

Stakeholders Consultation on structural options to strengthen the EU Emissions Trading System

CEMBUREAU Contribution

CEMBUREAU, the European Cement Association based in Brussels, is the representative organisation of the cement industry in Europe. Currently, its Full Members are the national cement industry associations and cement companies of the European Union (with the exception of Cyprus, Malta and Slovakia) plus Norway, Switzerland and Turkey. Croatia and Serbia are Associate Members of CEMBUREAU.

CEMBUREAU waives the confidentiality and legal privilege of this document and agrees that its comments can be disclosed (EU Transparency Register No.: 93987316076-63)

CEMBUREAU appreciates the opportunity to comment on the structural options and views reflected in the report "The State of European Carbon market in 2012" (the Report) and will be happy to participate in the dedicated stakeholders meetings to be held in 2013 in view of engaging in further dialogue with the Commission's services on this issue.

Executive Summary

CEMBUREAU understands the need to undertake structural changes to the ETS in order to strengthen it and believes that the 2012 carbon market report is only a first step towards a comprehensive assessment.

CEMBUREAU is strongly opposed to any proposal that would introduce changes in the third trading period and that would result in multiple reforms in the space of a few years.

None of the option presented in the report are real structural measures. All proposed options concentrate on the short term carbon price, thus addressing the consequence and not the root cause of the problem.

For post 2020, CEMBUREAU calls for an integrated approach which takes into account climate change, energy, industrial policy and resource efficiency. The fundamentals should be addressed in such a way that:

1. Predictability is ensured;
2. A level playing field from both a geographical and a sectoral point of view is ensured;
3. Long-term growth, jobs and investments in Europe are stimulated.

Other avenues than the one currently addressed in the report should be explored. This includes allowances supply management mechanisms as well as mechanisms aiming at creating a level playing field with importers.

A Stable, simple and reliable legal framework

CEMBUREAU outlined its view on the consultation within the context of the Consultation on the review of the auction time profile for the EU Emissions Trading System (EU-ETS, T21740/KC/CL/MHT on 15 October 2012). At that time, CEMBUREAU called upon the European Commission to engage in a reflection, with all stakeholders involved, on the functioning of the EU-ETS for the third trading period and beyond. In addition, CEMBUREAU highlighted that this should be undertaken from the perspective of an integrated approach which takes into account climate change, energy, industrial policy and resource efficiency considerations. Such an integrated approach would enhance the competitiveness of the European industry, which remains exposed to the risk of carbon leakage. A simple and consistent legal framework which provides stability over a longer period is the best instrument for all participants to ensure their continued commitment to the European economy.

CEMBUREAU believes that the carbon market report would have benefitted a real diagnostic of the situation as well as a clear view of the objective(s) pursued through the different measures

CEMBUREAU believes that the carbon market report which presents some review options for the EU ETS is a first step towards a comprehensive assessment on the structural measures needed to reshape the future EU Climate Change Policy. Nevertheless, it does not address long term and structural issues, such as the integration of Climate Change policy within other policies. CEMBUREAU hopes that this integration will be discussed in coordination with other DGs and with Member States in a transparent consultation process.

A coherent timeline, avoiding multiple reforms

Most of the options outlined in the document require a change in the EU Emissions Trading Directive (ETD). However it is not very clear to what extent the European Commission envisages changing the EU ETD during Phase III or whether such amendments will only be considered for the post-2020 period. This issue requires clarification by the Commission. CEMBUREAU believes that the weaknesses of the system need to be addressed, requiring sooner or later to fundamentally review the EU ETS and to amend the ETD accordingly. However, we strongly oppose multiple reforms that are rushed through over few years and that do not properly address the root cause of the problem. Indeed, considering that Phase IV (post-2020) will certainly require amending the ETD, there cannot be two reforms in the space of few years. Therefore there should be no change to the Directive during Phase III i.e. before 2020. The focus of the debate should instead be on the need for the European institutions to ensure long-term a stable, reliable and predictable legal framework, and an early start of a constructive discussion on phase IV is essential.

CEMBUREAU is concerned by any proposal that would introduce uncertainty for the third trading period. The essential parameters for the third trading period have been fixed in the EU ETD (linear reduction factor; benchmark methodology) and the executing legislation (carbon leakage list including impact assessment, number of allowances, elaboration of benchmarks per sector) provide the framework for industry to operate and plan investments. Any change to these essential parameters during the third trading period would again entail confusion and uncertainty for business. A one off change could be envisaged only in the light of the current exceptional circumstances, but as it stands is a short-term intervention that by definition may

require multiple recurrent interventions. Such an approach is not acceptable for industry and not desirable for Europe or the credibility of Emissions Trading.

Addressing root causes of the problem:

The Carbon Market Report structural reform options are essentially short-term measures that primarily aim at adjusting the supply or demand of allowances under EU ETS, based on today's expectations of the future. In a few years from now, these expectations might reveal to be as wrong and as outdated as those expectations that stakeholders had 2-3 years ago. The options proposed essentially aim to push carbon prices up, however without addressing the root cause and fundamental weaknesses of the ETS (i.e. the current low carbon prices is a consequence of the problem and not the problem itself). The core issue of EU ETS is the predefined supply of allowances, independent from economic reality. None of the structural reform options presented in the carbon market report would fully address the weaknesses of EU ETS, while they would certainly weaken the stability and predictability of the legal framework, further undermining the credibility of EU ETS. Such an approach would just amplify or repeat the negative impacts that can be observed today.

