

Position Paper

EU Consultation on the Legislative Proposal for the Effort Sharing Decision 2030

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Consultation on the preparation of a legislative proposal on the effort of Member States to reduce their greenhouse gas emissions to meet the European Union's greenhouse gas emission reduction commitment in a 2030 perspective

Introduction

The Effort Sharing Decision (ESD) sets greenhouse gas emission reduction targets for each Member State for the sectors not covered by the EU Emissions Trading System. Its scope currently covers some 55% of total greenhouse gas emissions in the EU and includes greenhouse gas emissions from sources such as CO₂ emissions from road transport, heating of buildings, small-scale industry and non-CO₂ emissions from agriculture and waste.

The EU Commission intends to present a legislative proposal on the Effort Sharing Decision for the period 2021 - 2030 in 2016. In this context, the European Commission has launched a public consultation to collect opinions from stakeholders on different options for a revision of the ESD in the light of the strategic guidance given by EU leaders in October 2014.

According to the strategic guidance of the EU leaders, the methodology to set the national reduction targets for the non-ETS sectors, with all the elements as applied in the Effort Sharing Decision for 2020, will be continued until 2030, with efforts distributed on the basis of relative GDP per capita. Existing flexibility measures introduced in the context of the ESD 2020 should be maintained and continued, but international project credits will not be allowed in the ESD after 2020.

BDEW warmly welcomes the opportunity to provide its views and comments on the forthcoming revision of the ESD.

In the following paragraphs, BDEW's input to the online stakeholder consultation is provided in line with general structure and content of the original stakeholder questionnaire. The responses of BDEW focus on the questions n° 1 – 3 of the consultation.

The German Association of Energy and Water Industries (**Bundesverband der Energie- und Wasserwirtschaft - BDEW**) represents the interests of approximately 1,800 companies. The spectrum of its members ranges from local and municipal to regional and international companies. They represent about 90 percent of electricity sales, more than 60 percent of local and district heat supply, 90 percent of natural gas sales as well as 80 percent of drinking water abstraction and approximately one third of wastewater disposal in Germany. Member companies of BDEW operate a broad range of large, medium-sized and small combustion plants for electricity and heat generation that apply wet cooling technologies.

1. How can the availability and use of the two existing internal flexibility instruments under the ESD be enhanced to ensure cost-effectiveness of the collective EU-effort in 2021-2030:

a) for banking and borrowing; and

b) for AEA transfers among Member States, respectively?

With respect to the latter, is there need for more transparency in how Member States engage in AEA transfers? Could the current rules be further enhanced through more transparent reporting, the use of trading platforms, project-based mechanisms, auctioning, or through other means? Are there examples from other areas that could provide useful experience in designing a post-2020 transfer system?

RESPONSE OF BDEW

In order to provide for flexibility for Member States in implementing their commitments and as a means to enhance the overall cost-effectiveness of reaching the EU-wide 2020 target, the Effort Sharing Decision (ESD) provides a number of “flexibility mechanisms” that can be used in the period 2013 - 2020 to comply with their annual targets.

As requested by the EU Leaders, the methodology to set the national reduction targets for the non-ETS sectors, with all the elements as applied in the Effort Sharing Decision for 2020, should be continued in the next trading period.

Banking and borrowing of the so-called annual emission allocations (AEAs) during the compliance period and the enabling of transfers of AEAs between Member States should be the main flexibility elements for complying with the 2030 targets.

The ESD 2030 should establish a coherent and transparent framework for AEA transfers. Member States should report more openly and frequently in a credible, consistent, transparent and timely manner on AEA transactions and prices. The European Commission should prepare an annual monitoring report assessing progress on achieving the ESD targets and summarizing the use of the flexibility mechanisms by Member States.

2. On the basis of experience with the present set of rules on reporting, monitoring, and corrective actions, which aspects should be maintained and which should be changed after 2020?

Please select one of the following:

- a) *Keep it as it is: Annual reporting and annual compliance checks with existing corrective action (explain your reasons);*
- b) *Annual reporting with biennial compliance checks with existing corrective action (explain your reasons);*
- c) *Biennial reporting with biennial compliance checks and enhanced corrective action (explain your reasons and possible additional corrective actions); or*
- d) *Other (with explanation).*

RESPONSE OF BDEW

Selection of BDEW: **a) Keep as it is.**

The Effort Sharing Decision (ESD) and the Monitoring Mechanism Regulation (Regulation (EU) No 525/2013, MMR) have established an annual reporting and compliance cycle requiring an **annual** review of Member States' greenhouse gas inventories to ensure that compliance with the ESD is assessed in a credible, consistent, transparent and timely manner.

The current system of an **annual** reporting and **annual** compliance cycle should be kept.

Reporting on non-ETS emissions is a complex process that needs to be closely aligned to the existing reporting frameworks under the UNFCCC and the EU-ETS for reasons of integrity and credibility and to avoid duplication, data gaps or double counting of emissions.

