

To: Frans Timmermans, Executive Vice-President, European Commission
Virginijus Sinkevičius, Commissioner for Environment, Oceans and Fisheries, European Commission

Cc: Beatrix Yordi Aguirre, HoU Clima B
Hans Bergman, HoU Clima B1
Mette Koefoed Quinn, HoU Clima B2
CABINET CA.2 Head of Cabinet Diederik Samsom
Veronica Manfredi, Director, DG ENV C Quality of Life
Aneta Willems, HoU DG C4

Brussels, 1 July 2021

Dear Executive Vice President Timmermans, dear Commissioner Sinkevičius,

RE: Ensuring policy consistency within upcoming “Fit for 55” Package

We are writing to emphasise the importance of ensuring that in the upcoming revision of the EU ETS Directive for the Fit for 55 Package the European Commission addresses the consistency between the EU ETS market approach and the Industrial Emissions Directive regulatory approach. The EEB has been raising this crucial issue in [its reply to the public consultation on the Inception Impact Assessment for the revision of the EU ETS](#).

This issue is even more important today, since the European Commission has fully recognised that a mix of different and complementary tools is needed (market approaches, regulations, incentive schemes) to deliver on the European Green Deal objectives and it is planning to extend the ETS (market approach) to other sectors (Buildings, Transport) already regulated.

We agree that a combined approach is fundamental to climate ambition and therefore we would like to highlight again how this must be reflected in the EU ETS Review.

1) Need for a “combined approach” of carbon pricing with command and control consistent with zero-pollution ambition (amend/delete Art. 26 of EU ETS Directive)

Article 26 of the EU ETS Directive severely restricts the setting by permitting authorities of greenhouse gas emission limits for the EU’s largest industrial activities and allows to circumvent energy efficiency standards achieved using Best Available Techniques, which are considered as economically viable for industry. The aim of the integrated pollution prevention and control framework in the Industrial Emissions Directive 2010/75/EU, which is currently under review, is to prevent pollution at source. Fuel switch obligations, switch to electrification and complying with energy efficiency standards are indeed very effective means to support the required ‘deep industrial transformation’. The Commission should learn lessons from the automotive industry, where regulation of fuels and CO2 standards led to the transition, not the EU ETS carbon price. Leaving Article 26 untouched is pre-empting the policy options to be taken by the IED and is hugely counter-productive.

Preferred option for addressing the loophole: set binding energy efficiency standards and GHG performance standard

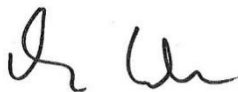
- set a 100gCO₂eq/kWh GHG performance standard for the power sector to be applicable by 2030 at the latest, with a directional target value set to 0g/CO₂eq/KWh by 2050 at the latest
- require the mandatory implementation of specified energy efficiency standards (see Annex for more details)
- Provide for an Emissions Performance Factor (EPF) to apply as EUA price multiplication factor, based on the EU ETS benchmark values (see Annex for more details).

Fallback option: Delete Article 26 of the EU ETS Directive

Moreover, we are concerned that the EU ETS review, if mishandled, may still shield EU industry from paying the full cost of pollution. Introducing an Emissions Trading Scheme for buildings and transport while maintaining free CO₂ allowances for industry will *de facto* shift the “polluter pays” burden to final consumers. Industry decarbonization has lost a decade due to low carbon prices and free allowances, which have helped some industrial sectors make huge profits [from selling free allowances obtained in excess of demand](#) resulting in additional profits worth an estimated € 1.6 billion.

With the EU Green Deal systemic vision, we expect an effective application of the “polluter pays” principle and a consistent policy approach to addressing both the climate and wider pollution crises and to make the most of synergies across all the policy instruments.

Yours sincerely,



Jeremy Wates
Secretary General

Annex

Proposed amendments to Article 26.1 of the EU ETS (Emission Performance Factor)

Directive 2003/87/EC is amended as follows:

“As from 1st January 2030, Member States shall apply an emission performance factor (EPF) set out below, which shall apply as a multiplication factor to the purchasing of any European Union Allowance (EUA) unit price referred to under Article 3(a) of Directive 2003/87/EC:

$$EPF = \frac{EP \text{ actual}}{EP \text{ ref base (EU benchmark values)}}$$

EPF = Emission Performance Factor;

EP actual performance based on the same format of the EU benchmark values

EP ref base: Reference base set in the EU benchmark values that are based on the best-in-class performance set in the Technical annex to the TEG final report on the EU taxonomy, unless a stricter level is defined in the most up to date EU ETS benchmark values

Rationale: The current EU ETS benchmarks are based on a ‘BAT inspired’ concept, since these correspond to the best 10% reference installations operating under economically viable conditions. However this does not mean that those installations do not emit GHG; currently the majority (over 90%) of their emission are “covered” by free emission allowances and therefore exempt from the EUA price signal. Extra resources should be reallocated to the Modernization and Innovation Funds. Strengthening the carbon market through a performance enhancing EUA price multiplication factor (EPF) will make sure that the most effective techniques are implemented so as to prevent pollution at source, combined with a strong carbon market that will truly incentivize further progress (beyond established BAT). This implies a deeper overhaul of the EU ETS system for legal consistency reasons, notably a strengthened emissions cap derived on the “as if assumed” performance levels of the whole sector in accordance to the benchmark evolving over time <https://eeb.org/library/inception-impact-assessment-of-the-revision-of-the-eus-emissions-trading-system-eeb-comments>. The new approach could focus as a start on the Energy Intensive Industries, since these industrial activities are those where the higher reduction gains can be achieved.

Proposed amendment to Article 26.2 of the EU ETS (binding energy efficiency standards on largest fossil fuelled combustion plants: coal/lignite and natural gas)

“The net electrical efficiencies of any combustion plant firing coal or lignite (alone or with other fuels) shall be

- a) at least 44% by 1st January 2030***
- b) at least 46% by 1st January 2035***

The levels are expressed as net electrical efficiency of useful output

- c) For natural gas combustion in combustion plants exceeding a thermal capacity of 600MWth the minimal energy efficiency level is set to at least 61%, for existing plants to be met at the latest by 2035”***

Rationale: The energy efficiency level for CCGT (CHP) is currently at 62.5% net (265g CO₂/KWh) whilst in average performance levels is rather in the 45% range (440gCO₂/KWh). Considering that those plants run on natural (fossil) gas the CO₂ emission prevention gains are considerable. State of the art lignite fired boilers reach 42-44% net efficiencies (~910g CO₂/KWh) and hardcoal fired boilers can reach a net efficiency of 46% (~714g CO₂ /KWh), recognised as BAT. The current average performance levels are respectively barely 35.4% for lignite (1100-1300g CO₂/KWh) and 37.8% (~850-880g CO₂/KWh) for hardcoal boilers. Any incremental change (3% is considered as generally applicable for all boilers) makes a huge difference in terms of avoided CO₂ emissions per generated energy and win-win for air quality.