In conclusion, CEMBUREAU calls on the Commission to confirm that the suggested options will not affect the EU ETS Directive in Phase III as it understands that the options suggested relate to the post-2020 period. CEMBUREAU would be more than happy to engage in a reflection on the ETS design and consideration of any revised policy. Avenues to be explored in such a reflection and currently not covered by the Report include developing mechanisms allowing adjustment of the supply of allowances to economic development and mechanism aiming at creating a level playing field between EU producers and importers.

Comments on the proposed options

As requested in the consultation, this section provides detailed comments on the proposed *structural* measures for the EU-ETS included in the Report.

CEMBUREAU strongly recommends that the European Commission, the European Parliament and Council engage in a proper consultation in relation to a predictable, consistent and simple legal framework which provides industry with the legal certainty required. Long term investment planning in Europe requires legislation that ensures both legal certainty and predictability.

- **Option a: Increasing the EU reduction target to 30% in 2020**

This option would introduce changes in Phase III which, as outlined above, is not acceptable. It is essential that any further reduction in CO₂ emissions above the targets agreed should remain conditional upon the conclusion of an international agreement between all major GHG emitting countries. This should be undertaken with a view to establishing a global crediting scheme, characterised by a comparable methodology to measure GHG emission reductions and equivalent monitoring and reduction efforts.

If such conditions are not applied, CEMBUREAU cannot support a unilateral increase of the EU reduction target to 30% in 2020.

- **Option b: Retiring a number of allowances in phase 3**

Option b) would entail market interference, to which CEMBUREAU is opposed in principle. Short term intervention will not provide the long term structural change that is necessary to properly address supply and demand of allowances appropriate to the scale of both the environmental and industrial policy ambitions of the EU.

- **Option c: Early revision of the annual linear reduction factor**

These two options would introduce changes in Phase III which, as outlined above, is not acceptable. CEMBUREAU insists that no proposal should be rushed through without it being linked to the reflection on long-term measures relating to the functioning of the European carbon market. In addition, any proposal should be accompanied by an Impact Assessment, including competitiveness-proofing for the sectors concerned.

These measures change the framework for EU-ETS compliant industries and carbon market participants shortly after the entry into force of the new EU-ETS phase III rules, thereby undermining the credibility and predictability of the scheme.

Moreover, option c) would have consequences for the EU-ETS after 2020 which must be carefully assessed. In particular, companies' increased exposure to the risk of carbon leakage would need to be properly reviewed before any decision is taken to avoid damaging the competitiveness of European business.

- **Option d: Extension of the scope of the EU ETS to other sectors**

CEMBUREAU believes that climate change policy should include sectors other than those currently covered by the ETD but the instruments to be used to achieve this have to be tailor-made. It is understood and recognised by the cement industry that emissions trading in the EU-ETS is a key tool to achieve emission reductions at purportedly the lowest cost. This may well be the case for the sectors currently covered by the ETD. Other tools, however, need to be developed to cope with CO₂ emissions from other sectors such as transport, buildings (commercial and residential) and agriculture. It should be emphasised that a blind extension of the ETD to such sectors might lead to distortions that could jeopardise the operation of the EU-ETS altogether.

Against this background, it should be evaluated whether the inclusion of sectors under the EU-ETS with characteristics similar to energy intensive industry (e.g. waste incinerators) can be implemented without burdensome regulatory overlaps and lead to a level playing field between similar industries.

- **Option e: Limit access to international credits**

CEMBUREAU is opposed to any cap that would limit the conversion of credits from projects into allowances. These credits provide equal environmental benefit and may reduce the economic burden of emission reductions, as such no quantitative restriction should be placed on their use. Any limitation, including limitations on the ability of companies to use such credits to meet emission reduction targets, will be yet another restriction on the competitiveness of European industry, it makes no environmental sense, is inconsistent with the spirit and the letter of international agreements, will adversely affect the cost-effectiveness of the JI/CDM instruments and, furthermore, create a deterrent for parties envisaging such projects and would constitute a barrier to trade in a commodity market, i.e., the CO₂ market.

Furthermore, the decision at UNFCCC level (e.g. by the CDM Executive Board) should be accepted by Member State governments without any further bureaucratic hindrances (no double or multiple checking).

Further crediting systems may prove useful, such as the development, under Article 24a ETD, of domestic projects, as they will trigger further emission reductions.

- **Option f: Discretionary price management mechanisms**

This is to CEMBUREAU's view the only option which introduces a *real* structural measure. Nevertheless, CEMBUREAU would favour supply adjustment mechanisms over price management mechanisms. CEMBUREAU insists that "price management mechanisms" cannot be combined with a volume based mechanism. Such combination could lead to even more confusing effects