ETS emissions are gathered annually on the site-specific level using a "bottom-up-approach" of site-specific verified information on fuel uses, CO₂ emission factors and associated plant emissions. In contrast, annual reporting of GHG emissions under the UNFCCC follows a "top-down-approach" using generic average CO₂ emission factors in combination with fuel uses reported by national energy statistics for calculating energy-related CO₂ emissions. In addition, non-CO₂ GHG emissions and process-related CO₂ emissions are calculated using a complex set of methodical approaches and statistical data on market developments, production levels and other macro- and microeconomic data that are usually only available on a yearly basis. Member States will have to follow a similar approach for reporting emissions of the non-ETS sectors using available methodical approaches and administrative structures used for reporting under the UN framework.

3. *How can cost-effectiveness be reflected in a fair and balanced manner in adjusting individual ESD targets for Member States with a GDP per capita above the EU average? What can be the role of the one-time reduction through a limited amount of ETS allowances in achieving these Member States' ESD targets, while preserving predictability and environmental integrity?*

RESPONSE OF BDEW

The European Council has decided that a new flexibility in achieving targets shall be established through “a limited, one-off, reduction of the ETS allowances, to be decided before 2020, while preserving predictability and environmental integrity”. Only Member States with national reduction targets significantly above both the EU average and their cost effective reduction potential as well as for Member States that did not have free allocation for industrial installations in 2013 shall be eligible for using this mechanism.

The establishment of this new flexibility mechanism not only affects the ETS, but also the balance of efforts between the various sectors. As indicated above, banking and borrowing of AEAs during the compliance period and the enabling of transfers of AEAs between Member States should be the main flexibility elements for complying with the 2030 targets and it is not clear to us why such an additional flexibility element is needed.

Before introducing such a new mechanism, the cross-relationships between ETS and non-ETS sectors have to be taken into consideration (e.g. smaller installations under the thresholds, electrification of transport, heating and cooling etc.). Before redirecting EUAs from the community system it should be fully explored whether it would more appropriate and cost-efficient for a particular member state or the community as a whole to include further sectors, activities or gases into the EU ETS. Note that the European Council also recalled in its October conclusions that under existing legislation a Member State can opt to include the transport sector within the framework of the ETS.

If the EU decides to extend current scope of EU-wide action and legislation other than the ESD to support Member States' emission reductions in ESD sectors, then the anticipated impact of such additional action (e.g. further action regarding CO₂ limits in the transport sector or measures for enhancing the use of renewables or increasing efficiency in the heating and cooling sector etc.) should be incorporated in the further considerations on need, framework and design of the new mechanism.

If such a new flexibility mechanism is nevertheless introduced, it is crucial that it does not cause significant distortion in the effort sharing between the ETS, which already have to bear two thirds of the reduction efforts, and non-ETS sectors and in the cost efficiency considerations underpinning the ESD.

Design of this new flexibility mechanism must aim at **ensuring predictability and transparency** for the carbon market whilst guaranteeing **cost-effectiveness and environmental integrity** of both the ETS and the ESD schemes.

1. Ensure predictability and transparency

The ESD 2030 should set the regulatory framework for the mechanism including transparency on timing, criteria and functional aspects transparent as well as prescriptive eligibility and assessment criteria for “a limited one-off reduction of the ETS allowances”.

Any decision on the design and functioning of the mechanism needs to be taken well before the end of 2019. The application should be restricted to the compliance period 2021 – 2030. Transparency on timing, criteria and functional aspects should be provided in the context of the legislative revision of the ETS Directive and the Effort Sharing Decision.

Member States intending to use this mechanism should be required to provide a report to the EC seeking to use the measure. The report should explain in detail the need for the flexibility measure and set out for which sub-sectors and to what extent it is being used for. The Member State should provide evidence that the use of the mechanism is not distorting competition in the EU markets and that it is compatible with the EU state aid law.

2. Guarantee cost-effectiveness and environmental integrity

The newly introduced mechanism shall not impact the fair and equitable burden sharing across Member States and sectors. The Commission should provide a report on the intended use of the mechanism by eligible Member States. Based on this information, an impact assessment should be performed in order to check that equity and environmental integrity of both ETS scheme and non-ETS sector contributions are maintained.

The possibility of using ETS allowances to help Member States achieve compliance with non-ETS targets should be limited to EUAs from the third trading period that otherwise would have been transferred to the MSR. The EUAs used for that purpose should be taken from the corresponding Member State share of EUAs transferred into the MSR and should not exceed the respective quota.

In addition, the ESD 2030 should set a common limit for the use of mechanism by an eligible Member State (e. g. equivalent to a maximum level of up to 5% of the reduction commitment under the ESD), bearing in mind that a higher level of EUA use could increase the risk of individual Member States not meeting their ESD reduction targets in later periods.

The corresponding EUAs must be clearly assigned to eligible Member States for compliance over the period from 2021 to 2030. Member States that decide to use this mechanism should not be allowed to trade those allowances with other members but shall use those allowances exclusively for complying with their respective ESD target.

Member States with more stringent unilateral national GHG reduction targets in place on top of the reduction target imposed through the ESD should not be eligible for using the new mechanism for the purpose of achieving these unilaterally set GHG targets.