

Implementing act on free allocation adjustments due to activity level changes

Fields marked with * are mandatory.

Introduction

The revised EU ETS Directive[1] establishes that free allocation to industry will continue after 2020 as long as no comparable efforts are undertaken in other major economies.

Free allocation[2] is thus a transitional measure foreseen to address the risk of carbon leakage which is defined as the risk of an increase in global emissions following relocation of industry due to climate policies to third countries with no or limited carbon constraints.

In order to implement free allocation for the 4th trading period of the EU ETS from 2021 to 2030, the Commission needs to develop a series of regulatory acts. One of these acts will focus on the rules for adjusting free allocation due to activity level changes.

While the revised EU ETS Directive establishes the main rules for adjusting free allocation to activity level changes, more detailed implementation requirements need to be determined. The Directive establishes that the level of free allocation will be adjusted, as appropriate, if activity levels change by more than 15% evaluated on a rolling average of two years.

The Directive adds, that in order to implement this provision, the Commission may adopt implementing acts defining further provisions for the adjustments of the level of free allocations given to installations whose operations have increased or decreased. In particular, the Commission should be able to consider further measures to be put in place, such as the use of absolute thresholds regarding the changes to allocations, or with respect to the deadline that applies to the notification of changes in production. Furthermore, manipulation or abuse of the system should be prevented and any undue administrative burden should be avoided.

In this context, this consultation seeks the views of the stakeholders on the issues that remain to be decided before the Commission can determine the rules to be applied to adjustments to free allocation due to activity level changes for the period 2021 to 2030. The results of this consultation will be analysed, published and incorporated in the Staff Working Document that will accompany the implementing act on allocation changes due to activity level changes.

Wherever possible, it would be useful if stakeholders provide references to concrete evidence and facts in support of their answers.

[1] Directive (EU) 2018/410 of the European Parliament and of the Council amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments. OJ L 76, 19.3.2018, p. 3.

[2] https://ec.europa.eu/clima/policies/ets/allowances_en

About you

* Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- Gaelic
- German
- Greek
- Hungarian
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

* First name

Alexandre

* Surname

Fabre

* Email (this won't be published)

alexandre.fabre@total.com

* Organisation name

255 character(s) maximum

Total S.A.

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

1849405799-88

* Country of origin

Please add your country of origin, or that of your organisation.

- | | | | |
|---|--|-------------------------------------|--|
| <input type="radio"/> Afghanistan | <input type="radio"/> Djibouti | <input type="radio"/> Libya | <input type="radio"/> Saint Pierre and Miquelon |
| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Vincent and the Grenadines |
| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Samoa |
| <input type="radio"/> Algeria | <input type="radio"/> Ecuador | <input type="radio"/> Luxembourg | <input type="radio"/> San Marino |
| <input type="radio"/> American Samoa | <input type="radio"/> Egypt | <input type="radio"/> Macau | <input type="radio"/> São Tomé and Príncipe |
| <input type="radio"/> Andorra | <input type="radio"/> El Salvador | <input type="radio"/> Madagascar | <input type="radio"/> Saudi Arabia |
| <input type="radio"/> Angola | <input type="radio"/> Equatorial Guinea | <input type="radio"/> Malawi | <input type="radio"/> Senegal |
| <input type="radio"/> Anguilla | <input type="radio"/> Eritrea | <input type="radio"/> Malaysia | <input type="radio"/> Serbia |
| <input type="radio"/> Antarctica | <input type="radio"/> Estonia | <input type="radio"/> Maldives | <input type="radio"/> Seychelles |
| <input type="radio"/> Antigua and Barbuda | <input type="radio"/> Ethiopia | <input type="radio"/> Mali | <input type="radio"/> Sierra Leone |
| <input type="radio"/> Argentina | <input type="radio"/> Falkland Islands | <input type="radio"/> Malta | <input type="radio"/> Singapore |

