Case Id: 6694ed8c-03af-4979-b37b-7d7ab441f6b6
Date: 17/06/2015 15:03:26

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

(This consultation addresses the Effort Sharing Decision. A separate public consultation "Addressing greenhouse gas emissions from agriculture and land use, land use change and forestry in the context of the 2030 EU climate and energy framework" is organised at the same time.

Fields marked with * are mandatory.

Introduction

The European Commission today launches a public 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 emission reduction commitment in a 2030 perspective. It concerns the continuation in the period 2021-2030 of the current Decision 406/2009/EC on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 (Effort Sharing Decision, ESD) (http://ec.europa.eu/clima/policies/effort/index_en.htm)

The Effort Sharing Decision 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 CO_2 emissions from road transport, heating of buildings, small-scale industry and so-called non-CO_2 emissions from agriculture and waste. The ESD does not include emissions or removals from land use, land-use change and forestry (LULUCF). Each Member State has an emission reduction or limitation commitment for 2020 under this Decision which varies between -20% and +20% as compared to its 2005 GHG emissions. Taken together, these commitments correspond to an EU-wide reduction in 2020 of around 10% compared to 2005 for the sectors covered by the ESD.

The objective of the ESD is to achieve its contribution to the EU's overall 20% reduction target in 2020 and to promote reductions of greenhouse gas emissions (GHG) within its scope in a cost-effective manner.

In addition to the 2020 targets, the ESD establishes binding annual GHG emission limits — so-called annual emission allocations (AEAs) — for all Member States for the period 2013–2020 with annual reporting obligations and compliance checks.

At the European Council meeting in October 2014, EU leaders expressed their wish to continue the ESD approach for the period 2021-2030, with the aim to reduce emissions in the non-ETS sectors by 2030 by 30% compared to 2005 as the contribution in implementing the overall economy-wide emission reduction target of at least 40% in 2030 as compared to 1990. (http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/145397.pdf)

The consultation launched today aims to collect evidence, experiences, suggestions and opinions related to the post-2020 design of the ESD itself and focuses on several issues, including:

1.) the flexibility mechanisms foreseen is the ESD to ensure overall cost efficiency,

2.) monitoring, reporting and compliance,

3.) the approach to setting the national greenhouse gas reduction targets in the ESD, and

4.) complementary EU-wide action to achieve the reduction targets.
It also asks for stakeholder feedback on the ongoing implementation of policies and measures in Member States to achieve their targets set out in the current Effort Sharing Decision that sets national targets until 2020.

This consultation addresses citizens, authorities and other stakeholders and seeks input on questions concerning the policy alternatives to be considered by the European Commission in its preparation of a legislative proposal to revise and maintain the ESD after 2020. It complements earlier consultations that the European Commission has conducted recently, notably the Consultation on the Green Paper on a 2030 framework for climate and energy policies (
http://ec.europa.eu/energy/en/consultations/consultation-progress-towards-2020-http://ec.europa.eu/
)

Based on a questionnaire, the online consultation will run until 17 June 2015. Earlier replies are encouraged.

This consultation is launched in parallel with the consultation "Addressing greenhouse gas emissions from agriculture and land use, land use change and forestry in the context of the 2030 EU climate and energy framework" (
http://ec.europa.eu/clima/consultations/articles/0026_en.htm), which addresses questions on how to integrate Land Use, Land Use Change and Forestry into the 2030 Climate and Energy Framework, on how this integration will relate to agricultural non-CO2 emissions and on the relation between such changes and the Effort Sharing Decision.

Background:

On 24 October 2014, EU leaders expressed their wish to work towards a domestic EU greenhouse gas emissions reduction target of at least 40% by 2030 compared to 1990 together with other building blocks for a 2030 policy framework for climate and energy (
http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/145356.pdf), following the policy proposals in a European Commission Communication of January 2014 (
http://ec.europa.eu/clima/policies/2030/documentation_en.htm). The 2030 framework aims to make the EU's economy and energy system more competitive, secure and sustainable and also sets a target of at least 27% for renewable energy and energy savings by 2030, respectively.

