

# Assumptions to be used for new EU ETS carbon leakage list 2015-2019

<b>Registration</b>	
What is your profile? -single choice reply-(compulsory)	Trade association representing businesses
Please enter the name of your business/organisation/association etc: -open reply-(compulsory)	
AFEP (French Association of Large Companies) and Cercle de l'industrie. 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. In 2013, Afep represents more than 100 of the top private sector companies operating in France. Cercle de l'Industrie brings together the Chairmen of 34 French large businesses in all industrial sectors and policy-makers.	
Please enter your contact details (address, telephone, email): -open reply-(compulsory)	
AFEP : www.afep.com (Transparency register identification number: 953933297-85) François-Nicolas Boquet - Environment – Energy Director 11, avenue Delcassé, 75008 Paris, France E-mail: environnement@afep.com Tel: +33 1 43 59 71 40 Justine Richard - European Affairs Deputy Director 4-6, rue Belliard, 1040 Bruxelles, Belgique E-mail: justine.richard@afep.be Tel: +32 2 227 57 25 Cercle de l'Industrie : www.cercleindustrie.eu (Transparency register identification number: 60974102057-03) Aurélie Portalier, Representative in Brussels, 8, avenue des Arts, 1210 Bruxelles, Belgique E-mail : aurelie.portalier@cercleindustrie.eu	
If relevant, please state if the sector/industry you represent falls under the scope of the EU ETS: -single choice reply-(compulsory)	Yes
Please explain why the question above is not relevant in your case (max 500 characters) -open reply-(optional)	
If your sector/industry falls under the scope of EU ETS, does the sector/company you represent receive free allocation under the harmonised allocation rules? -single choice reply-(compulsory)	Yes
Please explain why the question above is not relevant in your case (max. 500 characters) -open reply-(optional)	
<b>I. General: competitiveness, carbon leakage and the 2009-2014 carbon leakage list</b>	
As stipulated in the ETS Directive, the aim of the EU Emission Trading System is to promote reductions of greenhouse gas emissions in the most cost-effective and economically efficient manner. To address the risk that, for reasons of costs related to climate policies, relocation of companies to areas which have laxer constraints on greenhouse gas emissions could lead to an increase of carbon dioxide emissions, Commission Decision 2010/2/EU has established the list of sectors and subsectors which are deemed to be exposed to a significant risk of carbon leakage. This list is valid from 2009 to 2014 included, and is incorporated in the determination of free allocation for 2013 and 2014.  In your view, how has the risk of carbon leakage evolved since the adoption of the first carbon leakage list in 2009: -single choice reply-(compulsory)	Increased slightly
If you wish, please motivate your answer (max. 1000 characters) -open reply-(optional)	
As long as there is no international agreement on climate change, there will be significant differences among national regulations. Thus a	

risk of carbon leakage (CL) will remain for EU companies bearing the highest carbon cost. The risk of carbon leakage has increased for most European companies, as a result of the cumulative impact of the economic situation and environmental legislation. ETS operators have to deal with the start of its 3rd phase (the volume of available free EUA allocations will gradually be reduced) while operators are still recovering from the economic crisis (gross added values in Europe are stagnating or decreasing, energy prices are rising compared to competing economic zones). The risk of CL should not only be understood as a risk of relocating EU-located activities outside the EU. It also covers the case of missed investments within the EU which are ultimately directed to other regions of the world partly or wholly because of the EU climate and energy policies

In your view, how adequate policy instruments are free allocation and the increased allocation for sectors on the carbon leakage list in particular in relation to the risk of carbon leakage? -single choice reply-(compulsory)

Quite adequate

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

1. The instruments currently used could be complemented, in order to reduce competitiveness distortions: - The Commission should continue to differentiate further, in the tools used for the ETS and in the effort intensity, ETS actors who are able to pass the carbon constraint in the price of their products (and who represent more than 70% of ETS emissions), and those who have to absorb this cost and reduce their margin due to international competition. - A better and harmonised compensation of indirect emissions for industrial sectors should be implemented at EU level. 2. The current benchmarks of the EU ETS, giving free allowances based on the first 10 % of best GHG emissions per unit of output, are the most requiring provisions in the world in terms of GHG efforts. The application of the 1.74 %/year coefficient to reduce the cap of allowances will continue to widen the gap between the EU ETS and the other tools across the world and will increase the EU competitiveness disadvantage.

Currently 154 sectors and 16 sub-sectors are on the carbon leakage list valid for 2009-2014. In your view, how adequate is the coverage of sectors and sub-sectors in the current carbon leakage list? -single choice reply-(compulsory)

The carbon leakage list is too short

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

- Some sectors outside the CL list consider they face disadvantages compared to their international competitors and therefore consider they should be subject to further qualitative analysis in order to prove they should be included in the list. - It should be reminded that the B5 question should rather have asked whether the current CL list is "relevant" (instead of "short" or "long").

