

Assumptions to be used for new EU ETS carbon leakage list 2015-2019

The EU emissions trading system (EU ETS)[\[1\]](#) was established in 2005 to promote reductions of greenhouse gas emissions in a cost-effective manner. Carbon leakage is the term used to describe the situation that may occur if, for reasons of costs related to climate policies, certain businesses were to transfer production to other countries which have laxer action on greenhouse gas emissions and that would lead to an increase in global emissions.

Transitional free allocations are given to industry from 2013 onwards, which are harmonised across the EU. In addition, to address the risk of carbon leakage of specific industries covered by the EU emissions trading system, production from sectors and sub-sectors deemed to be exposed to a significant risk of carbon leakage receives a higher share of free allowances in the third trading period (from 2013 to 2020). Member States can also give state aid to certain industries in respect of power prices, in accordance with State aid rules adopted in 2012[\[2\]](#).

For the sectors and sub-sectors included in the carbon leakage list, the benchmark-based free allocation (see Commission Decision 2011/278/EU)[\[3\]](#) 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 linearly every year to reach 30% in 2020).

The ETS Directive provides criteria for how to determine if a sector is to be on the carbon leakage list. The first carbon leakage list was adopted in 2009 (Commission Decision 2010/2/EU)[\[4\]](#) and is applicable for the free allocation of allowances in 2013 and 2014. Annual additions to the carbon leakage list are allowed and sectors were added in 2011 and 2012. Evaluation for possible additions in 2013 is currently ongoing.

The Commission is required to draw up a new list every five years. Thus, a new carbon leakage list has to be determined for the years 2015-2019.

The criteria used to determine whether a sector is exposed to carbon leakage are set in the EU ETS Directive (Article 10a, paragraphs 14-17). A sector or sub-sector is deemed to be exposed to carbon leakage if:

- the sum of direct and indirect additional costs induced by the implementation of the ETS Directive would lead to an increase of production cost, calculated as a proportion of the Gross Value Added, of at least 5%; **AND** the trade intensity (imports and exports) of the sector with countries outside the EU is above 10%, **OR**
- if any of the above two criteria (additional cost or trade intensity) has a value above 30%

Alternatively, a sector can be deemed to be exposed also based on qualitative criteria, focusing on abatement potential, market characteristics and profit margins.

The purpose of the present stakeholder consultation is to ask the opinion of stakeholders on issues related to the determination of the new carbon leakage list for the period 2015-2019. These issues concern in particular certain assumptions that have to be made when applying the overall approach spelled out in the ETS Directive.

The process for the adoption of the new carbon leakage list has to be concluded in 2014, and will include the opinion of the Climate Change Committee and 3 months scrutiny by the European Parliament and Council. Involvement of the European Council is foreseen in Article 10(a)13 of the ETS Directive.

The results of this stakeholder consultation will be analysed and incorporated in the Impact Assessment to be conducted for the determination of the new carbon leakage list for the period 2015-

2019. Furthermore, dedicated stakeholder meetings may be held in autumn 2013 to enable more focussed discussions. Additionally, bilateral stakeholder meetings may also take place.

The questionnaire consists of 17 multiple choice questions and does not require more than 20 minutes of your time. There is however room to motivate replies and respondents are strongly encouraged to justify their responses with references to concrete evidence and facts wherever possible. For each question it is possible to reply "I don't know/no opinion".

[1] <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009L0029:EN:NOT>

[2] [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52012XC0605\(01\):EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52012XC0605(01):EN:NOT)

[3] <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32011D0278:EN:NOT>

[4] <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010D0002:EN:NOT>

A. Registration

A.1. What is your profile?* (compulsory)

- Business
- Trade association representing businesses
- Government institution/regulatory authority
- Academic/research institution
- Non-governmental organisation
- Citizen
- Other (please specify below)

A.2. Please enter the name of your business/organisation/association etc:* (compulsory) (maximum 500 characters; count: 0)

Total

A.3. Please enter your contact details (address, telephone, email):* (compulsory)

Thierry Reveau de Cyrières,

Vice-President European Public Affairs

Rue de l'industrie 52

1040 Bruxelles

thierry.reveau-de-cyrieres@total.com

Transparency Registration Number : 1849405799-88

A.4. If relevant, please state if the sector/industry you represent falls under the scope of the EU ETS:* (compulsory)

- Yes
- No
- Not relevant (please explain below)

A.5.

