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AFEP's Response to the Commission's Public consultation in preparation of an analytical report on the impact of the international climate negotiations on the situation of energy intensive sectors

The purpose of AFEP is to present the views of large French companies to the European Institutions and the French authorities, mainly with regard to the drafting of non-sectoral legislation, and including environmental issues.

AFEP represents at present more than 90 of the top private sector companies operating in France. The stock market value of the French listed companies which belong to AFEP amounted in 2009 to 930 billion euros, with more than 5,6 million employees, and a combined turnover of over 1500 billion euros.

The Presidents of AFEP's member companies are actively and directly involved in the definition of the main lines of economic and social policy to be submitted to the European and national authorities, as well as deciding which actions to carry out in the interest of the growth of companies in a market economy.

As a genuine force for generating new proposals, AFEP is also a prime forum for contacts between member firms and governmental authorities, which do not hesitate to consult the Association when they are considering plans for reform or regulations. Senior officials in the European Union and French administrations regularly take part in meetings organised at the headquarters of the associations, enabling direct and constructive dialogue to take place.

The President of AFEP is Maurice LEVY. Alexandre TESSIER is the Director General of the Association.

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Question 1: In your opinion, how have key indicators of the risk of carbon leakage (such as exposure to international trade, carbon prices etc.) for the EU energy intensive industry changed since the adoption of the climate change and energy package implementing the EU's unilateral 20% emission reduction target at the end of 2008?

AFEP member companies consider that the criteria and the process mentioned in Article 10a of the revised ETS Directive **should be maintained** as they provide for a quantitative analysis and a possible qualitative approach, which both appear sufficient at the moment. Indeed, no significant change has happened since the 24 December 2009 Commission Decision on the list of sectors and sub-sectors subject to a risk of carbon leakage.

However, AFEP wishes to underline that the calculation hypotheses used to assess whether the thresholds are met should not be different from those outlined in the December Commission decision (price of CO₂, percentage of auctioning in the absence of provisions dedicated to the risk of carbon leakage). The lack of clarity in the Directive has led to a very important legal uncertainty during the entire year preceding the Decision, and this debate should not happen again.

Furthermore, AFEP recalls that this list should be valid for 5 years **starting in 2013** (instead of 2010), since 2013 marks the beginning of the third period covered by the revised ETS Directive. The first three years of validity of the list correspond to the end of the second period, and the provisions of the revised ETS Directive are therefore not applicable. It would only be logical for this list to be valid from 1 January 2013 to 31 December 2017, and would at the same time send a clear signal towards investors within the EU by guaranteeing legal certainty.

Question 2: Do you think that the outcome of Copenhagen, including the Copenhagen Accord and its pledges by relevant competitors of European energy-intensive industry, will translate into additional greenhouse gas emission reductions sufficient to review the list of sectors deemed to be exposed to a significant risk of carbon leakage? If so, how and why?

At this stage, no official document has been released in order to assess the comparability of the efforts to reduce CO₂, on the basis of the pledges (*see enclosed document*) which have been sent to the UNFCCC Secretariat since 1 January 2010.

However, the pledges show that the EU is isolated in its effort to reduce GHG emissions between 1990 and 2020 by 20%. In this context, and in the absence of any legal binding status of the Copenhagen agreement, the current EU list of sectors/sub sectors subject to carbon leakage **should be maintained as it is**, with the possibility of an annual opt-in for those sectors which have established proof that they are subject to such a risk, given the new context they face. **AFEP wishes to underline that the conditions are not met to increase the reduction efforts to 30 %.**

Question 3: In your view, what would be a compelling new general economic or other factor which would require a change of the level of free allocation to sectors deemed to be exposed to a significant risk of carbon leakage?

The only condition that would make it relevant to consider a change in the level of free allowances would be to analyze whether the main countries - from both developed and emerging countries - in competition with the EU would adopt **similar constraints** on their emissions over the same period of time. It is important that an official "comparison analysis" be set up, based on a comparison of efforts over the same period of time and taking into account a convergence during this period of the CO₂ intensity.

Question 4: Do you consider free allocation of allowances as sufficient measure to address the risk of carbon leakage, or do you see a need for alternative or additional measures?

Free allocation is an important measure to address the risk of carbon leakage but the current studies on benchmarking clearly demonstrate that allocation is not free in reality. It is important to recall that, as the current ongoing work on benchmarks now stands, the majority of sectors subject to a risk of carbon leakage consider that **they will need to buy on the primary or secondary markets (at least) between 30 % and 40 % of the allowances** corresponding to their needs (according to the assessment of the main European sectoral federations), which represents a considerable cost.

Any provision resulting in a higher share of allowances having to be paid **would be unacceptable** considering the current trends of the EU economy. Considering the high level of allowances many sectors subject to carbon leakage will have to pay to deal with their expected production levels, a better way to address the risk of carbon leakage would be to apply the 10 % top installations' performance benchmarks **at a later stage than 2013**. Considering the current pace of the international negotiation, this rule of 10 % should be progressive and fully applied only in 2020.

The possibility of a **carbon inclusion mechanism** could also be taken into account but only once its feasibility has been demonstrated, on the basis of an **impact assessment study** on some key sectors. The launch of such a study could be suggested by the Commission in its June 2010 report, with a view to results being published by the end of 2010.

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Comparaison des engagements notifiés de réduction des émissions de GES des Parties à la COP 15

