

Revision of the EU ETS

European Copper Institute position

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ECI supports the EU's climate ambitions for 2030 and 2050. Ambitious policies are needed to increase electrification, the deployment of renewables and energy efficiency to decarbonise the European economy, and in many respects the 'Fit for 55' package proposals go in the right direction to facilitate this.

Copper makes a significant contribution to the clean energy transition as a sustainable raw material that is needed to decarbonise the economy. As an energy intensive industry, the copper producers that we represent in Europe are **committed to working towards carbon neutrality by 2050** and are working hard to decarbonise copper production facilities accordingly. **To decarbonise copper production, huge investments are needed** in the development and deployment of innovative production processes and the roll out of low-carbon technologies in this decade. Copper producers also need access to renewable and low-carbon electricity.

The copper industry is committed to do its part to help achieve the EU's 2030 and 2050 targets, but as a price-taker sector we cannot pass on the cost increases brought about by reduced free allocation and higher carbon prices to consumers without losing market share to non-EU producers. **We are therefore concerned about the potential impact of the ETS revision on the sector's competitiveness** and ability to invest in decarbonisation solutions.

Strong protection against carbon leakage is essential to ensure that the higher climate targets are reached without compromising the investment capability of those European industries that are committed to decarbonisation.

Looking ahead, the Carbon Border Adjustment Mechanism (CBAM) as it has been proposed by the Commission would not be an appropriate framework to deal with carbon leakage in the copper sector because it would leave EU producers exposed to full (direct and indirect) carbon costs, while global producers would only be required to pay carbon costs for the share of their production imported to Europe.

To deliver on the ambition of reducing GHG emissions by 55% while ensuring a competitive, increasingly decarbonised raw materials industry in Europe in 2030, **the following changes should be made to the Commission proposal revising the ETS for industry:**

1. The Linear Reduction Factor should be relied on as the main tool to achieve the 61% reduction in emissions.
2. More flexibility should be introduced in the ETS to avoid triggering the Cross Sectoral Correction Factor.
3. To ensure fair free allocation based on realistic benchmarks, the maximum benchmark update rate should be kept at 1,6% and the Commission should be mandated to set sector specific fallback benchmarks for sectors that are not treated fairly under the current approach.
4. The avoided CO₂ emissions from the integrated production of other metals as by-products of the copper production process should be considered in the free allocation methodology.

Copper makes a significant net contribution to the clean energy transition

1. Copper is a necessary raw material for decarbonisation technologies

More copper is needed for the clean energy transition. Thanks to its excellent electrical and thermal conductivity, copper delivers energy savings and CO₂ reductions across the electricity system, in transport, buildings and industry.

Copper is used in applications such as windmills, power grids, electrical installations, solar panels, electric vehicles, charging infrastructure, building automation, energy storage, solar thermal, wastewater heat recovery, heat pumps and batteries. Overall, **copper-enabled decarbonising technologies can abate approximately 75% of the EU GHG emissions¹**.

The additional copper demand generated by the energy transition is compatible with the move towards a circular economy. Copper can be recycled endlessly without loss of properties and around 50% of copper produced in the EU today is obtained through recycling. Copper also contributes to resource efficiency as a carrier metal and by-products of copper production include other metals needed for the energy transition, such as nickel.

2. The copper industry is committed to reducing its carbon footprint

The copper industry has significantly decreased the per-unit energy consumption of copper through improvements such as flash smelting, use of oxygen, energy management and excess heat recovery. Copper producers are working to further reduce their carbon footprint for instance through increasing electrification and the use of renewable energy. The use of electric trucks and machinery, battery energy storage as well as hydrogen are also being explored. As an industry we are putting together a decarbonisation roadmap to 2050.

¹ Copper estimate based on the EU 2050 "High-RES" scenario of the EU 2050 energy roadmap, plus additional assumptions about the uptake of emerging technologies.
https://ec.europa.eu/energy/sites/ener/files/documents/2012_energy_roadmap_2050_en_0.pdf
GHG estimate based on DecarbEurope. <https://decarbEurope.org/>

This is a huge challenge that will require massive investments in the development and deployment of innovative production processes and solutions to further improve energy efficiency and reduce emissions, without compromising efforts to further increase recycling and circularity in the copper value chain.

Why do we need continued protection against carbon leakage?