The Commission has indicated in its February 2015 Roadmap for the Energy Union annexed to its Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy that it intends to present a legislative proposal on the Effort-Sharing Decision for the period 2021-2030 and on the inclusion of LULUCF into the 2030 Climate and Energy Framework in 2016. (
http://ec.europa.eu/priorities/energy-union/docs/energyunion-annex_en.pdf)

0. Registration

*0.1. What is your profile?

- ( ) International administration
- ( ) National government or national administration
- ( ) Regional government or association of regional governments
- ( ) Local government or association of local governments
- ( ) Academic/research organisation
- ( ) A small or medium-size enterprise
- ( ) Business other than small or medium-size enterprise
- (x) Trade association representing business
- ( ) Finance sector institution
- ( ) Non-governmental organisation
- ( ) Citizen
- ( ) Other

*0.2 Please enter the name and contact details of your organisation (address, e-mail, website, phone)

Austrian Federal Economic Chamber - Wirtschaftskammer Österreich (WKÖ)
Wiedner Hauptstraße 63A-1045 Wien
T: +43 (0)5 90 900
E: up@wko.at

0.3. Register ID number (if you/your organisation is registered in the Transparency register)

1040532296208

*Pleaes indicate your principle country or countries of residence or activity:

- [x] Austria
- [ ] Belgium
- [ ] Bulgaria
- [ ] Croatia
- [ ] Cyprus
- [ ] Czech Republic
- [ ] Denmark
- [ ] Estonia
- [ ] Finland
- [ ] France
- [ ] Germany
- [ ] Greece
- [ ] Hungary
- [ ] Ireland
- [ ] Italy
- [ ] Latvia
- [ ] Lithuania
- [ ] Luxembourg
- [ ] Malta
- [ ] Netherlands
- [ ] Poland
- [ ] Portugal
- [ ] Romania
- [ ] Slovakia
- [ ] Slovenia
- [ ] Spain
- [ ] Sweden
- [ ] United Kingdom
- [ ] Other

Please specify what other country:

50 character(s) maximum

*How do you prefer your contribution to be published on the Commission website, if at all?

- (●) Under the name indicated (I consent to publication of all information in my contribution and I declare that none of it is under copyright restrictions that prevent publication.)
- ( ) Anonymously (I consent to publication of all information in my contribution and I declare that none of it is under copyright restrictions that prevent publication.)
- ( ) Not at all – keep it confidential (My contribution will not be published, but it may be used internally within the Commission.)

1. Flexibility mechanisms

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 so-called flexibility mechanisms that can be used in the period 2013-2020 to comply with their annual targets. Should the greenhouse gas emissions exceed the annual emission allocations (AEAs) for the relevant year Member States are allowed to borrow 5% of their AEAs from the next year, buy AEAs from other Member States or use international project credit rights in order to fill any deficit for compliance. Should a Member State reduce its emissions by more than needed, thus exceeding its target for a given year, it can bank the surplus AEAs for use until 2020 or transfer it to other Member States. It is also possible for a Member State to transfer to other Member States up to 5% of its AEAs for a given year before compliance have been checked for that year. Member States are obliged to report on concluded agreements of AEA transfers among each other, but are otherwise free to decide on whether and how to engage in such transfers. As of early 2015, there were no known concluded agreements of AEA transfers between any Member States.

For the 2030 perspective the European Council has expressed its desire that *"the availability and use of existing flexibility instruments within the non-ETS sectors will be significantly enhanced in order to ensure cost-effectiveness of the collective EU effort and convergence of emissions per capita by 2030."* Flexibility instruments should be simple, transparent and easy to manage for Member States. The intention that international project credits will not be allowed in the ESD after 2020 means that a stronger emphasis on the two existing internal flexibility mechanisms will be needed:

1) Banking and borrowing of AEAs during the compliance period

As explained above, Member States already have flexibility in managing the use of their AEAs over the whole commitment period to cover any AEA shortage in specific years. Different levels of borrowing than the current 5% limit could be envisaged for the period after 2020 to help Member States achieve their annual targets by managing their own AEAs, bearing in mind that a higher level of borrowing early in the commitment period could increase the risk of individual Member States not meeting their targets later in the period.