## II. Methodology for new carbon leakage list 2015-2019: options to be discussed in the Impact Assessment

In your view, is there an increase of the ambition of domestic climate policies undertaken in countries outside the EU/EEA since 2009? -single choice reply-(compulsory)

No change since 2009

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

Article 10(a)18 lays down that 2 criteria: (a) the firm commitment of third countries, "representing a decisive share of global production of products in sectors or subsectors deemed to be at risk of carbon leakage", to reducing greenhouse gas emissions must be "comparable" to that of the Community and within the same time-frame; and (b) the carbon efficiency of installations in these countries must be "comparable" to that of the Community. Companies consider that the word "ambition" is far too vague. Indeed, if new countries have shown a political will in order to better tackle climate change, hardly any has implemented operational provisions with the same level of ambition and with credible enforcement rules. Some countries (Canada, Japan) have even abandoned their Kyoto Protocol commitments or have failed to reach it without any consequence for them. Companies ask for a real comparability of targets, tools, enforcement tools, carbon costs and competition characteristics.

Australia -single choice reply-(compulsory)

Not comparable to the ETS

Switzerland -single choice reply-(compulsory)

Partially comparable to the ETS

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

Australian climate policy is not comparable to EU policy in terms of mechanism and timing; it is a two-stage approach with a fixed price

period from 1 July 2012 to 1 July 2014 and an ETS from 1 July 2014, and a robust program supporting industry (“Jobs and Competitiveness Program”). Moreover, the benchmarks used in the Australian system are based on the 50% operators that are the most efficient, which is far less restrictive than the 10% rate used in the EU ETS. Swiss climate targets and the ETS implemented this year are close to the EU policy. However, the Swiss carbon market is 240 times smaller than that of the EU and does not include the major competitors for European sectors.

China -single choice reply-(compulsory)	Not comparable to the ETS
South Korea -single choice reply-(compulsory)	Not comparable to the ETS
New Zealand -single choice reply-(compulsory)	Not comparable to the ETS
USA -single choice reply-(compulsory)	Not comparable to the ETS
Brazil -single choice reply-(compulsory)	Not comparable to the ETS
Russian Federation -single choice reply-(compulsory)	Not comparable to the ETS
Middle Eastern countries -single choice reply-(compulsory)	Not comparable to the ETS
Other country (please specify below) -single choice reply-(optional)	

If you wish, please motivate your answer (max. 2000 characters) -open reply-(optional)

- In China, seven “pilot” trading schemes in provinces and cities have recently been established. - In the USA, the Environmental Protection Agency (EPA) will adopt rules for power generation plants by 2015, thus creating a substantial inequality with the EU system. Therefore these mechanisms are not comparable to the EU ETS which is legally binding. - As an international agreement on climate change is the most appropriate solution to reduce the risk of CL, the Commission should first look at the comparability of Parties’ pledges in the context of UNFCCC. - In New Zealand, the scope of the NZ ETS is: forest (since 2008), combustion and industrial processes and transport based on oil (since 2010) and waste (since 2013). It is therefore different from the EU ETS but it reflects the specificities of the country’s emissions. The country decided not to join Kyoto 2 phase. - In Korea, rules are not known on: the cap, the allocation model, and the industrial competitiveness provisions.

The ETS Directive requires the use of the Eurostat NACE classification (Statistical Classification of Economic Activities in the European Community <sup>[1]</sup> ) for the definition of sectors to be assessed for potential inclusion in the carbon leakage list. In your view, what should be the starting point for the analysis of sectors, taking into consideration both feasibility and the structure of European industry?	NACE-4
<b>[1]</b> <a href="http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-RA-07-015/EN/KS-RA-07-015-EN.PDF">http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-RA-07-015/EN/KS-RA-07-015-EN.PDF</a> -single choice reply-(compulsory)	

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

NACE-4 code should be used as a starting point and any other sub-sector or sector definition (like PRODCOM codes) could be used if a more detailed analysis is needed. NACE-4 classification itself describes already well sub-sectors corresponding to each category.

In your view, the auctioning factor (an estimation concerning the share of allowances to be acquired if not on the carbon leakage list) should be: -single choice reply-(compulsory)	Uniform for all sectors
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If you wish, please motivate your answer (max. 1000 characters) -open reply-(optional)

The auctioning factor should not be modified compared to the value used for the identification of the first list; it should be set at 0.75. This value should be applied to all sectors in order to ensure the technical feasibility of this measure and a level-playing field for all sectors. On this issue, companies would like to underline the lack of transparency on part of the Commission or of the consortium of consultants,

as the data used is not available for economic actors. Minimum requirements are needed in order to enable all actors to access these data and to conduct all necessary analyses as a way to ensure acceptability.