The EU's climate ambitions and policies are much stronger than those of other countries and regions. These policies lead to higher operational costs for energy intensive industries like copper, for instance through the price we pay for emission allowances or indirectly through the higher prices we pay for electricity to power our production processes.

We are price-takers. Because copper is traded on global commodity markets such as the London Metals Exchange, copper producers cannot pass on the cost increases brought about by regulatory measures to consumers without losing market share to non-EU producers who do not face the same costs.

This means that as long as third countries do not have climate policies resulting in equal climate costs for industry in the same timeframe as the EU, it is of crucial importance that the EU legal framework provides robust protection to avoid the relocation of production sites to countries outside the EU that have less stringent environmental regulations.

Without strong protection against carbon leakage, both the delivery of the ETS environmental goals and the competitiveness of the European metals industry are at risk.

It is therefore important to:

- keep the current State Aid framework until 2030 to allow Member States to compensate electro-intensive industries for increased electricity prices they pay as a result of higher carbon costs that utilities pass on in the electricity price; and
- **ensure adequate free allocation** under the revised ETS in Phase 4

The EU ETS revision should deliver on the 55 percent ambition and help ensure we have a competitive, increasingly decarbonised raw materials industry in Europe in 2030

These two outcomes can and must be aligned. In this respect, we are concerned that the Commission proposal would reduce free allocation and increase the carbon price beyond what is needed to achieve the higher ambition of a 61% reduction in GHG emissions by 2030, potentially jeopardising the ability of our industry to make the huge investments needed in this decade to get ready for carbon neutrality.

The combined impact of lower free allocation and increasing carbon prices will significantly increase copper production costs in the EU, while there are no reciprocal measures impacting on third country producers. Given our inability to pass these costs through to our customers, this reduces the competitiveness of copper producers in the EU, thereby weakening the investment capability of European industry during the same decade when the bulk of the investments need to be made to pave the way for carbon neutrality in 2050.

The following changes should be made to the Commission proposal on the ETS:

1. Rely on the Linear Reduction Factor as the main tool to achieve the 61% reduction in emissions.

This ambition can and should be reached through the increase of the Linear Reduction Factor, which provides a predictable trajectory for reducing free allocation. However, the Commission proposal also foresees the application of '**rebasing**' (a one-off cancellation of allowances once the new ETS framework enters into force) as well as an increase in the amount of allowances put in the Market Stability Reserve.

These additional measures are not needed to achieve the 2030 ambition² and will lead to a more volatile market and put further upward pressure on the carbon price. The current carbon price is already higher than assumed by the Commission in the ETS impact assessment, while independent analysts expect average prices in 2021-2030 to remain much higher than the EUR 50 average assumed by the Commission.

Rebasing and a strengthened MSR will further increase the carbon price and increase costs for industry during the decade when significant investments need to be made in low-carbon technologies. We therefore suggest relying on the LRF as the main tool to achieve the 61% reduction.

ECI ask: Use the Linear Reduction Factor to achieve the higher ambition, while discarding rebasing. Keep the MSR intake rate at 12%.

2. Triggering the Cross Sectoral Correction Factor

It is important to avoid triggering the Cross Sectoral Correction Factor (CSCF) as it would cut free allocation for all sectors in more disruptive way than is done under the Article 10a free allocation rules, without consideration for the extent to which sectors are actually at risk of carbon leakage. According to the Commission impact assessment, the proposed revision of the ETS would lead to an average CSCF of around 80% for the period 2026-2030³. This would exacerbate the already detrimental impact of higher carbon prices and lower free allocation under the revised Article 10a rules on the competitiveness of energy intensive industry in the EU.

To mitigate the impact of the CSCF on industry competitiveness during Phase 4, more flexibility should be introduced by increasing to 5 % the **flexibility buffer** under article 10(a)5a, which currently allows to move up to 3 % of allowances from the auctioning share to the free allocation share.

ECI ask: Increase the 3% flexibility buffer in article 10(a)5a.

² The Commission Impact Assessment shows that a 61% reduction of emissions for the ETS sectors can be reached by 2030 solely through a higher LRF, without rebasing or a strengthened MSR. Table 6 of the Impact Assessment illustrates that option AMB2c combining the LRF with rebasing results in an ETS cap with 355 million allowances less than the same scenario without rebasing (AMB2a); while both options deliver on the higher 2030 ambition.

