

Methodological choices for determining the list of sectors and subsectors deemed exposed to a significant risk of carbon leakage, for the period 2021-2030

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In 2014, the European Council provided [strategic guidance](#) regarding the 2030 framework for climate and energy and acknowledged the importance of the [EU Emission Trading System](#) (EU ETS) as the main instrument to achieve the emission reduction targets of the EU. The European leaders determined that free allocation to industry will continue after 2020 as long as no comparable efforts are undertaken in other major economies.

[Free allocation](#) is thus a transitional measure foreseen to address the risk of carbon leakage which is defined as the risk of an increase in global emissions following relocation of industry due to climate policies to third countries with no/limited carbon constraints.

The Commission with support of Member States will carry out an assessment of all relevant industry to determine the level of exposure and thereafter draw up a so-called carbon leakage list. Sectors and subsectors deemed to be most exposed to this risk receive a higher level of free allocation.

The framework for the carbon leakage assessment will be determined by the ETS Directive including the criteria and thresholds for the assessments and the types of assessments possible with respective conditions. These issues are thus not discussed in the present questionnaire, which instead focuses on a number of aspects that have to be clarified before the exercise can be undertaken. The outstanding issues are specific methodological choices: first for each of the two parameters of the assessment criteria i.e. emission intensity and trade intensity, and second, on operationalising the different types of assessments.

In this context, this consultation seeks the views of the stakeholders on the issues that remain to be decided before the Commission can determine the carbon leakage list for the period 2021 to 2030. The results of [this consultation](#) will be analysed, published and incorporated in the Impact Assessment that will accompany the decision on the carbon leakage list.

Wherever possible, it would be useful if stakeholders provided references to concrete evidence and facts in support of their answers.

Please note that the process of revising the ETS Directive is on-going and might, depending on the final outcome, impact the questions presented in this questionnaire.

General information about respondent

* Please choose your profile:

Trade association representing businesses

* Please state which sector you are part of or represent:

100 character(s) maximum

AmCham EU is a cross-sectoral body gathering over 150 companies from all sectors of the economy.

* Please give your name if replying as an individual/private person, otherwise give the name of your organisation:

Text of 3 to 200 characters will be accepted

American Chamber of Commerce to the European Union (AmCham EU)

If your organisation is registered in the [Transparency Register](#), please give your Register ID number:

20 character(s) maximum

5265780509-97

If your organisation is not registered, you can [register now](#). Please note that contributions from respondents who choose not to register will be processed as a separate category 'non-registered organisations/business'.

Please enter your contact details (address, email):

500 character(s) maximum

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* Please give your country of residence/establishment:

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* Please indicate your preference for the publication of your response on the Commission's website: (Please note that regardless of the option chosen, your contribution may be subject to a request for access to documents under [Regulation 1049/2001](#) on public access to European Parliament, Council and Commission documents. In this case the request will be assessed against the conditions set out in the Regulation and in accordance with applicable [data protection rules](#).)



Under the name given:

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I. General questions

This section includes general questions related to the carbon leakage list and free allocation.

Phase 3 of the EU Emission Trading System covers the period from 2013 until 2020 included and is governed by harmonised [free allocation rules](#) and an [EU-wide limit on total emissions](#), as well as specific rules on addressing the risk of carbon leakage. What is your perception of the evolution of the risk of carbon leakage since the beginning of phase 3 of the EU Emission Trading System in 2013?

- Increased risk
- Decreased risk
- No significant change
- I don't know

If you wish, please motivate your answer:

1000 character(s) maximum

In a world of asymmetric climate policies, carbon leakage remains a risk that cannot be underestimated, particularly the risk of investment leakage which may be less visible but equally damaging.

Despite the growing number of jurisdictions implementing carbon pricing mechanisms, the vast majority of emissions are not covered yet as reported by the World Bank in 2017 and the EU ETS remains the largest operating scheme worldwide.