2) Transfers of AEAs between Member States

There are several possible ways to stimulate AEA transfers among Member States. These include creating a more transparent market for AEA transfers, being less restrictive in how much Member States can transfer among each other before the compliance checks, and more direct measures to enhance availability of AEAs, such as project-based mechanisms or auctioning of a number of AEAs.

Market transparency could be enhanced by requiring Member States to report more openly and frequently on AEA transactions and prices or by encouraging transfers to pass through certain trading platforms.

The current 5% limit for AEA transfers before the compliance check could be increased, however, it should be noted that increasing this limit could also increase the risk of individual Member States not meeting their targets later in the commitment period 2021-2030.

Different kinds of project-based mechanisms for cost-efficient compliance within the ESD could be considered. Such an approach could attract targeted investments in ESD sectors prioritised by the host Member State and ensure more certainty that AEAs will become available for transfers by potentially allowing private sector initiatives. However, a verification and certification system would need to be established to guarantee the environmental integrity and validity of the credits which would entail upfront administrative costs.

Auctioning of a certain percentage of AEAs could ensure that an annual supply of AEAs becomes available for MS to acquire.

For all above aspects, alternative solutions might also be possible.

Question

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?

4000 character(s) maximum

Should the emissions of a Member State exceed their annual emission allocations (AEAs) for a certain year, the current 5% threshold for borrowing from the next year should be expanded. The current regulation is too restrictive and therefore flexibility should be enhanced. This would reflect the Conclusions of the October European Council and would also increase cost-effectiveness. While this threshold should certainly be higher, scrapping it altogether could even be envisaged.

Suggestions to increase cost-effectiveness by making transfers among Member States more flexible and simple are also welcome.

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?

4000 character(s) maximum

Based on the experiences of the previous and current commitment periods, transparency and traceability should be increased. Any suggestions to do so are highly welcome.

2. Monitoring, reporting and compliance

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 reviewed inventory data are used to check Member States' compliance with their annual emission limits. If a Member State's emissions exceed its annual emission allocation even when the flexibilities are taken into account, it will need to take corrective action in addition to the likelihood of the Commission launching regular infringement procedures. The corrective action includes a penalty of 1.08 times the Member State's excess annual emissions adjusted for the following year and temporary suspension of its right to transfer AEAs to other Member States.

The first annual inventory review will be carried out in 2015 and will concern Member States' inventories for the year 2013.

It needs to be considered whether more flexible rules for banking and borrowing and enhanced AEA transfers under the ESD will be possible with less frequent compliance checks.

Question

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).***

Please explain your selection:

4000 character(s) maximum

3. Setting national targets for GHG emissions not covered by the EU Emissions Trading System

The Effort Sharing Decision sets Member State targets for GHG emissions between -20% and +20% by 2020 compared to 2005 based on economic capacity, with reduction targets for countries with higher GDP per capita than the EU average, and emission increase limits for countries with lower GDP per capita. This provides a distributive element among Member States. Various flexibility mechanisms, including AEA transfers between Member States (see question 1) enable cost-effective target achievement in principle.

The Commission impact assessment for the 2030 framework for climate and energy policies (Commission Staff Working Document SWD 2014/15, section 5.9, http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014SC0015) reconfirmed evidence that cost-effective mitigation potentials to reach the GHG emission reductions in ESD sectors in line with a 40% overall GHG reduction target continue to differ across Member States. The assessment noted that realising these potentials implied higher effort compared to GDP by lower income Member States. It also noted that a similarly large spread in targets for 2030 as established in legislation for 2020 would lead to very high ambition levels for some higher-income Member States whose domestic potential for making such reductions is relatively limited.