- Armenia
- Aruba
- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Faroe Islands
- Fiji
- Finland
- Former Yugoslav Republic of Macedonia
- France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar/Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- North Korea
- Northern Mariana Islands
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Swaziland
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda

- | | | | |
|--|-----------------------------------|---|--|
| <input type="radio"/> Chile | <input type="radio"/> Isle of Man | <input type="radio"/> Papua New Guinea | <input type="radio"/> Ukraine |
| <input type="radio"/> China | <input type="radio"/> Israel | <input type="radio"/> Paraguay | <input type="radio"/> United Arab Emirates |
| <input type="radio"/> Christmas Island | <input type="radio"/> Italy | <input type="radio"/> Peru | <input type="radio"/> United Kingdom |
| <input type="radio"/> Clipperton | <input type="radio"/> Jamaica | <input type="radio"/> Philippines | <input type="radio"/> United States |
| <input type="radio"/> Cocos (Keeling) Islands | <input type="radio"/> Japan | <input type="radio"/> Pitcairn Islands | <input type="radio"/> United States Minor Outlying Islands |
| <input type="radio"/> Colombia | <input type="radio"/> Jersey | <input type="radio"/> Poland | <input type="radio"/> Uruguay |
| <input type="radio"/> Comoros | <input type="radio"/> Jordan | <input type="radio"/> Portugal | <input type="radio"/> US Virgin Islands |
| <input type="radio"/> Congo | <input type="radio"/> Kazakhstan | <input type="radio"/> Puerto Rico | <input type="radio"/> Uzbekistan |
| <input type="radio"/> Cook Islands | <input type="radio"/> Kenya | <input type="radio"/> Qatar | <input type="radio"/> Vanuatu |
| <input type="radio"/> Costa Rica | <input type="radio"/> Kiribati | <input type="radio"/> Réunion | <input type="radio"/> Vatican City |
| <input type="radio"/> Côte d'Ivoire | <input type="radio"/> Kosovo | <input type="radio"/> Romania | <input type="radio"/> Venezuela |
| <input type="radio"/> Croatia | <input type="radio"/> Kuwait | <input type="radio"/> Russia | <input type="radio"/> Vietnam |
| <input type="radio"/> Cuba | <input type="radio"/> Kyrgyzstan | <input type="radio"/> Rwanda | <input type="radio"/> Wallis and Futuna |
| <input type="radio"/> Curaçao | <input type="radio"/> Laos | <input type="radio"/> Saint Barthélemy | <input type="radio"/> Western Sahara |
| <input type="radio"/> Cyprus | <input type="radio"/> Latvia | <input type="radio"/> Saint Helena
Ascension and
Tristan da Cunha | <input type="radio"/> Yemen |
| <input type="radio"/> Czech Republic | <input type="radio"/> Lebanon | <input type="radio"/> Saint Kitts and Nevis | <input type="radio"/> Zambia |
| <input type="radio"/> Democratic Republic of the Congo | <input type="radio"/> Lesotho | <input type="radio"/> Saint Lucia | <input type="radio"/> Zimbabwe |
| <input type="radio"/> Denmark | <input type="radio"/> Liberia | <input type="radio"/> Saint Martin | |

* Publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only your type, country of origin and contribution will be published. All other personal details (name, organisation name and size, transparency register number) will not be published.

Public

Your personal details (name, organisation name and size, transparency register number, country of origin) will be published with your contribution.