The current carbon leakage list, applied for free allocation in 2013 and 2014, is based on a carbon price of €30. In your view, is this an adequate carbon price to be used for the new carbon leakage list for the period 2015-2019? -single choice reply-(compulsory)	Yes
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Please motivate your answer (max. 1000 characters) -open reply-(optional)

The reference carbon price (30 €) is part of the impact assessment of the climate-energy package, as outlined in Art 10a(14) of the ETS Directive and Rec. 10 of the 2009 CL Decision. It should not be modified because: 1.The ETS Directive gives a mandate to the COM for determining the list of sectors on the basis of criteria specified in §14-17, thus including the carbon price mentioned in §14; but it does not give any mandate to the COM to modify these criteria or set up the carbon price through comitology. The Council Decision on comitology (Dec. 2006/512) lays down: "powers shall be conferred on the Commission in accordance with the relevant provisions in the basic instrument". As the ETS Directive does not give such a mandate to the COM, the COM is not entitled to modify the carbon price by reviewing the CL list. 2.Investments have been planned according to a price of 30 €. Modifying the price would go against those investment decisions and severely undermine market predictability.

In your view, which is the most adequate CO2 emission factor that should be used for the calculation of indirect costs? -single choice reply-(compulsory)	No opinion
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If you wish, please motivate your answer (max. 1000 characters) -open reply-(optional)

Should the average emission intensity of the whole electricity generation mix be chosen, AFEP and Cercle de l'Industrie considers that it should be updated to 423 g/kWh (instead of 465 g/kWh) considering the participation in the ETS of Croatia, Iceland, and Norway.

Measurable -single choice reply-(compulsory)	No opinion
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Relevant -single choice reply-(compulsory)	No opinion
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Important -single choice reply-(compulsory)	No opinion
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Measurable -single choice reply-(compulsory)	No opinion
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Relevant -single choice reply-(compulsory)	No opinion
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Important -single choice reply-(compulsory)	No opinion
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Measurable -single choice reply-(compulsory)	No opinion
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Relevant -single choice reply-(compulsory)	No opinion
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Important -single choice reply-(compulsory)	No opinion
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If you wish, please motivate your answer (max. 1000 characters) -open reply-(optional)

Complete -single choice reply-(compulsory)	No opinion
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Adequate -single choice reply-(compulsory)	No opinion
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Comparable across sectors -single choice reply-(compulsory)	No opinion
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Transparent -single choice reply-(compulsory)	No opinion
Well-structured -single choice reply-(compulsory)	No opinion
Clear and understandable -single choice reply-(compulsory)	No opinion
<p>If you wish, please motivate your answer (max. 1000 characters):</p> <p>-open reply-(optional)</p>	
<p>Restricting the current criteria of Article 10a(17) of the ETS Directive to lead the qualitative analysis does not seem to be legally possible, unless the Directive is modified by co-decision. A separate Regulation adopted in order to integrate the criteria proposed by Ecofys, without modification of the Directive may lead to legal action by sectors which would claim that their sector has not been classified on the CL list, because restricted criteria have been used in the procedure, in comparison with the possibilities opened by Article 10a(17). At this stage, the priority is rather to ensure that all the Commission decisions to accept/refuse to add a sector on the CL list be transparent for all actors who wish to have access to these Decisions.</p>	
<p>In the context of qualitative assessment, after considering the indicators listed in the study, do you consider that other indicators/variables should be taken into account when gathering basic evidence? Please explain (max. 2000 characters)</p> <p>-open reply-(optional)</p>	
<p>Same reply as for question B.A.20</p>	
<p>If you wish, please provide any general comments on the questionnaire -open reply-(optional)</p>	
<p>- ETS actors consider essential to adopt all measures enabling the stability of the system. - The allocation of free allowances to installations within a sector exposed to CL started only 6 months ago on 1/1/13. It is thus not enough to have a clear perspective. - It is necessary to have a holistic vision of the cumulative impacts of legislation and economic situations on companies. -The threat for the EU economy is the lack of investments on its territory, more than the risk of delocalisation ; the possible recognition of China as a “market economy” in 2016 could strongly reinforce the competitive distortion between regions of the world ; thus the provisions against carbon leakage are essential. - It would be necessary to modify the validity period of the list (2015-2019) in order to be the same as the ETS phase (until 2020), which is not the case up to now. - It is necessary for companies to maintain the yearly opt-in opportunity.</p>	