Over the period, the effectiveness of the protection against carbon leakage has been undermined by the significant and continuous increase of the cross-sectoral correction factor (CSCF), rising from 10% in 2013 to 17% in 2017 and up to 22% in 2020, penalising even the best performers. European industries are facing an increased competition pressure, exposing them to the risk of competition distortions.

The carbon leakage list and the higher level of free allocation granted to relevant sectors and sub-sectors because of it, has been in place throughout phase 3 of the ETS. Please share your views on your administrative experience with the system, in particular whether you see scope for reducing administrative burden and/or simplification:

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Considering the significant impact of the CSCF on the industry, the clarification of the calculation rules prior to phase IV and the development of clear guidance as well as a stringent monitoring of compilation of data at national level is strongly encouraged. This will avoid the confusion and the uncertainty generated by the Court of Justice ruling on the calculation of the CSCF in 2016.

The EU registry, which is a key tool to ensure the proper management of the system, could be more user-friendly. For instance, it could allow users to access a consolidated overview of the number of allowances allocated per company when several installations are covered by the EU ETS.

II. Methodological choices

Please bear in mind that the main elements and criteria of the assessment to determine the carbon leakage list are foreseen in the provisions of the [EU ETS Directive](#). There are only certain methodological aspects left to be decided and they are the subject of this part of the consultation. In order to maximise the impact of the views expressed, you are therefore strongly encouraged to address the questions below while keeping in mind the aspects which are already decided on, as explained in the introductory part of this consultation.

The emission intensity of a sector is part of the criteria for assessing its exposure to carbon leakage risk. The emission intensity takes into account both direct and indirect emissions. To calculate the indirect emissions (emissions linked to the electricity consumed by the sector), electricity consumption needs to be converted into emissions by using an electricity emission factor representing the emission intensity of the electricity generation. Please share your views on the electricity emission factor to be used (In this case, electricity emission factors can either refer to average values or marginal values. The average value refers to the amount of emissions relative to the electricity produced taking into account all the different emission intensities (linked to fuel used). The marginal value reflects the incremental change in CO₂ emissions linked to the last unit of electricity consumed and differs from the average values due to the heterogeneous structure of the electricity production (certain power plants producing base load and others peak load.):

- average value – EU average emission intensity derived from electricity generated from the total fuel mix that includes all sources of energy in Europe
- average value – EU average emission intensity derived from electricity generated from fossil fuel
- marginal value – marginal emission factor for the electricity generation determined by the specific CO₂ emissions of the 'last kWh electricity consumed'

If you wish, please motivate your answer:

1000 character(s) maximum

In most European countries, the electricity price is set by the marginal production cost; therefore this factor is the most relevant when it comes to assessing CO₂ costs and their impact on industry competitiveness. An average emission factor is only a raw estimate which does not adequately reflect price setting mechanisms.

In your view, how would you assess international climate policy and action in 2018 compared to 2013, in particular in light of the Paris Agreement?

- Significant progress
- Some progress
- No progress
- I don't know

Assessing the exposure of a sector to the risk of carbon leakage includes calculating the trade intensity of the sector. In this context, it would be useful to have a reflection on whether climate policies in countries outside the EU can be considered comparable with the EU ETS at this stage since carbon leakage can by definition only occur when production moves to areas with less strict climate policies than the EU. Do you consider that countries or regions outside the EU have climate/energy policies that can be considered comparable with the EU ETS?

Please explain following the guiding sub-questions below.

1. Which countries or regions do you consider to have comparable policies to the EU ETS?
2. Which elements of climate/energy policies worldwide should be considered in determining the comparability to the EU ETS?
3. Which elements of climate/energy policies worldwide would you find more or less ambitious than the EU ETS?
4. What do you think is the optimal way to reflect developments in climate policies in countries and regions outside of the EU in view of the facilitative dialogue and the global stocktake mechanisms foreseen under the Paris Agreement, as well as other relevant initiatives (e.g Action agenda)?

