

Questions for stakeholder consultation on Emission Trading System (ETS) post-2020 carbon leakage provisions

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0. Registration	
0.1 What is your profil? -single choice reply- (compulsory)	b) Trade association representing businesses
0.2 Please enter the name of your business/organisation/association etc. (maximum 500 characters): -open reply-(compulsory)	
Euromines, the European Association of Mining Industries, Metal Ores & Industrial Minerals (See more at: http://www.euromines.org/) Euromines is registered in the Transparency Register under the ID number 62722978644-95.	
0.3. Please enter your contact details (address, telephone, email): -open reply-(compulsory)	
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0.4 If relevant, please state if the sector/industry you represent falls under the scope of EU ETS: -single choice reply-(compulsory)	a) yes
0.5 The results of this stakeholder consultation will be published unless stated otherwise. Can we include your replies in the publication? -single choice reply-(compulsory)	1) yes
I. General: competitiveness, carbon leakage and present free allocation rules	
Question 1: Do you think that EU industry is able to further reduce greenhouse gas emissions towards 2020 and beyond, without reducing industrial production in the EU? -single choice reply-(compulsory)	b) no
If you wish, please motivate your answer (max. 1000 characters): -open reply-(optional)	
There is no one size fits all answer. On the contrary, a sectorial approach should prevail. While some sectors/subsectors might still have some margins to further reduce GHG, others don't because of physical constraints. This is the case for industrial activities whose emissions cannot be prevented or reduced without reducing the production simply because they are process emissions arising from the chemical transformation of the raw materials needed to produce the end-product. A good example is magnesia production where most of	

the emissions arise from decarbonation. Magnesite continues to be produced in Europe and has a high economic importance which justified the inclusion of magnesite in the new list of critical raw materials. In addition, EU's 2020 objective should be to increase industrial production (and not simply to avoid its reduction) in order to "reach as much as 20% share of GDP for manufacturing by 2020", as called upon in the COM "For a European Industrial Renaissance

Question 2: Do you think that the EU ETS helps the EU industry to become more energy efficient, and thus contributes to increasing the competitiveness of European industry in the long-term?

-single choice reply-(compulsory)

b) no

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

-open reply-(optional)

The EU ETS was not initially designed to foster energy-efficiency, though the latter can be one of the tools enabling to reduce GHG which is EU ETS' primary objective. For example, in the mining industry, one way to reduce GHG emissions is to switch, when technically feasible, energy sources - for example from coal & gas to gas only. Though this will lower GHG emissions, this may not result in energy efficiency gains as the use of natural gas or of any other energy source might require a similar or a higher amount of energy for the process at stake. Secondly, when it comes to energy efficiency, other instruments, in particular financial incentives or the use of BAT, are more effective to achieve that goal. Last but not least, regardless of any EU scheme, companies have an intrinsic interest in being energy efficient as (i) energy accounts for a substantial share of their costs and (ii) energy prices are comparatively higher today in Europe.

Question 3: Do you think the EU needs to provide special (transitional) measures to support EU industry covered by the EU ETS, in order to address potential competitiveness disadvantages vis-à-vis third countries with less ambitious climate policy? -single choice reply-

(compulsory)

a) yes

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

-open reply-(optional)

Competitive disadvantages EU industries are facing are real & take the form of comparatively higher production costs (including energy), highly-regulated and ever-evolving EU/national regulatory framework and sometimes untackled unfair trade practices. Thus support measures for EU ETS industries are a must to avoid carbon leakage (CL) as long as a similar scheme ensuring a level playing is not implemented at global level. Dropping them would amount to abandon EU's 2020 reindustrialisation objective. New types of support measures need to be implemented. A 1st one might be to earmark EU ETS generated revenues for investments in more efficient technologies and make them available to all industrial sectors. A 2nd type of measures must be designed for sectors, such as magnesite production, facing process emissions which cannot be reduced. Exempting them from the EU ETS while focusing on the implementation of BATs under the IED would be much more effective to foster sustainable production

Question 4: In your view, how adequate a policy instrument is free allocation and, in particular, increased free allocation for certain industrial sectors to address the risk of carbon leakage? -single choice reply-(compulsory)

a) very adequate

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

-open reply-(optional)

Free allocation has proved to be an efficient policy instrument to ensure, in the framework of climate policy, a level playing field at international level and mitigate the risk of carbon leakage. So far, there is no better mechanism than free allocation to address the CL risk. It is therefore essential (i) to preserve free allocation without reducing its scope as in the current foreseen terms and conditions as long as international competitors are not facing a similar cost burden and (ii) guarantee a stable CL mechanism over long periods of time so as to respect legal certainty.

