



Council of the European Union
General Secretariat

Brussels, 03 February 2022

Interinstitutional files:

2021/0211 (COD)

2021/0207 (COD)

2021/0202 (COD)

WK 1368/2022 ADD 1

LIMITE

CLIMA

ENV

ENER

TRANS

AGRI

COMPET

ECOFIN

CODEC

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on the Environment
N° prev. doc.:	WK 123/2022 WK 228/2022 WK 429/2022 WK 1189/2022
Subject:	Fit for 55 package - ETS: Comments from a delegation

Following the call for comments on the above set out in WK 123/22 (Cap and Linear Reduction Factor - cluster 4, Market Stability Reserve - cluster 7 and Miscellaneous - cluster 8), WK 228/22 (Modernisation and Innovation Funds - cluster 6), WK 429/2022 (Free allocation - cluster 5) and WK 1189/22 (aviation - cluster 3 and use of auction revenues - cluster 6.3), delegations will find attached comments from BE. In addition, comments on the extension of the ETS to buildings and road transport - cluster 1, are also included.

WK 1368/2022 ADD 1

LIMITE

EN

BELGIUM

Comments on the proposal for a directive amending the EU ETS Directive (2003/87/EC)

1. ETS cap and linear factor

- Belgium supports an approach where the distribution of the ambition levels of ETS and non-ETS sectors is based on the principle of cost-effectiveness, resulting in the proposed increase to 61% reduction effort in ETS in 2030 compared to 2005. This increase needs to be reached by applying a linear factor higher than the current 2,2% value.
- Belgium asks for more clarity from the Commission on the impact of the additional one-off reduction of the ETS cap envisaged to be applied in the year 2024, in combination with the proposed MSR changes (including the updated cancellation mechanism), on the price of EUAs, cumulative emissions and carbon leakage protection.

2. Allocation of free allowances, (indirect) carbon leakage, scope, reporting

- In general, Belgium considers that the reform of the ETS cannot lead to the destabilization of the market and should be as predictable as possible for operators, while encouraging decarbonization of the sectors concerned. In this context, Belgium wishes to avoid the application of the cross sectoral correction factor.
- The share available for free allocation to industrial installations is currently limited to approximately 43% (+ a possible 3%) of the total cap. The absolute maximum amount of free allocation decreases each year in line with the linear reduction factor. The proposal does not foresee a change to this approach, whereas the share of industrial emissions in total ETS emissions is estimated to significantly increase, as a result of the very different short term emissions reductions of industry compared to the electricity sector. This carries the risk that a cross sectoral correction factor will be needed in the year 2030 or before. It is therefore essential that in such case, solutions are envisaged and implemented to avoid the cross sectoral correction factor.
- In this context, Belgium can support the increase of the yearly maximum tightening of the EU wide product benchmarks from 1.6 % to 2.5 %, and is open to explore whether it can be justified to even remove this upper threshold to ensure faster incorporation of innovation and technological progress. On the other hand, it seems appropriate that for the update of the fuel and heat

benchmarks, an alternative yearly maximum tightening percentage or other alternative for the update of the benchmarks is explored, inter alia to ensure that benchmark values are sufficiently representative. In general, this is important for all benchmarks.

- Belgium sees the merit of partially linking the free allocation to the mandatory implementation of energy efficiency measures. Particular attention is however needed to ensure that implementation is harmonized, practically feasible and, where needed, streamlined with other measures (e.g. Energy and Environmental State aid guidelines).
- Belgium supports the deletion of the definition of “electricity generator”.
- Belgium suggests to assess whether it is still justified to adjust free allowances for greenfields by the linear factor. This seems to be not consistent with the willingness for an accelerated uptake of innovative technologies.
- With respect to the proposed declining free allocation to installations belonging to sectors covered by the proposed CBAM, it is important to adequately protect exporting sectors, as the proposal currently foresees to also phase out free allocation for production that is exported. Also unclear is that two other pillars foreseen as protection against carbon leakage, for downstream products, and instruments against circumvention are both mentioned briefly, but are not yet developed. And both are not foreseen to be ready before the effective start of the CBAM in 2026, causing a gap in the European system against carbon leakage.
- Belgium is very pleased that the ETS directive opens the door to innovative technologies such as CCS and CCU. The proposed adjustments are going in the right direction. Belgium is still investigating whether any additional matters are necessary. In order to create a credible, environmentally sound and incentivising framework, Belgium is at the same time looking forward to the proposal on the carbon removal certification scheme.
- In addition to CCS and CCU, and in the light of the transition to a circular economy, the electrification of production processes is perhaps the most important green technology for energy-intensive industry. From this perspective, indirect emission cost compensation is therefore a necessary complement to the direct allocation. Belgium proposes to make this a harmonised European instrument. This would ensure a level playing field between different Member States.

3. **Revenues and solidarity mechanisms**

- With respect to the possible ‘maritime’ beneficiaries of the Innovation Fund, Belgium would like to highlight a mismatch between the criteria of the Innovation Fund and the vessels that will need to buy allowances under ETS, and are interested in investing in cleaner technologies and fuels. As we understood, the Innovation Fund currently requires ships to be built in European ship yard on the territory of one or more of the EU Member States, Norway or Iceland and vessels need to sail between European ports. The biggest polluters in absolute emissions - large container vessels, tankers and bulkers – are unfortunately not built in Europe and can therefore not eligible for funding under the current criteria. Therefore, instead of looking only at where the vessel was built, this criterium could be opened up to for example working with European equipment providers. Belgium also opts for extending the second criterium to include all EU owned/managed vessels contributing to the EU ETS and not only those sailing between European ports, especially if the scope to include 50% of extra-EU voyages remains.
- The provision to exclude funding from the Modernisation Fund for fossil fuels is supported.

4. **ETS aviation**

- Belgium supports the Commission’s proposals with respect to ETS aviation, and in particular with respect to phasing out free allocation and calls for this allocation to be abolished even more quickly. Belgium proposes to only allocate 50% in 2024, in order to phase out free allocation already in 2025 (instead of the proposed 2027).

5. **ETS for buildings and road transport**

- With respect to the proposed separate ETS for the road transport and buildings sector, Belgium insists on the importance of a just transition, which leaves no one behind. Particular attention should be paid to the impacts on employment, consumer purchasing power and business competitiveness, as well as the fight against energy and transport poverty.
-