* I agree with the [personal data protection provisions](#)

Questions

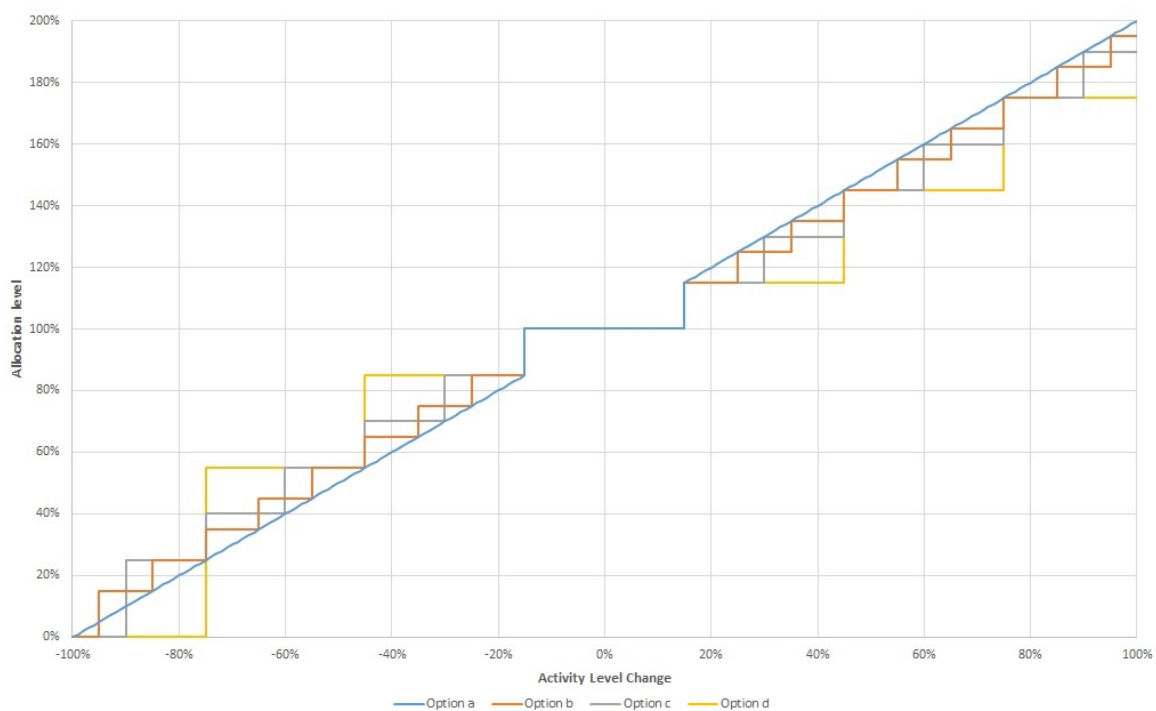
This section includes general questions related to the adjustments to free allocation due to activity level changes.

Article 10a of the revised ETS Directive establishes that the level of free allocations given to installations shall be adjusted in case the operations have increased or decreased by more than 15 % compared to the level initially used to determine the free allocation assessed on the basis of a rolling average of two years. In addition, other elements of the allocation adjustments need to be determined.

1. Which of the following options do you consider preferable for an adjustment to allocation due to activity level changes per sub-installation?

- a. For changes in activity level of more than 15%, the allocation should be adjusted proportionally to the actual change; i.e. an increase/decrease of activity by 19% would lead to an adjustment of 19% of allocation;
- b. A first allocation adjustment should be applied for a 15% increase or decrease in activity level. Subsequent allocation adjustments will be made within intervals of an amplitude of 10%; i.e. an increase/decrease of activity by 19% would lead to an adjustment of 15% of allocation; an increase /decrease in activity of 38% would lead to an adjustment of 35% of allocation; an increase of activity of 98% would lead to a 95% adjustment in allocation;
- c. A first allocation adjustment should be applied for a 15% increase or decrease in activity level. Subsequent allocation adjustments will be made within intervals of an amplitude of 15%; i.e. an increase/decrease of activity by 19% would lead to an adjustment of 15% of allocation, an increase /decrease of activity of 38% would lead to an adjustment of 30% of allocation; an increase of activity of 98% would lead to a 90% adjustment in allocation;
- d. A first allocation adjustment should be applied for a 15% increase or decrease in activity level. Subsequent allocation adjustments will be made within intervals of an amplitude of 30%; i.e. an increase/decrease of activity by 19% would lead to an adjustment of 15% of allocation, an increase /decrease of activity of 38% would lead to an adjustment of 15% of allocation; an increase of activity of 98% would lead to a 75% adjustment in allocation;
- e. No preference / Don't know.