The October 2014 European Council on this issue expressed its wish that that "*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."* The European Council also expressed its wish that the applicable target range be as follows: *"All Member States will contribute to the overall EU reduction in 2030 with the targets spanning from 0% to -40% compared to 2005."* This means that the methodology to set targets for Member States with a GDP per capita below the EU average in principle would not require modification. However, the European Council expressed a desire for a new element concerning higher income Member States, requesting that the *"targets for the Member States with a GDP per capita above the EU average will be relatively adjusted to reflect cost-effectiveness in a fair and balanced manner."* This would address concerns of higher income Member States by foreseeing the creation of a new flexibility for a limited number of Member States *"through a limited, one-off, reduction of the ETS allowances"* that can then be used for compliance in the ESD.

Question

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?

4000 character(s) maximum

It is true, as the European Commission points out in its analysis, that realising cost-effective mitigation potentials in order to reach the GHG emission reductions in ESD sectors is very difficult for higher-income Member States. The domestic potential for making such reductions is relatively limited and very expensive in those Member States. We strongly believe that Austria's non-ETS target will be very difficult and very expensive to achieve – irrespective of how exactly the targets for the Member States with a GDP per capita above the EU average will be relatively adjusted to reflect cost-effectiveness.

However, it is absolutely crucial to make sure that cost-effectiveness is greatly reflected when adjusting the targets of Member States with a GDP per capita above the EU average. Cost-effectiveness – and not GDP per capita – must therefore be the dominant criteria when determining the ESD targets for these Member States.

Furthermore, it must not be the case that ETS allowances are used to aid Member States in achieving their national ESD, regardless of how ambitious these are. We are very concerned about the future of the ETS, especially its ability to prevent carbon leakage, investment leakage and the loss of competitiveness for even the most efficient energy-intensive industries. It needs to be stressed that the described mechanism would lead to further distortion of the ETS. In general, creating links between the ETS and non-ETS sector must be avoided.

The ETS sectors are currently and will continue to remain overburdened when compared to the ESD sectors. Member States should not be allowed to pass more and more of the costs regarding CO2-reduction onto their industries. On the contrary, it must be ensured that Europe remains an attractive business location for industry, especially energy intensive industries. Member States should instead focus on sectors such as buildings and agriculture, where large untapped and cost-effective potentials continue to exist.

Moreover, measures that would further decrease the planning and investment security of ETS installations must be avoided. Therefore, it is absolutely crucial that allowances intended for ETS industries remain available for these sectors only. If, however, Member States insist on a one-time reduction through the use of a limited amount of ETS allowances in achieving these Member States' ESD targets, this must be very restrictive. They should be taken from the Market Stability Reserve and certainly not affect free allocation to sectors on the Carbon Leakage List.

"Limited": there should be a very small and clearly defined limit per Member State. This will allow for a combined maximum limit of the ETS allowances that could be used. The limits should be clearly set out before 2020, with no room for further adjustments. "One-off": this criterion should be elaborated so the timing of Member States plans for utilising this option is foreseen.