Question 5: In your view, how does free allocation impact the incentives to innovate for reducing emissions? -single choice reply-
(compulsory)

a) it absolutely keeps the incentive

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

-open reply-(optional)

The use of benchmarks of emissions performance based on which allowances are allocated for free absolutely preserves the incentive to innovate. Sectors, such as the mining industry, that cannot pass on costs to consumers are inherently interested in making investments to reduce emissions. Expenses saved thanks to free allocation enable companies active in the mining sector to invest more in innovation, otherwise spent to buy allowances.

Question 6: In your view, is the administrative burden for companies to ensure the free allocation via the implementation of the benchmarking provisions proportionate to the objectives? -single choice reply-(compulsory)

c) quite exaggerated

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

-open reply-(optional)

The administrative burden ensuing from the implementation of the EU ETS (initial application, monitoring and reporting schemes, comparatively high compliance burden with the 'de minimis' rule for installations having 2 CL statuses) represents a significant red-tape for companies. As usual, it is much more difficult for SMEs to handle this burden due to more limited resources as well as for small industrial sub-sectors. A major mining iron ore producer whose activity is covered by a small NACE code (0710) reports that in his particular case, the internal company cost related to EU ETS (compliance and information gathering to ensure a fair treatment) is in the range of 1 million € annually. Administrative burden linked to EU ETS must also be put in perspective with the burden ensuing from other EU/national ever-increasing/changing regulatory requirements which oblige companies to devote more resources to activities other than their core business.

II. Options for post-2020

A. Strategic choices

Question 7: What share of the post-2020 allowance budget should be dedicated to carbon leakage and competitiveness purposes? -single choice reply-(compulsory)

d) there should be no limit to overall free allocation to industry

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

-open reply-(optional)

This is a strong and unanimous request from all Euromines' Members: "there should be no limit to overall free allocation to industry" that is at risk of CL as long as a global agreement imposing similar obligations on Europe's industrial competitors is not reached and implemented at international level. Such a measure ("no limit to overall free allocation") is needed to preserve EU's industry competitiveness. In that respect, it is important to stress that climate change is a global matter which requires coordinated efforts at global level. Of global GHG emissions, the EU represents less than 10% and its share is decreasing. Europe must rethink its strategy for attracting the other global major economies into a comparable binding scheme and draw the consequences at European level in order to ensure that, as long as such a scheme is not in place, the relevant measures are taken to guarantee a level playing field between European producers and their international competitors.

Question 8: Currently the European Commission implements the NER300 programme to provide from EU ETS specific support for large-scale demonstration of Carbon Capture Storage (CCS) projects and innovative renewable energy. 300 million allowances,

b) the same share as in Phase 3

representing ca. 2% of total phase 3 allowances, are dedicated for this purpose. What share of the post-2020 allowance budget should be dedicated to such innovation support? -single choice reply-(compulsory)

If you wish, please motivate your answer (max. 1000 characters):
-open reply-(optional)

CCS can become a key technology enabling to reduce GHG emissions. It can gain from technologies and expertise developed by the mining industry. However, CCS is not so far mature enough to be in the short term a 'silver bullet' process. Therefore, Euromines believes that, though adequate support for CCS should continue to be available, it is equally if not more important to ensure that funding opportunities are also made available to companies across the value chain for other type of technologies able to reduce GHG emissions "in a cost-effective and economically efficient manner", which is one of the key objective of EU ETS. Post-2020 allowances that support innovations should not impact on the amount of free allocations.

Question 9: At the moment, EU ETS rules do not contain a specific support scheme for industrial innovation and deployment of new low-carbon technologies (apart from support for CCS and renewables under the NER300). Do you think there should be such a financial support scheme? -single choice reply-(compulsory)

a) yes

If you wish, please motivate your answer (max. 1000 characters):
-open reply-(optional)

The scope of NER 300 is rather limited and does not directly benefit to all industrial sectors covered by EU ETS. This must be corrected. Revenues generated by EU ETS must be earmarked for investments made in Europe in new cost-efficient & low-carbon technologies. They should be made available for example, via a dedicated fund, to all stakeholders across the value chain covered by the EU ETS. However, in parallel of new funding opportunities for low-carbon technologies, the EU must implement an ambitious industrial policy to remedy structural deficiencies and boost investments in industrial activities.

Question 10: If innovative low carbon technologies in the industry are to be further supported, which could be possible sources of funding? -single choice reply-(compulsory)

b) It should be funded through a new dedicated scheme financed by the revenues from auctioning (e.g. x% of the auctioning revenues);

If you wish, please motivate your answer (max. 1000 characters):
-open reply-(optional)

Euromines is ready to support a new dedicated scheme at the conditions that: (i) revenues generated by the EU ETS are made available to all sectors/companies covered by the EU ETS (ii) financial support is granted to cost-effective and economically efficient technologies able to reduce GHG emissions (iii) the level of funding of such a scheme is never used as a pretext to distort the nature of the EU ETS, which is a market-based instrument.