³ See Table 6 on page 77 of the ETS impact assessment. Option AMB2c which foresees an LRF of 4.22% with rebasing in 2024, is estimated to result in an average CSCF of 82% for this time period.

3. To ensure fair free allocation based on realistic benchmarks, the maximum benchmark update rate should be kept at 1,6%

Free allocation under the ETS is based on benchmarks. For the period 2021-25, 54 product specific benchmarks have been determined by the European Commission, while so-called **'fallback' benchmarks** are used to determine allocation for sectors and subsectors where product benchmarks cannot be set. The fallback benchmark values are set for heat consumption processes where a measurable heat carrier is used (the heat benchmark) and where non-measurable heat is consumed (the fuel benchmark).

At present fallback benchmarks group all sectors together under one fallback benchmark value for fuel and heat, regardless of the differences in technologies that can be used in the sectors covered. This leads to inaccurate values and today the heat and fuel fallback benchmarks do not adequately reflect the reality of some of the sectors that rely on these benchmarks for the allocation of free allowances to their installations.

Currently these fallback benchmarks are based on the abatement potential of sectors that can widely use biomass to reduce their emissions. However, some of the sectors covered such as the copper sector cannot rely on biomass to reduce emissions⁴.

The Commission has proposed to increase the maximum annual rate at which benchmarks can be updated from 1,6% to 2,5%. This would mean that the benchmark values for the heat and fuel fallback benchmarks would be reduced by 12,5% between 2026 and 2030, as opposed to 8%. **For sectors like copper that do not have specific product benchmarks but rely on fall-back benchmarks, this would mean a 50% reduction of free allowances by 2030.**

We believe it is not fair that the copper sector would receive significantly reduced free allocation because the industry relies on fallback benchmarks that are based on the decarbonisation potential of sectors very different from ours. This also leads to unequal treatment with competing sectors that have product benchmarks.

We therefore believe that the maximum benchmark update rate should be kept at 1,6% and the benchmarks methodology should be amended to ensure that the heat and fuel fallback benchmarks reflect the reality of the sectors covered.

These fallback benchmarks should be sector specific, to ensure that due consideration is given to sectorial and geographical differences. For metals, the fallback benchmarks should be based on the average of the reduction rates of existing metals product benchmarks, as opposed to all product benchmarks.

ECI ask: Keep the maximum benchmark update rate at 1,6%. Mandate the European Commission to set sector specific fallback benchmarks for sectors that are not treated fairly under the current approach in implementing acts under article 10a(2).

⁴ Primary smelting of copper is an exothermic process in which sulphur oxidation results in high heat, so no additional heat sources are required; whereas in secondary smelting the use of biomass as a fuel or for melting copper is limited by the very high temperatures that are required. The use of biomass during melting processes can also jeopardize the high purity of refined copper as required for use in electrical applications. Furthermore the use of biomass is problematic due to the fact that it leads to increased emissions of particulate matter, NO_x and dioxins.

4. Acknowledge avoided CO₂ emissions from integrated production of by-products

Copper smelters and refiners produce a number of other metals as by-products of the copper production process, including gold, silver, platinum group metals, tin, nickel, lead and selenium. Over 19 million tons of CO₂ are saved annually as these metals are produced through an integrated process associated to copper production, compared to conventional production routes. We believe that avoided CO₂ emissions from the production of by-products should be considered in the free allocation process under the ETS.

Other considerations:

The Commission has proposed to make full free allocation **conditional** on the implementation of the recommendations of the energy audit that installations must conduct under Article 8(4) of the Energy Efficiency Directive. Free allocation is reduced by 25% if the recommendations with a payback time not exceeding 5 years are not implemented (or other measures with equivalent effect).

We believe that a mechanism should be established to allow for an appeal process in case of non-conformity with the audit recommendations. Auditors may not always have an adequate understanding of complex industry processes, so where the installation disagrees with the audit results, it should have the possibility to appeal to an independent body.

The **extension of the EU ETS to maritime transport** could lead to an increase in maritime transportation costs for the EU raw materials industry if shipping operators pass on the cost of carbon to customers. The Commission should therefore closely monitor the evolution of maritime transport costs following the extension of the ETS to this sector and if needed, propose remedial action.

About the European Copper Institute

The European Copper Institute (ECI) is the leading advocate for the copper industry in Europe and the European arm of the International Copper Association (ICA). Our members mine, smelt, refine and recycle copper for use across the economy, in the electricity system, buildings, transport and industry.

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