Please explain why the question above is not relevant in your case (max 500 characters)

(optional) (maximum 500 characters; count: 0)

N/A

A.6. If your sector/industry falls under the scope of EU ETS, does the sector/company you represent receive free allocation under the harmonised allocation rules?*(compulsory)

- Yes
- No
- Not relevant (please explain below)

A.7. Please explain why the question above is not relevant in your case (max. 500 characters) (optional) (maximum 500 characters; count: 0)

B. I. General: competitiveness, carbon leakage and the 2009-2014 carbon leakage list

The questions in this section are an opportunity for stakeholders to express their general and broader view on carbon leakage issues, the list valid for 2013 and 2014 and will be useful from a policy evaluation perspective.

B.1. As stipulated in the ETS Directive, the aim of the EU Emission Trading System is to promote reductions of greenhouse gas emissions in the most cost-effective and economically efficient manner. To address the risk that, for reasons of costs related to climate policies, relocation of companies to areas which have laxer constraints on greenhouse gas emissions could lead to an increase of carbon dioxide emissions, Commission Decision 2010/2/EU has established the list of sectors and subsectors which are deemed to be exposed to a significant risk of carbon leakage. This list is valid from 2009 to 2014 included, and is incorporated in the determination of free allocation for 2013 and 2014.

In your view, how has the risk of carbon leakage evolved since the adoption of the first carbon leakage list in 2009:* (compulsory)

- Increased substantially
- Increased slightly
- Remained the same
- Decreased slightly
- Decreased substantially
- No opinion

B.2. If you wish, please motivate your answer (max. 1000 characters) (optional) (maximum 1000 characters; count: 0)

The exposure of the Mineral Oil Refining sector to carbon leakage has increased substantially since 2009 due to:

- **Increased international competition:** European refineries are already facing competition from new export-oriented refineries in the Middle East and India, with now further pressure from US refineries with access to unconventional oil and gas. In 2012 the USA exported 1 Mb/d of refined products. Overall, the percentage of imported OECD-EUROPE oil products consumption has increased from 20% in 2007 to 28% in Q1 2013 (source: IEA).
- **Greater additional cost exposure:** Since 2009, some 10% of EU refining capacity has closed down. The industry is facing declining overall demand for oil products, a diesel + gasoline demand/supply imbalance, and additional exposure to EU legislation. Also, EU energy prices, which have increased by 27% since 2009, now represent around 60 % of EU refining operating costs, compared to 30 % in USA east coast refineries (Source: Solomon Associates).

B.3. In your view, how adequate policy instruments are free allocation and the increased allocation for sectors on the carbon leakage list in particular in relation to the risk of carbon leakage?* (compulsory)

- Very adequate
- Quite adequate
- Quite inadequate
- Very inadequate

- No opinion

B.4. If you wish, please motivate your answer (max. 1000 characters) (optional) (maximum 1000 characters OK; count: 0)

In the absence of an international climate agreement, Total prefers free allocation for exposed sectors to deal with carbon leakage.

However, in the Refining sector, the EU ETS benchmark was set from 2013 at the average of the top 10 % performance level. The impact of such a tough benchmark introduced immediately will be significant. Many installations will have to purchase significant quantities of allowances to continue current production levels. Thus, we would have preferred a phasing of the benchmark over Phase 3.

70 % of ETS emission comes from power generation sector. Specific policy instrument could further improve the switch from coal to Natural Gas. Those specific measures should not jeopardize the European industry competitiveness.

B.5. Currently 154 sectors and 16 sub-sectors are on the carbon leakage list valid for 2009-2014. In your view, how adequate is the coverage of sectors and sub-sectors in the current carbon leakage list? (compulsory)

- The carbon leakage list is too short
- The carbon leakage list is of adequate length
- The carbon leakage list is too long
- No opinion

B.6. If you wish, please motivate your answer (max. 1000 characters) (optional) (maximum 1000 characters OK; count: 0)

The carbon leakage list is based on objective and legally-binding evaluation criteria set in the EU ETS Directive. The coverage of sectors and sub-sectors is as extensive as needs be to meet these evaluation criteria, and also reflects the level of threat to EU industry competitiveness.