Adjustments in options b, c and d are made at the level of the threshold already reached. The figure below illustrates the steps.



2. With the aim to reduce the administrative burden, do you consider that a minimum quantitative threshold should be introduced to determine whether the level of free allocation shall be adjusted? An adjustment would then take place only if the change would lead to an increase/decrease by a minimum of X EUAs.

- a. Yes, a minimum threshold of 100 allowances;
- b. Yes, a minimum threshold of 500 allowances;
- c. No quantitative minimum threshold shall be established;
- d. No preference / Don't know;
- e. Yes, a minimum threshold shall be established but another value shall be used.

If your answer to question 2 is e, please specify the value preferred below and give a justification:

1000 character(s) maximum

3. In your opinion, when should activity level data start to be collected and when do you consider that allocation adjustments shall begin in the first allocation period 2021-2025:

- a. Allocation changes shall start in 2023 based on the activity level data collected from the years 2022 and 2021;
- b. Allocation changes shall start in 2022 based on the activity level data collected from the years 2021 and 2020;
- c. Allocation changes shall start in 2021 based on the activity level data collected from the years 2020 and 2019;
- d. No preference / Don't know.

4. In phase 4 of the EU ETS, activity level data will be collected for each installation at sub-installation level on an annual basis. This data will need to be verified and reported. In your opinion, how can the administrative burden be minimised while the robustness of collected data is ensured?

1000 character(s) maximum

The use of modern Information and Communication Technology could help a lot to minimise the administrative burden as well as increase robustness of collected data: web interface, « big data » applications, artificial intelligence to detect errors, etc.

5. If, in your opinion, there are other aspects which should be considered when developing detailed rules on free allocation adjustments due to production level changes, please describe them:

3000 character(s) maximum

According to Article 10a par (20) of the revised EU ETS Directive, changes to an installation's level of free allocation can be made if its operations increase or decrease by more than 15%. However, for large and complex installations, the +/- 15% threshold represents a very big amount of allowances and a high cost impact if the +15% activity threshold is missed. As an example, for the 10 installations who received the largest amount of free allowances (in 2017), 15% represents 900,000 tons. This is more than the full allocation of free allowances to 98% of eligible installations.

The EU ETS Directive's Recital 12 says that 'The Commission should be able to consider further measures to be put in place, such as the use of absolute thresholds regarding the changes to allocations, or with respect to the deadline that applies to the notification of changes in production.'

We recommend that a separate absolute threshold is also considered to trigger the dynamic allocation calculation. This would improve the alignment between activity level and free allowances for large installations. It would also help to ensure climate friendly investment was not restricted from application at larger installations.

For sub-installations that fall under the heat or fuel benchmarks, the activity level is based on the energy consumed or produced. Variations in the activity level could be due to variations in the underlying production or to improvements (or degradations) in the energy efficiency. Such sub-installations should not be penalized (or rewarded) for these variations in efficiency. To avoid excessive burden for a limited impact, rigorous calculation and verification rules to distinguish production and efficiency variations should be put in place for sub-installations with allowances above a certain threshold.

6. Do you see a need for further safeguards to prevent manipulation or abuse of the system?

3000 character(s) maximum

The use of modern Information and Communication Technology could help a lot to set safeguards to prevent manipulation or abuse of the system: web interface, « big data » applications, artificial intelligence to detect anomaly and fraud, etc.

Document upload and final comments

Please feel free to upload a concise document, such as a position paper. The maximum file size is 1 MB.

The uploaded document will be published alongside your response to the questionnaire which is the essential input to this public consultation. The document is optional and serves as additional background reading to better understand your position.

Please upload your file

The maximum file size is 1 MB

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Contact

