

## **Questions and Answers on draft Commission Decision on free allocation rules for the ETS**

### ***What is the subject matter of this draft Commission decision?***

The revised ETS Directive introduced the concept of an EU-wide, harmonised, approach for the allocation of allowances. It provides that for the third phase of the ETS (2013-2020) full auctioning shall be the rule for the power sector and that a transitional system for free allocation, based on benchmarks, shall be put in place for other sectors.

The present proposal sets out these rules for free allocation, including the benchmarks. This will be an important decision, with direct financial implications for industry, as allowances which companies need to cover their emissions and do not receive for free will have to be bought at market prices. It is also a milestone for climate policy, as it shows that the EU is pressing ahead with the implementation of its ambitious climate agenda, and that it is serious in striving for a low carbon economy where all sectors will need to contribute to emission reductions.

### ***In procedural terms, what are the next steps before the Commission may adopt the free allocation rules and the benchmarks?***

This implementing measure falls under a so-called comitology procedure. This means that the Commission proposal will be discussed with the Member States' experts, with a view to reaching a favourable opinion in the Climate Change Committee as soon as possible.

Following a favourable vote, there is a 3-month scrutiny period by the European Parliament and the Council. In case there is no rejection by the European Parliament and the Council by the end of the 3-month scrutiny period, the Commission will formally adopt the decision.

### ***Who has been consulted in the process of determining the free allocation rules and the benchmarks?***

The Commission has done an unprecedented amount of consultation for this file. Over the course of the work on this implementing measure over the last two years, the Commission has continuously consulted numerous stakeholders, such as industry (including all relevant EU-level sector associations directly affected by the ETS), NGOs, Member States' representatives, European Parliament representatives and academics.

In 2009 and 2010 the Commission held several large stakeholder meetings on the subject of benchmarking and allocation rules, which involved some 100 participants and gave stakeholders the opportunity to present and discuss their views. The presentations given, lists of participants, and conclusions of the workshops have been published on the Commission's website.

In addition, the Commission services have been in a constant bilateral dialogue with stakeholders since early 2009. To date more than 100 bilateral meetings with stakeholders were held in order to ensure in-depth consultation of their specific views.

### ***How does the methodology for allocating free allowances look like?***

In short, the allocation of allowances for an installation will in principle be calculated by multiplying a benchmark value with the historic production data of the installation, for each product falling under the definition of a product benchmark.

If an installation also produces products not covered by a product benchmark, additional allowances will be provided based on heat or fuel use for those products (so-called fallback approaches). For these installations it will also be possible to get allocation for process emissions (not related to energy use). Process emissions are already included in the product benchmarks, but not in the heat or fuel benchmarks.

There are thus four allocation methods – product benchmarks (estimated to cover around 75% of eligible emissions), and three fallback approaches: heat benchmark (estimated to cover around 20% of eligible emissions), fuel benchmark (estimated to cover around 5% of eligible emissions), and process emissions (estimated to cover less than 1% of eligible emissions).

A number of additional factors may be applied to the allocation formula, such as a carbon leakage factor, a linear reduction factor, and the cross-sectoral correction factor.

### ***Which products have been benchmarked and what were the criteria for their selection?***

The Commission proposal contains 53 product benchmarks, which are mostly products from activities that are explicitly mentioned in Annex I to the ETS Directive.

The selection of product benchmarks was made in view of having a maximum amount of emissions covered by a feasible number of product benchmarks. Criteria used were emissions, number of installations and homogeneity of products.

### ***How were the benchmark values derived?***

The large majority of product benchmarks are based on benchmark curves. These benchmark curves contain the ETS installations producing the respective product for which data was available and show the greenhouse gas intensity of each installation's production process leading to the respective product, i.e. greenhouse gas emissions in tonnes of CO<sub>2</sub>-equivalent per unit of produced product.

The data collection has been carried out by European industry associations under Commission guidance. This data has been verified by third-parties and further plausibility checks have been carried out.

The starting point for the benchmarks is the average performance of the 10% most efficient installations. In cases where only insufficient data for the construction of a benchmark curve was available although the development of a product benchmark appeared appropriate, the product benchmark is based on best available technology (BAT).

A so-called CO<sub>2</sub> weighted tonne (CWT) approach is foreseen for the refinery industry and part of the chemical industry due to the respective industries' highly complex production processes with numerous products and links between individual processes.

It should be noted that the amount of allowances to be given out for free is limited. The Commission will ensure that this maximum is not exceeded. Therefore, a uniform cross-sectoral correction factor shall be calculated and applied if necessary.

***How and when will the absolute number of allowances per installation be calculated?***

According to Article 11 (1) of the ETS Directive, the absolute number of allowances to be allocated per installation will be calculated by the Member States' competent authorities on the basis of the free allocation rules. The Member States should publish and submit these so-called national implementation measures to the Commission by 30 September 2011.

To ensure that the Member States apply the rules correctly, the Commission will check in 2011 their national implementing measures. In this context, the Commission may reject the lists of installations and their allocations as calculated by the Member States if it deems them not in line with the harmonised rules. In addition, the Commission may launch infringement procedures against any Member State deemed in breach of the harmonised rules.

To help the Member States in their implementation, the Commission will provide guidance papers along with the detailed allocation rules. In addition, a helpdesk has already been set up and dedicated workshops are foreseen.