

Position Paper

On

Updating the EU emissions trading system (ETS)

Frankfurt am Main, Dat

AGFW is the German energy efficiency association for heating, cooling and cogeneration. We represent more than 550 utility companies (national and regional), energy service providers as well as industrial companies of the sector across Germany and Europe. As rule-setting body we represent over 95 % of Germany's DHC market.

General appreciation

A clarified approach on the separate role of the new emissions trading system for buildings and road transport

As a longstanding proponent of carbon pricing, AGFW has been a strong advocate of introducing a separate carbon price signal for the buildings sector as part of the fit-for-55-revision process. Therefore, AGFW wishes to emphasize the importance of establishing a clear separation between the future emission trading systems, in order to prevent any possible risk of a double accounting of emissions between the systems. Such a clear distinction is particularly important for facilities that operate in both sectors, such as for example cogeneration plants and sector integration installations, which are equally considered to be of critical importance for Europe's energy transition. If their emissions would be fully accounted in both trading systems, they would face a significant regulatory disadvantage. Avoiding such a distortion of the regulatory playing field to the benefit of the most efficient technologies with lower carbon intensities following the Energy-Efficiency-First-Principle should thus be the Commission's primary focus in the upcoming legislative process.

Against this background, AGFW proposes a simple and clear cut separation of emissions currently already accounted through the present emission trading system from the scope of application of the new emission trading system for buildings and transport.

Establishing the principle of single accounting within emission monitoring and verification procedures

As a further safeguard against a possible double accounting of emissions and competitive distortions of respective market structures, AGFW recommends to establish the principle of single accounting within the emission monitoring, verification and accreditation system of the future buildings and transport trading system. This should be realized by allowing traders ("distributors") selling fuel to entities covered by the current European emission trading system to make a prior ex ante-deduction of the additional emission price based on the annual verification of the facilities emission report. Moreover, a subsidiary recoupment system should be established to enable operators of installations that are covered by an existing emission trading system to recover their costs directly from the responsible national authority in the case of dual counting.

Organizing the transition of national carbon pricing systems

The establishment of a separate European wide emission trading system for buildings and road transport will have to accommodate with a wide array of differing national carbon pricing and taxation systems that are already in practice. Organizing a considerate and well balanced transition of these national carbon pricing systems into a common European framework will thus be a crucial task in the design of the new emissions trading system. In order to reduce

regulatory costs and frictions within the transitory process, AGFW advocates in favor of an alignment of accounting periods with the German national emission trading system (BEHG), which currently encompasses the largest share of facilities set to be covered by the future European trading system. Member States thus require clarity in view of the envisioned starting date in 2026 in regards to the future alignment of national and European trading systems.

Due to the supply sided focus of the trading systems, this transitory process poses particular regulatory challenges for cogeneration plans vis a vis their less efficient single generation competitors. In order to maintain the regulatory playing field between single generation and CHP facilities within the present ETS the Commission should consider to continue the free allocation of certificates for heat production as a suitable and well established tool in the medium term. For <20 MW cogeneration facilities covered by the future buildings ETS AGFW moreover calls for a clarified and uniform accounting formula on the basis of Annex II of the Energy Efficiency Directive and a blanket clause for renewable fuels.

Proposed amendments to the European Emission Trading Directive

Article 10a: Conditions on free allocation and Innovation Fund

Comment

AGFW strongly advocates in favor of a stronger implementation of the Energy-Efficiency-First-Principle within the proposed revision of the European ETS-Directive. Thus, the revised European ETS-Directive should promote a stronger incentivisation of industrial energy efficiency investments especially in regards to waste heat utilization for district heating. Therefore the current free allocation formula set out in Art. 10 (5) k) of the Delegated Regulation (EU) 2019/331 determining transitional Union wide rules for harmonized free allocation of emission allowances should be amended to ensure a free allocation factor of 100% for companies that provide heat for district heating and that are at risk of carbon leakage.