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In recent years, considerable progress has been made; under the Paris Agreement, over 90 countries have announced their intention to put a price on carbon to reduce their emissions, while the creation of a Chinese national ETS has been hailed as a game changer. However, building a functioning ETS requires time: the EU ETS has gone through a 'trial and error' phase for more than ten years. Even if China and other countries are able to 'leapfrog' the EU by building on its experiences, the newly announced schemes are unlikely to be fully operational for years. Additionally, the Chinese scheme is hardly comparable with the EU ETS in terms of transparency, reporting and coverage. For instance, it will only apply to eight sectors and 20 sub-sectors, whereas the EU covers 160 sectors and remains the largest existing scheme in the world. In addition to the EU ETS, the EU has established a comprehensive and unique set of rules (e.g. the Effort Sharing Regulation, the Energy Efficiency Directive, 14 national carbon taxes).

International climate policies must be weighed up against the following elements:

- Number and list of sectors covered by the scheme;
- Absolute volume and relative share of emissions covered;
- Duration of trading period;
- Effort required (e.g. decrease of the cap for an ETS, benchmarks);
- Compensation given to the industry (e.g. free allowances, indirect cost compensation);
- Monitoring, reporting and verification requirements.

Taking these parameters into consideration, we believe that only the Swiss ETS and potentially the California scheme could be considered as comparable.

When it comes to the stock-taking exercise, a robust monitoring, reporting and verification (MRV) system should be put in place to ensure transparency and accountability.

In your view, how would you assess the improvement of carbon emission intensities in production in manufacturing industry, in the EU compared to worldwide, including as regards the evolution of low-carbon investments and innovation?

- More progress in the EU compared to worldwide
- Less progress in the EU compared to worldwide
- Same level of progress

I don't know

Please explain:

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The EU ETS Directive foresees the possibility for qualitative assessments of sectors in view of determining their exposure to the risk of carbon leakage. The criteria and the eligibility for these assessments are laid down in [the Directive](#). In order to ensure that such assessments are as robust, fair, transparent and equitable as the default assessments (where quantitative criteria and thresholds clearly indicate which sectors should be included in the carbon leakage list), what would you consider a good approach in terms of process? Please explain:

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AmCham EU members support the development of a fair, transparent and structured approach. Sectors need visibility on the process to prepare accordingly and, as a result, will require revised guidelines at an early stage of the process. Although the legal deadline for the Commission to come up with the carbon leakage list is 31 December 2019, certainty about the free allowance allocation should be given much earlier. EU climate policy should not generate legal uncertainty and be perceived as an investment risk and a process which ensures a timely adoption of the list would be welcomed by business.

In addition to the criteria already laid down in the directive, we strongly encourage the Commission to further consider how to factor in the inability of a sector to pass-through CO2 costs, as this reflects the true costs burden. To prevent the risk of competition distortion between industries, a value chain analysis should be carried out when upstream sectors do not receive free allowances, to prevent additional costs for the downstream sectors.

Which parameters would you consider as most relevant to assess the ability of a sector to pass through carbon costs into product prices beyond trade intensity? Please explain:

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Cost pass-through is essential when assessing the risk of carbon leakage. It has been extensively mentioned in the impact assessment carried out prior to the release of the Commission's proposal.

As reflected in the impact assessment, the cost pass-through depends on well-known parameters, including:

- Exposure to international trade: a large number of importing companies and aggressive behaviours on the market will lead to a lower cost pass-through rate;
- Elasticity of demand and supply: the more elastic demand, the lower the cost pass-through rate,
- Market characteristics, particularly size of profit margins: high margins will result in a lower cost pass-through rate, as the companies will be able to absorb some of the cost shocks.

The EU ETS Directive foresees the possibility to assess products and sub-sectors rather than sectors in certain cases. The criteria, eligibility and level of assessment are laid down in [the Directive](#). In such cases of lower levels of disaggregation, there is no official publicly available data. In order to ensure that such assessments are as robust, fair, transparent and equitable as the default quantitative assessments, what would you consider as a good approach for assessment of products and sub-sectors? Please explain:

2000 character(s) maximum

Cooperation with industry sector federations, supported by independent consultants, has proven to be a reliable and robust approach, which will not generate additional sector or sub-sector hurdles.

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