Question 11: In your view, is there a need for additional measures beyond free allocation and EU-level innovation support to address the risk of carbon leakage for energy intensive sectors covered by the EU ETS, post-2020? -single choice reply-(compulsory)

a) yes

If you wish, please motivate your answer (max. 1000 characters):
-open reply-(optional)

Various measures are needed: 1/ EU ETS must ensure a stable legal framework as industry needs predictability to invest. Proposals

contradicting that objective must be ruled out. 2/ Free allocation for sectors at risk of CL should continue as long as a scheme similar to the EU ETS is not implemented at global level. 3/ The EC shall not set aside beforehand any option to bring EU trade partners to commit to an international climate agreement or to draw the consequences of a potential refusal to commit to it. 4/ Compensation measures must be flexible enough to enable industrial growth. In practice, free certificates must be granted when installations, fulfilling the relevant conditions, increase their production. 5/ A better solution is needed to tackle indirect carbon costs. State aids' measures are insufficient as discrepancies between MS exist. It is of utmost importance to improve: -the coordination between EU&National policies impacting indirect costs. -their financial compensation

II. Options for post-2020

B. Allocation modalities

Question 12: Currently there are two categories for sectors in terms of exposure to the risk of carbon leakage: sectors are either deemed to be exposed to such risk (the sectors on the carbon leakage list) or not (sectors not on the carbon leakage list). Should the system continue with two carbon leakage exposure groups or is some further differentiation needed? -single choice reply-(**compulsory**)

b) more carbon leakage categories should be defined

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

-open reply-(**optional**)

The distinction between sectors which are not deemed to be at risk of CL and sectors that are not makes sense. However, a sub-distinction deserves to be defined within the former for sectors, such as the mining industry, that are price-takers and cannot pass on indirect costs to consumers because they compete at global level. Beside free allocation, those sectors need to obtain full compensation for indirect CO2 costs. From a more general standpoint, it is likely also that more categories might require CL status in the future as long as non-EU competitors do not have to comply with a similar cost burden.

Question 13: Under the current system, exposure of sectors to the risk of carbon leakage is primarily measured by the share of 'carbon costs' in their gross value added (GVA) and by the intensity of trade with third countries. What carbon leakage criteria should be defined for the post-2020 period? -single choice reply-(**compulsory**)

a) the present criteria should remain

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

-open reply-(**optional**)

It is important to keep both the share of carbon costs in the GVA as well as the trade intensity as relevant criteria. With respect to the carbon cost/GVA criterion, proposal c) (the share of 'carbon costs' in the GVA should be maintained, but carbon costs should be taken into account to the extent that they can't be recuperated in product prices) should be further explored at the condition that both the trade intensity and qualitative assessment (see Q.15) are kept.

Question 14: What thresholds should be defined for the criteria measuring the risk of carbon leakage? -single choice reply-(**compulsory**)

a) the present threshold (30% for the stand-alone criteria and lower values for the combination of several criteria) should be maintained

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

-open reply-(**optional**)

Question 15: In the current system, there is a possibility to assess the exposure of sectors to the risk of carbon leakage also based on qualitative criteria (abatement potential, market characteristics and profit margins). Do you think that similar qualitative criteria should be maintained to complement the quantitative criteria? -single choice reply-(**compulsory**)

a) yes, it is important to maintain a certain level of discretion in the system for justified cases

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

-open reply-(**optional**)

The qualitative assessment must be kept as it enables to include sectors at significant risk of CL which would otherwise fail to qualify under the sole quantitative criteria for various reasons such as the fact that NACE codes – primarily used for statistical purposes – do not accurately reflect the cost structure of the industry.

Question 16: Currently, the list of sectors exposed to the risk of carbon leakage is valid for five years. What should be the validity of the list for the post-2020? -single choice reply-(**compulsory**)

d) in line with the duration of ETS Phase 4

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

-open reply-(**optional**)

This would improve legal certainty and consistency.

Question 17: Currently benchmarks are set to the average greenhouse gas emission performance of the 10% best performing installations in the EU for a given product. What adaptations of benchmarks for 2021 onwards should be considered, if any? -single choice reply-(**compulsory**)

a) the present approach of average of the 10% most efficient installations should remain

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

-open reply-(**optional**)

Though Euromines supports proposal a), it would be appropriate to remedy to inconsistencies of the current system. For example, for small sectors for which there are less than 10 installations in Europe, no benchmark is derived and the fall-back option is less favorable. This rule indirectly discriminates against the relevant companies active in that sector, which are subject to a less favorable treatment. Europe's major iron ore producer is facing such a situation. To overcome such discrepancy, benchmarks for small sectors only could be global.