Given the foreseeable detrimental impact this measure could have on the ETS, the EC should prepare guidelines with assessment criteria for the use of this mechanism. Member States intending to it 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 measure and set out:
•        Which sector it is being use for;
•        Explain why other measures did not work;
•        What is the impact on competition - is it state aid?
The EC should report annually and publically on the use of this option,
to ensure transparency to ETS participants.
```

4. Further evidence and studies on implementation of the Effort Sharing Decision at Member-State level and at regional level

In accordance with Article 14 of the Effort Sharing Decision (ESD), and to establish a solid knowledge-base for the 2030 proposal and its impact assessment, the European Commission is conducting an ex-post evaluation of the current ESD. Member States report their greenhouse gas emissions and on progress towards their 2020 commitments annually; the results of these reports are published each year by the European Environment Agency and the Commission. (Report from the Commission to the European Parliament and the Council: Progress towards achieving the Kyoto and EU 2020 objectives and Annex; Trends and projections in Europe 2014: Tracking progress towards Europe's climate and energy targets for 2020)
In the context of the European Semester, the European Commission also publishes annual reports on Member States' progress with respect to their 2020 targets. (
http://ec.europa.eu/europe2020/pdf/themes/16_energy_and_ghg_targets.pdf and
http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm
)

To support the evaluation process, the Commission would welcome any additional studies and evidence from stakeholders.

Question

4. Do you have studies on:

- *the implementation of the ESD at the level of Member States and at regional level;*
- *how the ESD incentivises greenhouse gas reductions in the different sectors concerned;*
- *good practices of policies and measures that are of particular interest for sharing with other Member States; and*
- *other benefits apart from greenhouse gas emission reductions*

that you think the Commission should be aware of?

In your view, what are the key lessons learned of these studies relevant for the European Commission and other Member States, and what other benefits does ESD implementation bring (e.g. in terms of job creation, energy security, health benefits, …)?

4000 character(s) maximum

Please upload your file

5. Complementary EU-wide action in the sectors covered by the Effort Sharing Decision

Member States are responsible for implementing policies and measures to meet their obligations under the Effort Sharing Decision (ESD) according to their national situation. These may include a variety of national actions ranging from economic instruments, such as tax regimes to support specific low-carbon fuels, information campaigns to promote public transport, integrated urban and transport planning, supporting improved energy performance in buildings and switching to renewable energy for district heating.

To a certain extent these national measures are also supported by other EU-wide climate and energy policies, including on CO2 emission standards for light-duty vehicles (cars and vans), non-CO2 gases, energy efficiency (e.g. Energy Performance of Buildings Directive , Energy Efficiency Directive) and on renewable energy sources (Renewables Directive).

Question

5. Is the current scope of EU-wide action and legislation OTHER than the ESD to support Member States' emission reductions in ESD sectors sufficient, or should it be enhanced?

- (x) ***a) The current scope is sufficient; or***
- ( ) ***b) The current scope should be enhanced.***

Please explain your selection:

4000 character(s) maximum

The EU must resist the temptation to overregulate in the field of climate and energy policy. On the one hand, this “enhancement” would likely increase the administrative burden and the cost of compliance for businesses, while at the same time decreasing their ability to choose which reduction measure is best suited for their respective circumstances.

On the other hand, incoherent and overlapping policies have often had unwanted and adverse effects. For example, the uncoordinated introduction of renewables has led to a decrease in ETS CO2 prices – which has, in turn, led to various unwelcome measures to raise the price of allowances (backloading, early introduction of the MSR).

In the interest of better regulation and in line with the respective initiatives of Commission President Juncker and Commission Vice-President Timmermans, the aim must be to reduce the administrative burden, simplify the regulations and avoid incoherent, overlapping policies.

However, regarding renewables policy, a robust new governance mechanism will be necessary to ensure that every Member State contributes fairly to the EU-wide renewables target of 27% set by the October European Council.

6. Capacity building and other support to implementation at national, regional and local level

The EU and the European Commission are supporting the implementation of the current Effort Sharing Decision through, inter alia:

- Projects financed through the European Structural and Investment Funds, as well as other initiatives to build capacity and exchange best practices;
- Regional workshops on implementation, to facilitate exchange of best practice and experience with national policies and measures among Member States; and
- Annual guidance to Member States in the European Semester.

The European Commission's Climate Change Committee and its Working Groups is an important forum for exchange with Member States' administrators and experts on implementing measures at national level.

Question

6. Is there a need for additional EU action in terms of capacity building and similar support targeted at the regional and local level to facilitate national policies and measures under the ESD after 2020?

- ○ *a) Yes*
- ◉ *b) No*

If you selected answer a), what kind of additional support do you have in mind?

4000 character(s) maximum

The current scope is sufficient. However, it must be ensured that support is given especially to Member States whose cost-effective potentials are lower.

Contact

✉ CLIMA-ESD-2030@ec.europa.eu