B.A. II. Methodology for new carbon leakage list 2015-2019: options to be discussed in the Impact Assessment

B.A.1. In your view, is there an increase of the ambition of domestic climate policies undertaken in countries outside the EU/EEA since 2009? (compulsory)

- Yes, a significant increase
- Yes, some increase
- No change since 2009

- No, there is even some decrease
- No, there is even a significant decrease
- No opinion

B.A.2. If you wish, please motivate your answer (max. 1000 characters) (optional) (maximum 1000 characters SHORTEN; count: 0)

We are in favour of enlarging the ETS to countries in competition with Europe namely US, Russian federation and Middle East. Those countries have not implemented any significant CO2 regulation. Russia has abandoned the Kyoto protocol.

Australia, New Zealand, South Korea, Kazakhstan and California have established their own Emission Trading Schemes, but are not in competition with the EU Refining sector, neither Japan.

Refining is particularly exposed to international competition, as some 25 % of European internal consumption is imported via international oil products markets and a large proportion of heavy fuel oil is exported.

European product prices strongly correlate with other regional market prices.

The absence of any significant climate policy regulations within the areas in competition with EU Refining, justify the classification of Refining in the list of sectors exposed to carbon leakage.

B.A.3. How do you see the climate policies of the following countries outside the EU-28 and EEA EFTA states, with which there are decisions or on-going discussions to implement ETS systems?

	Fully comparable to the ETS	Partially comparable to the ETS	Not comparable to the ETS	No opinion
B.A.3.1. Australia* (compulsory)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
B.A.3.2. Switzerland* (compulsory)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

B.A.4. If you wish, please motivate your answer (max. 1000 characters) (optional) (maximum 1000 characters OK; count: 0)

The carbon leakage list reassessment should consider whether third countries represent a “*decisive share*” of global production of products in sectors or subsectors deemed to be exposed at risk of carbon leakage”. Global decisive share is not relevant to Australia or Switzerland.

Australia has committed to a modest GHG reduction target (unilateral 5 % CO2 reduction between 2000 and 2020). Unlike the EU ETS, its ETS supports growth as:

- Benchmarks are based on the weighted emissions average of the sectors, including indirect emissions;
- There is a rolling cap whereas the EU CO2 emissions cap is fixed for the entire trading period;
- Companies exposed to competition distortions due to the climate regulation will get financial support to help them in the transition;

The Swiss Carbon Market is 240 times smaller than the ETS and does not include all industrial sectors in competition with the EU.

The Swiss ETS is not comparable with the EU ETS

B.A.5. How do you see the climate policies of countries or regions outside the EU-28 and EEA EFTA states?

	Fully comparable to the ETS	Partially comparable to the ETS	Not comparable to the ETS	No opinion
B.A.5.1. China* (compulsory)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
B.A.5.2. South Korea* (compulsory)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
B.A.5.3. New Zealand* (compulsory)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
B.A.5.4. USA* (compulsory)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
B.A.5.5. Brazil* (compulsory)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
B.A.5.6. Russian Federation* (compulsory)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
B.A.5.7. Middle Eastern countries* (compulsory)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
B.A.5.8. Other country (please specify below) (optional)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

B.A.6. If you wish, please motivate your answer (max. 2000 characters) (optional) (maximum 2000 characters OK; count: 0)

In China, the five cities/two regions pilot schemes should commence by 2014. However, these pilot schemes are not comparable to the EU ETS as: they are not yet all fully defined, can be based on carbon intensity targets, emission rights will be distributed for free, and the initial allocation is flexible varying according to revenue growth. The pilots are defined separately and do not apply at national level.

The Korean scheme has not yet entered into force. The detailed design and final target are still incomplete. Incumbents can use offsets up to a proposed limit of 10% of compliance obligation.

In New Zealand, there is a scheme in place since 2008 but the oil refinery is exempt.

The USA (except California), the Russian Federation and Middle Eastern Countries do not have any schemes comparable to the EU ETS. Brazil is considering sub national initiatives.

B.A.7. The ETS Directive requires the use of the Eurostat NACE classification (Statistical Classification of Economic Activities in the European Community^[1]) for the definition of sectors to be assessed for potential inclusion in the carbon leakage list. In your view, what should be the starting point for the analysis of sectors, taking into consideration both feasibility and the structure of European industry?