Question 18: Should the benchmarks be revised to reflect the technological state of the art? -single choice reply-(**compulsory**)

b) no

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

-open reply-(**optional**)

No, because that will add further legal uncertainty. This negative reply is all the more true for sectors covered by directive based on which Best Available Techniques (BAT) are set, such as the Mining Waste Directive or the Industrial Emissions Directive. Those are the right instruments under which BAT and emerging techniques should be discussed and agreed. To preserve legal certainty, benchmarks should be valid during an entire EU ETS phase.

Question 19: Currently, historical production data are used to determine the allocation due to each installation. Operators had the possibility

b) yes, production levels in 2016-2018 should be the basis for post 2020 (Phase 4) allocation

to choose between 2005-2008 or 2009-2010 as basis years. Should the production data used to calculate allocations in Phase 4 (post 2020) be updated? -single choice reply-(compulsory)

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

-open reply-(optional)

As a matter of principle, data used to determine allocations for a given period must be up to date. This therefore tends to support taking the period 2016-2018 as a basis to determine phase 4 allocations. However, it is equally important to bear in mind that historic levels, even very recent, tell little about future prospects. Therefore, the method to be used for phase 4 allocations should provide for sufficient flexibility so as to allow, if production increases during this period, to grant consequently more allowances, so as to avoid in practice placing a ceiling on investment in new industrial activities.

Question 20: Is there a case for any deviations from general harmonised allocation rules, and what would be the risks involved? -single choice reply-(compulsory)

b) yes, there should be deviations with higher allowances for installations facing specific hardships

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

-open reply-(optional)

Deviations should remain exceptional but not be ruled out prima facie. Deviations can indeed be necessary where specific hardships faced by installations are partly the consequence of the EU ETS related costs. In addition, Euromines believes that: - simplified EU ETS must be considered for SMEs; - fit-for-purpose solutions, in particular their exemption from the EU ETS, must be found for sectors, such as magnesia production, facing process emissions which cannot be reduced. Focusing on the implementation of BAT via the IED process would be a much more effective driver to further foster sustainable production of activities with process emissions.

Question 21: Should there be a harmonised EU-wide compensation scheme for indirect costs, i.e. for increases in electricity costs resulting from the ETS? -single choice reply-(compulsory)

d) yes, in the form of financial compensation at EU-level

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

-open reply-(optional)

Compensation solely based on state aids creates distortion as compensation measures vary from one Member States to another. As a result, similar indirect costs are compensated differently across Europe. Such discrimination must be tackled. Measures, independent from MS financial capacity, need to be taken to fully compensate CO2 price in energy prices. We therefore tend to support the principle of compensation at EU level, either in the form of financial compensation (d) or in the form of additional free allocation (d). An impact assessment might help determining the most adequate options to compensate indirect costs at EU level.

II. Options for post-2020

C. Innovation support

To implement a small-scale prototype -single choice reply-(compulsory) Less important

At the conception stage -single choice reply-(compulsory) Least important

To implement a large-scale pilot -single choice reply-(compulsory) Most important

At the commercialisation stage -single choice reply-(compulsory) Important

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

-open reply-(optional)

Question 23: Should the allowances funding low-carbon innovation support come from the Member States' auction budgets or from free allocation? -single choice reply-(compulsory)

a) from the Member States' auction budgets

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

-open reply-(optional)

Revenues from Member States auctioning must be earmarked at EU level for investments made in Europe in new cost-efficient & low-carbon technologies. They should be made available to all stakeholders across the value chain covered by the EU ETS.

Section II:

D. Other issues

Question 24: Are there any other issues you would like to raise? -open reply-(optional)

Euromines welcomes the early opportunity offered to stakeholders to comment on options for the post 2020 CL framework. The mining industry would like to stress the need for the EU to opt for an integrated (and not only sectorial) approach to prevent CL as this risk is amplified by many other parameters: - energy prices much higher in Europe than the ones of our main competitors; - the lack of a predictable legal framework in the EU as many, sometimes overlapping, regulatory instruments applicable to industrial activities are under a constant revision process; - The need to remedy the qualitatively weak competitiveness proofing made in impact assessments and to effectively implement in the future recommendations the statement recalled in the recent Council Conclusions according to which: "Industrial competitiveness concerns should be systematically mainstreamed across all EU policy areas and be part of impact assessments in view of getting a stronger industrial base for our economy."