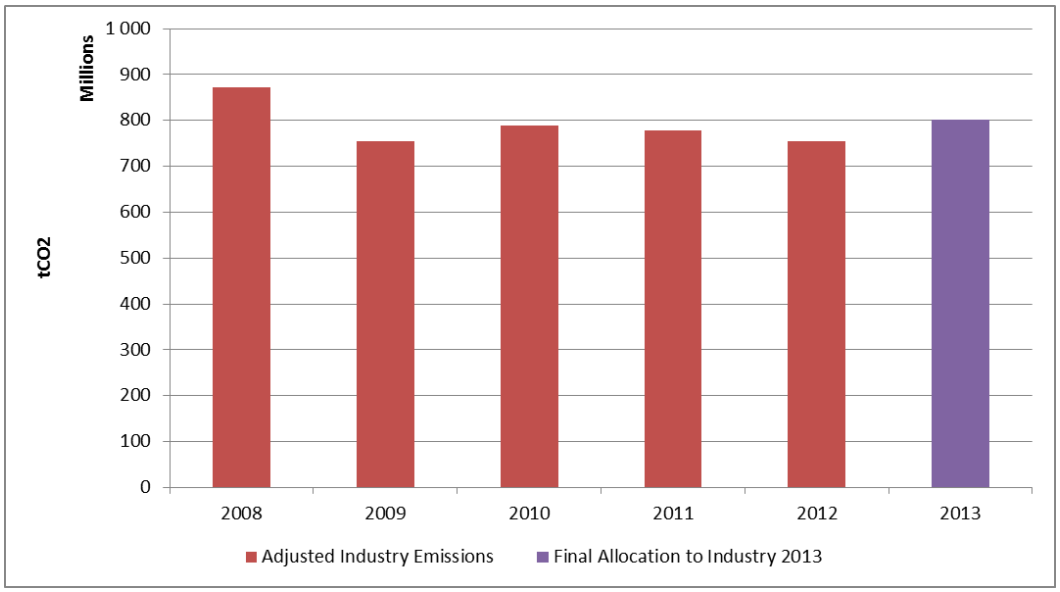
It should also be noted that the economic crisis resulted in a large allowance surplus for many industrial sectors in the second trading period, which has been banked and transferred to the third trading period. This substantially alleviates the need for industry to reduce emissions or buy allowances, even after the application of the CSCF.

In addition to the free allowances that are covered by the CSCF, there is also free allocation to power producers for their heat production. This amount is significant, and increases the total amount of free allocation by 104 million allowances in 2013.

Concerning the impact of the allocation exercise, it should be remembered that the benchmarks are based on European industry data from 2006-2008. This means there have been already 5 years of further CO2 efficiency improvements

4. How does the allowed allocation compare to emissions by industrial installations in recent years?

While there are some methodological challenges to provide a fully accurate comparison of past emissions of those industrial installations eligible for free allocation in phase three, the chart below shows that free allocation in 2013 is quite similar to actual emissions for each year in phase two, except 2008.



Note: the above chart only refers to industrial installations. It has been derived on the basis of the emissions data available in the EU Transaction Log (EUTL); where EUTL emissions data were not available, emissions data as submitted in the NIMs were used.

5. What will the correction factor be for each year from 2013 to 2020? Is the figure fixed until 2020 or can it be changed?

The figure in 2013 is 5.73 % and the figure for 2020 is 17.56 %. The average reduction of allocation is therefore 11.58 % over the period 2013 to 2020. In principle the CSCF is determined for the entire period. However, if the carbon leakage list, which determines the sectors deemed to be exposed to a higher risk of carbon leakage (and therefore competitive pressure from outside of the EU), were to be shortened when it is revised in 2014, there would be fewer free allowances distributed to industry. Such a case might allow a review of certain aspects of the legal determination of the correction factor for the later years of phase three.

6. How was the maximum amount of allowances available to industry calculated?

The maximum ('industry cap') is composed of two elements:

The share of emissions (2005-2007) from the installations included in the EU ETS in the period 2008-2012 that are not electricity generators multiplied by the average annual allocations of all installations under the EU ETS in the period 2008-2012; and

Verified emissions in the period 2005-2007 from installations included in the EU ETS only from 2013 onwards due to the system's expanded scope.

In order to derive this maximum, the Commission collected detailed data from the Member States, which have specified historic emissions for each installation and classified each installation as electricity generator or non-electricity generator.

On this basis, the Commission determined the share of emissions in the period 2005-2007 from the installations included in the EU ETS in the period 2008-2012 that do not qualify as electricity generators. This share is 34.78 %. When multiplying this share by the average annual allocations in phase two, i.e. 687 582 706 allowances for 2013, one obtains the first component of the 'industry cap'.

In a second step, the average annual verified emissions in the period 2005-2007 of installations only covered by the EU ETS as of 2013 (121 733 050 allowances) have been added to ensure that the maximum also reflects the extended scope of the EU ETS.

For 2013, the result is a maximum amount available for free to industry of 809 315 756 allowances. In subsequent years this amount will decrease annually by the linear reduction factor of 1.74% established in the revised EU ETS directive. This maximum for each year compared to the sum of the free allocation in the NIMs in the same year gives the annual cross-sectoral correction factor.

Questions and Answers on the impact of the NIMs decision on auction volumes

1. Does the NIMs decision affect the volume of allowances to be auctioned?

Yes, the NIMs decision is relevant for determining annual auction volumes in each year from 2013 to 2020, as the Directive foresees that all allowances not allocated for free have to be auctioned. Hence the Decision will serve as input to the annual auction calendars throughout phase three.

The auction calendar for 2013 was determined in 2012 without the necessary input on free allocation and was therefore based on an estimate of free allocation for 2013. As a result of the NIMs decision, some 66.3 million more allowances are to be auctioned for 2013.

2. Will the 2013 auction calendars be adjusted?

In a regulatory update published on 11 December 2012, it was indicated that the aim was to adjust the 2013 auction calendars for general allowances no later than July 2013. Due to the delay in the NIMs decision this timetable could not be met. Adding a considerable volume in the last two or three months of the calendar year and adjusting the auction calendars accordingly may disrupt the market. By agreement of the Member States, the Commission and the auction platforms EEX and ICE, and in accordance with the Auctioning Regulation, this volume will therefore be added to the volume to be auctioned in 2014. These calendars are currently under preparation.

For further information on auction calendars, see point 5 in the FAQ on auctioning (http://ec.europa.eu/clima/policies/ets/cap/auctioning/faq_en.htm).

Questions and Answers on the Commission's decision on standard capacity utilisation factors (SCUFs)

What are SCUFs and why are they needed?

The SCUFs provide information on the typical production capability relating to a number of specific products from installations falling under the EU ETS, based on a given (historical) period.

SCUFs are needed to calculate the amount of free allocation to be provided to new entrants to the ETS, i.e. new installations, or installations that increase production capacity.

Before applying for an allocation from the new entrants' reserve, Member States authorities have to determine the 'activity levels' of new entrant installations in order to calculate the number of free allowances they are entitled to receive. This 'activity level' is determined by multiplying the installed capacity for the production of a given product by the corresponding standard capacity utilisation factor.

The Commission determined the SCUFs by calculating the 80-percentile of the average annual capacity utilisation of all installations producing a given benchmarked product in the period 2005-2008.