[1] http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-RA-07-015/EN/KS-RA-07-015-EN.PDF

* (compulsory)

- NACE-3
- NACE-4
- No opinion

B.A.8. If you wish, please motivate your answer (max. 1000 characters) (optional) (maximum 1000 characters OK; count: 0)

EUROSTAT data, reported under NACE code 19.20, does not accurately reflect EU Refining. In 2009 Wood Mackenzie concluded that some Eurostat data may be unreliable: some 1100 enterprises were classified whilst there are only 110 Refineries in the EU.

The NACE code 19.20 “of Refined Petroleum Product”, does not reflect the EU Refining trade intensity neither the GVA while it agglomerates poorly related activities such as

- manufacture of oil-based
- lubricating oils or greases, including from waste oil
- manufacture of products for the petrochemical industry and for the manufacture of road coverings.
- manufacture of peat briquettes

- manufacture of hard-coal and lignite fuel briquettes

Total requests the Commission to isolate the sole Refining activity to calculate the trade intensity that has drastically increased from 26 % in 2007 to 32 % in 2011. The average 31% trade intensity over 2009-2011 justifies on its own the Refining status of sectors exposed to carbon leakage.

B.A.9. In your view, the auctioning factor (an estimation concerning the share of allowances to be acquired if not on the carbon leakage list) should be:* (compulsory)

- Uniform for all sectors
- Sectorial at NACE-2 level,
- Sectorial at NACE-3 level,
- Sectorial at NACE-4 level,
- Other (please specify below)
- No opinion

B.A.10. If you wish, please motivate your answer (max. 1000 characters) (optional) (maximum 1000 characters OK; count: 0)

The auctioning factor should be calculated at the same level of aggregation as the overall carbon leakage assessment for a coherent assessment.

We encourage the Commission to use the end of the assessment period as the reference for its calculations. This is because the auctioning factor should reflect the number of allowances that the refining investors would need to buy for major investments if not deemed at risk of carbon leakage. As such investments take time, the end of the assessment period i.e. 2019 is more relevant than the present.

B.A.11. The current carbon leakage list, applied for free allocation in 2013 and 2014, is based on a carbon price of €30. In your view, is this an adequate carbon price to be used for the new carbon leakage list for the period 2015-2019?* (compulsory)

- Yes
- No
- No opinion

B.A.12. Please motivate your answer (max. 1000 characters) (optional) (maximum 1000 characters OK; count: 0)

The carbon leakage list reassessment should be based according to a forward-looking approach since carbon leakage also impacts future investment decisions. From a legal analysis, we do not think that the 2009 Directive (Article 10a (14)) allows any flexibility to use a different price from 30 euro. This price that has been set by the Commission in a long term perspective for the determination of the 2009 carbon leakage list should be used for the forthcoming 2014 carbon leakage review.

B.A.13. In your view, which is the most adequate CO2 emission factor that should be used for the calculation of indirect costs?* (compulsory)

- Average emission intensity of the whole electricity generation mix
- Average emission intensity of the fossil fuel electricity generation mix
- Emission intensity of marginal electricity generation in the current system
- No opinion

B.A.14. If you wish, please motivate your answer (max. 1000 characters) (optional) (maximum 1000 characters OK; count: 0)

Most of our internally used energy comes from fossil fuel electricity generation: in particular co-generation. Internal electricity generation from fossil fuel, both natural gas and liquid fuel, promotes energy integration in refineries.

B.A.15. On a scale from 1 to 5, where 1- the least, and 5- the most, what is your view on the following indicator for the qualitative assessment of the risk of carbon leakage:

possibility of individual installations within a sector to reduce emissions

- B.A.15.1. Measurable*** (compulsory)
- | | | | | | | |
|--|-----------------------|-----------------------|----------------------------------|-----------------------|-----------------------|-----------------------|
| | 1 | 2 | 3 | 4 | 5 | No opinion |
| | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

