



Council of the
European Union

Brussels, 17 December 2020
(OR. en)

14198/20

CLIMA 362
ENV 829
FIN 975
ENER 509
TRANS 618
IND 281
COMPET 649
MI 588
ECO 65

OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	13601/20
Subject:	Council conclusions on the European Court of Auditors' Special Report No 18/2020 entitled 'The EU's Emissions Trading System: free allocation of allowances needed better targeting'
	- Approval

Delegations will find in the Annex, for information, Council conclusions on the above, as approved by the Council (Environment) at its meeting on 17 December 2020.

European Court of Auditors' Special Report No 18/2020 entitled

'The EU's Emissions Trading System: free allocation of allowances needed better targeting'

- Council conclusions -

THE COUNCIL OF THE EUROPEAN UNION,

RECALLING its conclusions on improving the examination of special reports drawn up by the Court of Auditors in the context of the discharge procedure¹,

1. WELCOMES the Special Report No 18/2020 by the European Court of Auditors entitled 'The EU's Emissions Trading System: free allocation of allowances needed better targeting';
2. TAKES NOTE of the conclusions and recommendations of the Special Report;
3. EMPHASISES the role of the EU ETS as a cornerstone of the EU's climate policy and its key role in reducing greenhouse gas emissions cost-effectively; DRAWS ATTENTION to the finding in the 2020 State of the Energy Union Report² that over the past five years (2015-2019), emissions from stationary installations covered by the EU ETS have decreased significantly with the power sector as the main driver of this trend, while industry emissions also decreased, notably in 2019;

¹ 7515/00 + COR 1

² 11871/20 - COM (2020) 950 final.

4. NOTES the finding of the Special Report that carbon intensity decreased less in the power sectors of countries that made use of transitional free allocation to this sector than in other Member States over the period 2008 to 2017; HIGHLIGHTS that transitional free allocation to the power sector did however promote reduction of greenhouse gas emissions, as shown in the verification reports on emissions savings from completed investments submitted by Member States; in addition HIGHLIGHTS that rules for transitional free allocation to the power sector have been further developed for phase 4; RECALLS that in phase 4 only three out of ten eligible Member States intend to provide transitional free allocation to installations in their power sector; in addition TAKES NOTE of the decision of some Member States to transfer to the Modernisation Fund some or all of the allowances that could have been allocated for free to installations in their power sector in phase 4;
5. RECALLS that Directive 2003/87/EC (the EU ETS Directive)³ provides for transitional free allocation to installations in sectors and subsectors at genuine risk of carbon leakage to preserve the environmental benefit of emission reductions in the EU while actions by third countries do not provide comparable incentives to industry to reduce emissions;
6. AGREES on the importance of targeted free allocation; POINTS OUT that the reform of the EU Emissions Trading System (EU ETS) in preparation of its fourth trading period from 2021 to 2030 ('phase 4') already provides for improvements in this regard; STRESSES that when the EU ETS Directive was revised for phase 4⁴, the system of free allocation was amended resulting in a reduced number of sectors considered at genuine risk of carbon leakage; NOTES that this reduced list of sectors for phase 4 still represents more than 90% of total emissions from industrial installations in the EU ETS in the period from 2013 to 2016;

³ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC, as amended (OJ L 275, 25.10.2003, p. 32).

⁴ Directive (EU) 2018/410 of the European Parliament and of the Council of 14 March 2018 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, and Decision (EU) 2015/1814 (OJ L 76, 19.3.2018, p. 3).

7. RECOGNISES the relevance of different abilities to pass through costs of carbon in the aviation sector as well as in industry sectors; TAKES NOTE of the finding of the Special Report that allocation of free allowances for the aviation sector have tended to favour air travel over rail travel within the EU; NOTES the Commission's intention to explore options for more targeted free allocation as part of the impact assessment accompanying the Commission's proposal for a revision of the EU ETS Directive; WELCOMES the intention of the Commission in that context to examine options for the reduction of free allocation in the aviation sector; POINTS to the need to reflect on the impact of those options on decarbonisation, on revenues from auctioning of allowances and on the functioning of the EU's internal market;
8. RECOGNISES the relevance of preserving the carbon price signal throughout the value chain; WELCOMES that in the context of the European Green Deal the Commission will explore a number of options for measures to prevent carbon leakage, and LOOKS FORWARD to discussing the Commission's proposals, including for a carbon border adjustment-mechanism fully compatible with the rules of the World Trade Organisation, expected to be presented in the first semester of 2021 with a view to its introduction at the latest by 1 January 2023;
9. AGREES that benchmarking is progressively improving incentives to reduce emissions; in this context UNDERLINES the improvements made to the methodology for benchmarks in preparation for phase 4, i.e. the updating of the benchmark values for free allocation to reflect technological progress and the periodical adjustment of allocations to better correspond to actual production volumes; in this context UNDERLINES the need to further increase transparency in the methodology for benchmarks; ENCOURAGES the Commission to explore avenues for further improvements to the benchmarking methodology, including with regard to emissions from inputs to the production processes;

10. TAKES NOTE of the Commission's proposal to implement the new RED-II sustainability criteria and GHG emission saving criteria for zero-rating biomass emissions in the EU ETS in the context of amendments to the EU ETS Monitoring and Reporting Regulation;
 11. AGREES on the importance of transparency on the incentives for industrial sectors that receive free allowances to decarbonise, and HIGHLIGHTS the role of the Member States' National Implementation Measures in improving the availability of such information in phase 4;
 12. WELCOMES the intention of the Commission, by June 2021, to review and propose to revise where necessary, climate-related legislation, including the EU ETS Directive.
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