Position Paper for the

"Consultation […] on a draft for a future amendment of the Commission Regulation (EU) No. 1031/2010 (Auctioning Regulation) including on the amount of auctioned allowances which should be back-loaded."

Klima und Nachhaltige Entwicklung

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Key statement: The proposals put forward on 25 July 2012 formally concern only minor amendments to the EU ETS. However, they pose the risk that over the long term there would be far greater scope to influence carbon prices. From the BDI's perspective, the proposals should therefore be opposed as they would continue to unsettle market players and would not be appropriate to help resolve structural problems in European climate and energy policy. In a coherent energy and climate policy the aim of the ETS should be the cost-efficient achievement of agreed targets; it should not be used as a fiscal instrument to increase government revenue.

Introduction:
In determining the cap for the 3rd trading period (TP) the EU Commission assumed sustained EU growth of > 2% per annum. The price expected for the 3rd TP was approx. 30 €/t. However, numerous factors, such as falling energy-intensive production due to the recession and the debt crisis in Europe, as well as the incoherence of existing policy instruments, meant that emissions in the second trading period remained far below the original forecast. Thus, for example, the amounts of carbon dioxide avoided by the strong development of renewables meant less allowances were needed. In addition, many companies have in part acquired significant quantities of CERs (CDM credits) – all within the legal boundaries. There is therefore a certain surplus of allowances which extends into the 3rd TP as a result of the banking possibility. The banking was deliberately made possible in order to avoid market turbulences during the transition from one TP to the next in an ex ante-system.
There is a surplus of allowances but there were – and still are – significant crisis-related economic losses. Moreover, due to the massive budget cuts for the 3rd TP as regards the transition from 2012 to 2013, it can be assumed that a not insignificant percentage of the surplus will again be reduced. The COM is expecting a cumulative surplus of some 2.4 billion allowances up to 2020. However, Deutsche Bank recently estimated the surplus up to 2020 at around 1.3 billion. Both estimates include the use of emissions credits (particularly CERs) explicitly envisaged in the EU Emissions Trading Directive. Alone the considerable difference between the two estimates reflects the unreliable nature of the data, based on which the COM is proposing measures. The current EUA price is approx. 7 – 8 €/t.

Against this background, the COM submitted a Decision on 25 July 2012 to amend the ETS Directive with which it is to be made clear that the COM has to ensure an orderly functioning of the market and, if necessary, to adapt the auctioning timetable. The supplement in Article 10 (4) of the Di-

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rective is to consist of one sentence: "The Commission shall, where appropriate, adapt the timetable for each period so as to ensure an orderly functioning of the market."

At the same time the draft on the future amendment of the COM Regulation 1031/2010 (Auctioning Regulation) was also submitted which is to be adopted via the comitology procedure. The amendment envisages that a not-yet-defined amounts of allowances from 2013, 2014 and 2015 will be shifted to 2020, possibly also to 2018 and 2019 (temporary set-aside, now referred to as "backloading"). In the Staff Working Document (SWD) also submitted on 25.07.12 varying backloading volumes are mentioned (400, 900, 1,200 million EUAs).

The proposal on the amendment to the Directive:
According to the COM, the aim of the proposed amendment to the Directive is greater legal certainty. However, vague legal terms are used in the wording which lead to the fear that this would, on the contrary, provide greater scope for market interventions. This could possibly even lead to intervention in the ETS whenever allowance prices are considered too low. For neither has "orderly functioning" been defined, nor has it been determined how "where appropriate" is to be interpreted. Trust in the ETS market would thus be undermined even further.

BDI Position:
For the reasons listed, the BDI rejects the COM's proposed amendment to Article 10 of the ETS Directive. The BDI is of the opinion that in order to achieve a sustainable solution the structural problems in European climate and energy policy should be addressed, in particular the lack of coordination between the various energy and climate policy instruments and targets. This cannot be achieved by a rapid amendment to the EU ETS without first conducting a thorough Impact Assessment.

The results of the medium-term structural improvements should be that

- particularly ETS, renewables development and energy efficiency enhancement will be integrated into a coherent energy and climate policy,
- the trust of companies – which want to invest – in an orderly functioning carbon market would be restored through long-term regulatory predictability and
- the competitiveness of ETS incumbents would not be impaired.

In the enclosed Position Paper of 22 May 2012 ("**Positioning of the BDI on the functioning and consistency of various instruments relevant to climate policy, in particular to the EU ETS")** the BDI addressed inter alia the "backloading" issue. We are opposed to politically motivated market intervention into the EU ETS, however are open to the debate on how energy and climate targets could be more efficiently coordinated in the future following the 3rd TP. The ongoing debt crisis makes it very clear that much more must be achieved than a mere reduction of emissions. Ambitious climate protection in the EU requires economically and socially sustainable European economies to keep pace with competition in an increasingly networked global economy.

Key elements of the BDI Position:

- The BDI wants to maintain an EU-wide harmonised and functioning EU ETS as a guarantee for cost-efficient climate protection while taking international climate protection efforts into account and supports the ETS as key instrument in energy and climate policy. Special attention should be paid to technically achievable targets for industries facing international competition, particularly energy-intensive industries.
- A global carbon market is the prerequisite for investment to be made in innovative technologies, plants and products where they can benefit climate most. German industry thus welcomes the announcement at the end of August 2012 that the European and Australian ET systems are to be linked.
- However, for the time being the linking of the systems means only a “one-way street” (only Australian companies can buy EUAs, whereas European companies have not yet any access to the Australian carbon market), and this “one-way street” would seem to be a further intervention with uncertain impacts in the EU ETS in just a short period of time.
- The ETS is not a price control system but expressly a quantity control system and functions just as planned. We are therefore opposed to “backloading” as politically motivated intervention in a functioning market. In the BDI’s view this would only unsettle the market even further and fuel speculation.
- The ETS Directive specifies the purpose of the ETS as the cost-effective achievement of the EU greenhouse gas reduction target. From today’s perspective the – 20 % target will be achieved by 2020.
- The EU ETS should also not be turned into a fiscal instrument for the Member States (e.g. in Germany the revenue generated from auctioning is to flow to the energy and climate fund (ECF)). It should be ensured that there is no intervention in the ETS for budgetary reasons of the Member States which would destabilise the ETS.
- Short-term intervention in the EU ETS would also result in further intensifying international opposition to the integration of aviation into the EU ETS and would in addition make the current international talks about finding a global solution more difficult. It could strengthen the doubts of third countries that the EU is really serious about emissions trading as a cost-efficient climate policy instrument.
- From the BDI perspective, setting an EU climate target for 2050 (incl. interim targets for 2030 and 2040) following in-depth dialogue particularly with those who have to achieve the targets and a sound impact assessment would be the most appropriate way to restore trust in the EU ETS.
- The BDI therefore vigorously calls for an in-depth debate on a coherent and consistent climate and energy policy embedded in the international context and consequently on structural improvements to the ETS for the fourth and following trading periods. In particular regulations

for Renewable Energies and Energy Efficiency should, at least over the medium term, be adapted to the ETS.

- Investment decisions in favour of certain technologies are oriented to the relevant legal and political requirements. Unclear and unpredictable political requirements lead to inappropriate economic decisions. Investment in new energy schemes and climate protection therefore requires dependable and consistent framework conditions, i.e. consistent instruments and targets whose interactions can be understood and thus be effectively coordinated.
- The BDI will play a constructive role in this debate.