

Revision of the EU ETS

European Copper Institute position for trilogues

September 2022

The European Copper Institute (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 reduce dependency on Russian fossil fuels.

Copper is a crucial raw material for electrification and for the energy transition at large: it is the one non-ferrous metal used in all the main decarbonisation technologies today. More copper will therefore be needed in the coming years to enable the decarbonisation of the economy.

As an energy intensive industry, the copper producers that we represent in Europe are taking steps to decarbonise their production sites and are **committed to working towards carbon neutrality by 2050**. Copper producers today face the **twin investment challenge** of increasing production to meet the needs of the energy transition, while also investing to lower the environmental and carbon footprint of copper production.

In Europe, **unprecedented energy prices** are increasing the operational costs of copper smelters and refiners, and causing a competitive disadvantage vis-à-vis producers in other regions where energy prices remain lower. Access to affordable renewable and low-carbon electricity is a pre-requisite for decarbonising copper production. In the current situation, this is a key concern for the industry.

In this context, we call on the EU institutions to support a revision of the EU ETS in the trilogue negotiations which does not go beyond the level of ambition proposed by the Commission. Reducing GHG emissions by 61% by 2030 as proposed by the Commission is already a huge challenge for energy intensive sectors. The increase of the Linear Reduction Factor (LRF) to 4.2% and a one-off deletion of 119 million EUAs in 2024, reflected in the increase of the maximum benchmark improvement rate to 2.5%, would drastically cut free allocation to the copper sector by 50% compared to Phase III.



Revising the ETS in this way could lead to direct carbon costs of € 130 M eating up 22% of the free cash flow of copper smelters and refiners in the EU in 2030¹. During the same time period, the investments required for the decarbonisation of copper smelting and refining in the EU have been estimated at around € 600 M. It is important to note that significant additional capital expenditure will equally be needed to expand production capacity in order to meet growing copper demand.

Copper producers in Europe need the support of governments and EU policymakers to be able to make the investments required. If carbon leakage protection measures (direct and indirect) are phased down too quickly, European producers will face much higher carbon costs than non-EU producers. Because copper is traded on global commodity markets such as the London Metals Exchange, copper producers cannot pass on these costs to consumers without losing market share to global competitors.

Combined with the prospect of prevailing high energy prices in Europe, a faster reduction of carbon leakage protection would put at risk the future of copper production in the EU at a time when demand for copper to enable the faster deployment of solar and wind farms, heat pumps, batteries, electricity grids and other decarbonisation technologies is growing.

Linear Reduction Factor & Rebasing – ETS ambition should not go beyond the Commission proposal

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. Continued 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.

Reducing GHG emissions by 61% by 2030 is already a huge challenge for energy intensive sectors and revising the ETS according to the Commission proposal would negatively impact on the ability of copper producers in the EU to make investments in decarbonisation during this decade. We therefore call on the co-legislators to not increase the level of ambition further, as suggested by the European Parliament.

Rebasing is not needed to achieve the 2030 ambition² and will lead to a more volatile market and put further upward pressure on the carbon price, which is already higher than assumed by the Commission in the ETS impact assessment. However, if rebasing is mandated, we would favour the 2-step rebasing proposed by the European Parliament which could be less disruptive in the market than a bigger one-off reduction.

¹ Frontier Economics analysis for ECI, 2022

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.

Indirect cost compensation is essential for electro-intensive industries and should be given by all Member States

The European Copper Institute welcomes the fact that all three institutions agree on the need to maintain the current framework that allows Member States to compensate energy-intensive producers for the higher electricity prices they pay due to the ETS carbon costs. The share of indirect CO₂ emissions for EU smelters and refiners is 75%-90%. The share of electricity in their energy mix will increase with decarbonisation as the use of clean electricity is the main lever to abate GHG emissions of copper production.

We however regret the lack of a homogenous approach between Member States. **In the current situation of extraordinary electricity prices, it would be more important than ever for indirect cost compensation to be provided by all EU Member States.**

We also believe that the list of sectors eligible for indirect cost compensation within the ETS State aid Guidelines should be expanded to cover copper mining installations. The mining industry is one of the most electrified industries in the global industrial production, exposed to a significant risk of indirect carbon leakage. The role of electricity is also set to increase given that electrification is a key lever for reducing the GHG emissions from copper mining operations.

Benchmarks for free allocation: sectorial differences must be better reflected in fallback benchmarks

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 a single fallback benchmark value for fuel and heat is applied to all applicable sectors, 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 copper cannot rely on biomass to reduce emissions³. The increase of the maximum benchmark update rate to 2,5% will reduce allocation for the copper sector by 50% by 2030 (in comparison to Phase III), without taking into consideration the fact that it is more difficult and costly to reduce the CO₂ emissions from copper production processes than it is to reduce emissions in other sectors where fossil fuel use can be replaced by biomass.

³ 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.

The European Commission should consider sectorial differences when defining fallback benchmarks in implementing acts under article 10a(2). Sector specific fallback benchmarks should be considered for sectors that cannot use biomass to reduce emissions, such as for the metals sector.

Phase out of free allocation for CBAM sectors

We support the Commission and Council's approach to phasing out free allocation for CBAM sectors over a ten-year period. The phase-out should however only begin once a solution has been found to ensure that European exports are not disadvantaged under the CBAM framework.

We are at the same time concerned about the European Parliament's suggestion that free allocation should be phased out over six years only and that this same approach should already be mandated for all other sectors that will be included under CBAM at a later stage. Each sector is different and the appropriateness of applying CBAM to new sectors must therefore be assessed on a case by case basis. **The extension of CBAM to new sectors cannot be automatic and must be subject to impact assessments for each new sector. The extension into new sectors should follow the ordinary legislative process based on a proposal by the Commission, and the phase-out timeline for new sectors should be decided during this process, so that due consideration can be given to the characteristics of these new sectors.**

Conditionality for free allocation

Copper producers in the EU have already implemented energy audits / energy management systems to reduce energy consumption as much as can be achieved through economically viable measures, and are constantly assessing potential for further improvements. In our sector, the inclusion of additional conditionality criteria in this area would therefore not lead to increased decarbonisation measures on the ground, but would however introduce significant administrative burdens on companies.

The European Parliament's suggested 'double conditionality' approach would impose an even heavier administrative burden on installations by adding an obligation to establish climate plans and report on progress made in implementation. Given existing reporting requirements and potential new requirements under other legislative instruments, we question the added value of this proposal. The need for any further reporting requirements in this area should be assessed holistically, with consideration given to all existing requirements, to avoid a proliferation of requirements under different legislative instruments.

Background: 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

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.

Contact

Anna-Maria Karjalainen, Director Clean Energy Transition

Email: annamaria.karjalainen@copperalliance.org

Tel: +32 (0)473335066

Transparency register: 04134171823-87

Find us on copperalliance.eu / [LinkedIn](#) / [Twitter](#)