- B.A.15.2. Relevant* (compulsory)**
- B.A.15.3. Important* (compulsory)**

B.A.16. On a scale from 1 to 5, where 1- the least, and 5- the most, what is your view on the indicator for the qualitative assessment of the risk of carbon leakage listed below:

current and projected market characteristics

- | | 1 | 2 | 3 | 4 | 5 | No opinion |
|---|-----------------------|-----------------------|----------------------------------|----------------------------------|-----------------------|-----------------------|
| B.A.16.1. Measurable* (compulsory) | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| B.A.16.2. Relevant* (compulsory) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| B.A.16.3. Important* (compulsory) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |

B.A.17. On a scale from 1 to 5, where 1- the least, and 5- the most, what is your view on the indicator for the qualitative assessment of the risk of carbon leakage listed below:

profit margins

- | | 1 | 2 | 3 | 4 | 5 | No opinion |
|---|-----------------------|-----------------------|----------------------------------|-----------------------|----------------------------------|-----------------------|
| B.A.17.1. Measurable* (compulsory) | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| B.A.17.2. Relevant* (compulsory) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |
| B.A.17.3. Important* (compulsory) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> |

B.A.18. If you wish, please motivate your answer (max. 1000 characters) (optional) (maximum 1000 characters OK; count: 0)

(B15) Assessment of the possibility to reduce emissions by individual installation is not compatible with the required level-playing field within sectors. Therefore we do not see this as important and relevant indicator for the qualitative assessment.

(B16) Regarding current and projected market characteristics, market trends within a limited time period are possible and often used by Member Companies. They should therefore be taken into account for qualitative assessments.

(B17) Indicator margins must form an essential component of the qualitative assessments, as it gives an indication of industrial sectors capacity to cope with additional carbon costs. They are measurable for the Refining sector as a whole by estimation, on the basis of standard costs, provided that the data is based on a simple metric such as GVA.

B.A.19. On a scale from 1 to 5, where 1- the least, and 5- the most, what is your view on a framework for qualitative assessment, such as the one proposed in the study made for DG Climate Action and published on DG Climate website^[1]?

[1] http://ec.europa.eu/clima/policies/ets/cap/leakage/docs/carbon_leakage_list_en.pdf

	1	2	3	4	5	No opinion
B.A.19.1. Complete* (compulsory)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
B.A.19.2. Adequate* (compulsory)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
B.A.19.3. Comparable across sectors* (compulsory)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
B.A.19.4. Transparent* (compulsory)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
B.A.19.5. Well-structured* (compulsory)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
B.A.19.6. Clear and understandable* (compulsory)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

B.A.20. If you wish, please motivate your answer (max. 1000 characters):

(optional) (maximum 1000 characters OK; count: 0)

The methodology proposed in the study introduces a rigid approach with three eliminatory steps, which is not in line with the ETS Directive, as it introduces a hierarchy among the three qualitative criteria.

Total would rather call for a simultaneous analysis of all these indicators, which is essential to allow a comprehensive qualitative assessment. It is also important that all sectors have access to the qualitative assessment itself.

B.A.21. In the context of qualitative assessment, after considering the indicators listed in the study, do you consider that other indicators/variables should be taken into account when gathering basic evidence? Please explain (max. 2000 characters) (optional) (maximum 2000 characters; count: 0)

B.A.22. If you wish, please provide any general comments on the questionnaire (optional) (maximum 1000 characters OK; count: 0)

The NACE code 19.20 “of Refined Petroleum Product” does not reflect the EU Refining trade intensity while the NACE 19.20 agglomerates poorly related activities such as

- manufacture of oil-based
- lubricating oils or greases, including from waste oil
- manufacture of products for the petrochemical industry and for the manufacture of road coverings.
- manufacture of peat briquettes
- manufacture of hard-coal and lignite fuel briquettes

Total requests the Commission to isolate the sole Refining activity to calculate the trade intensity that has drastically increased from 26 % in 2007 to 32 % in 2011. The average 31% trade intensity over the period 2009-2011 justifies on its own the classification of the Refining activity on the list of the exposed sectors to carbon leakage.

The additional cost of CO2 emission related to GVA will also be actualized for the sole Refining activity.

Total would like to state that the methodology for assessing sectors at risk must be forward-looking: carbon leakage is not just a short-term phenomenon of production moving outside the EU; the longer term impact of investment and related-employment being favoured outside the EU is also important.

It is absolutely essential that once the Commission has established a draft list, the sectors concerned should have the opportunity to discuss the outcome of the assessment with the Commission before the list is communicated externally.