With respect to the future design of the ETS Innovation Fund and the development of CCS and CCU technologies, an absolute priority must be given to measures designed to reduce emissions of sustainable activities such as bioenergy production or waste treatment, rather than the capture and storage of carbon emissions resulting from fossil fuel combustion. Carbon storage resources should not be used to promote the long term use of fossil fuels. Instead, CCS technologies should be further developed to explore their potential to generate negative emissions in combination with bioenergy (Bioenergy with Carbon Capture & Storage, BECCS) or waste incineration facilities. Therefore the Innovation Fund should focus on the support of these technologies.

Proposal

1....*In order to provide further incentives for reducing greenhouse gas emissions and improving energy efficiency, the determined Union-wide ex-ante benchmarks shall be reviewed before the period from 2026 to 2030 in view of potentially modifying the definitions and system boundaries of existing product benchmarks. Any future review of existing product benchmarks shall support the strengthening of energy efficiency following the common principle of Energy-Efficiency-First especially in regards to the promotion of waste heat utilization.*

8...*The Innovation Fund shall cover the sectors listed in Annex I and Annex III, including environmentally safe carbon capture and utilisation (“CCU”) that do not result from the combustion of fossil fuels to generate energy as a main purpose and contributes substantially to mitigating climate change, as well as products substituting carbon intensive ones produced in sectors listed in Annex I, and to help stimulate the construction and operation of projects aimed at the environmentally safe capture and geological storage of CO2 that do not result from the combustion of fossil fuels but from biologic fuels or waste (Bioenergy with Carbon Capture & Storage, BECCS), as well as of innovative renewable energy and energy storage technologies; in geographically balanced locations. The Innovation Fund may also support break-through innovative technologies and infrastructure to decarbonise the maritime sector and for the production of low- and zero-carbon fuels in aviation, rail and road transport. Special attention shall be given to projects in sectors covered by the [CBAM regulation] to support innovation in low carbon technologies, CCU, CCS, BECCS renewable energy and energy storage, in a way that contributes to mitigating climate change.*

Art. 30a: Scope

Position

Art. 30 a) should clarify that fuels released for consumption for activities set out in Annex I (e.g. any emission that is already accounted through an emission trading system set up on the basis of this Directive) do not fall within the scope of Chapter IVa (emissions trading system for building and road transport) to underline the adjacent structure of the new trading system.

Proposal

The provisions of this Chapter shall apply to emissions, greenhouse gas emission permits, issue and surrender of allowances, monitoring, reporting and verification in respect of the activity referred to in Annex III. This Chapter shall not apply

a) ***to the release for consumption of fuels used in the activities set out in Annex I to this Directive, except if used for combustion in the activities of transport of greenhouse gases for geological storage (activity row twenty seven), and to the release for consumption of fuels for which the emission factor is zero, or to any kind of emission that is already accounted through an emission trading system set up on the basis of this Directive;***

b) *to any emissions covered by Chapters II, IIa and III.*

Art. 30f: Monitoring, reporting, verification of emissions and accreditation

Position

In order to properly exclude the risk of dual counting of already verified and accredited emissions. The Commission should implement an ex-ante system to enable the prior deduction of accounted emissions by the fuel selling entity ("distributor") based on the emission report of their contractual counterparty. If the EU commission does not implement an ex-ante system, then it is a necessary condition, that facilities subject to double counting must be able to recuperate their costs, by equivalently deducting these emission costs from the fuel selling entity ("distributor") based on their next annual emission report in July.

Proposal

4. Member States shall ensure that the regulated entities are able to identify and document reliably and accurately per type of fuel, the precise volumes of fuel released for consumption which are used for combustion in the buildings and road transport sectors as identified in Annex III, and the final use of the fuels released for consumption by the regulated entities. The Member States shall take appropriate measures to avoid any risk of double counting of emissions covered under this Chapter and the emissions under Chapters II, IIa and III. Detailed rules for avoiding double counting shall be adopted in accordance with Article 14(1).

With regard to facilities which emissions are already accounted for through an emission trading system set up on the basis of this Directive, Member States shall establish appropriate measures to avoid any risk of double counting of those emissions. Entities which sell fuel to such facilities shall be allowed to make a prior deduction of the additional emission price based on an annual verification of the facilities emission report. Facilities shall be able to recoup costs incurred from possible double counting

of their emissions from the responsible national authority based on their emission reports.

Emissions of fuels purchased for storage shall be accounted for within their year of purchase.

Article 30e:Transfer, surrender and cancellation of allowances

Position

As stated above, AGFW wishes to emphasize the importance of regulatory accommodation between existing national trading systems – such as the German BEHG – and the future European system for building and road transport in order to reduce administrative expenditures and facilitate the transitory process while maintaining the common level of ambition. An important step in this regard would be the harmonization of accounting periods, which would significantly ease the administrative costs as it would avoid the set-up of dual accounting procedures.

Proposal

1. Article 12 shall apply to the emissions, regulated entities and allowances covered by this Chapter with the exception of Article 12, paragraphs (2a), (3), (3a), paragraph (4), third and fourth sentence, and paragraph (5). For this purpose:

- (a) any reference to emissions shall be read as if it were a reference to the emissions covered by this Chapter;
- (b) any reference to operators of installations shall be read as if it were a reference to the regulated entities covered by this Chapter;
- (c) any reference to allowances shall be read as if it were a reference to the allowances covered by this Chapter.

2. From 1 January 2027, Member States shall ensure that, by ~~30 April~~ **30 September** each year, the regulated entity surrenders a number of allowances covered by this Chapter, that is equal to the total emissions, corresponding to the quantity of fuels released for consumption pursuant to Annex III, during the preceding calendar year as verified in accordance with Articles 15 and 30f, and that those allowances are subsequently cancelled.

Article 30f: Monitoring, reporting, verification of emissions and accreditation

Proposal

1. *Articles 14 and 15 shall apply to the emissions, regulated entities and allowances covered by this Chapter. For this purpose:*

- (a) *any reference to emissions shall be read as if it were a reference to the emissions covered by this Chapter;*
- (b) *any reference to activity listed in Annex I shall be read as if it were a reference to the activity referred to in Annex III;*
- (c) *any reference to operators shall be read as if it were a reference to the regulated entities covered by this Chapter;*
- (d) *any reference to allowances shall be read as if it were a reference to the allowances covered by this Chapter.*

2. Member States shall ensure that each regulated entity monitors for each calendar year as from 2025 the emissions corresponding to the quantities of fuels released for consumption pursuant to Annex III. They shall also ensure that each regulated entity reports these emissions to the competent authority in the following year **by 31 July**, starting in 2026, in accordance with the acts referred to in Article 14(1).

3. Member States shall ensure that each regulated entity holding a permit in accordance with Article 30b on 1 January 2025 report their historical emissions for year 2024 by ~~30 March~~ **31 July** 2025.

ANNEX	III:	ACTIVITY	COVERED	BY	CHAPTER	IVa
Position						
<p>The scope of activities listed in Annex III provides a suitable basis for the structuring of the future common trading system adjacent to the current European ETS. Given the analogue structure of the recently introduced German national trading system, the final design of the future buildings and transport ETS should seek to build upon recent practical and operative experiences in order to facilitate the regulatory process and reduce administrative burden for operators. Such a best practice-approach should include a blanket provision for fuels explicitly defined as renewable under the European Renewable Energy Directive to streamline assessment procedures. Most importantly however, the future trading system for buildings and road transport should aim to promote the most energy efficient solutions and thus prevent any possible market distortion to the detriment of cogeneration facilities by explicitly confining the systems scope to heat generation. Hence, the scope of Annex III should provide a clear formula for cogeneration facilities to separate the energy input used for heat generation from the input used for electricity generation. This could be best achieved by referring to the formula provided in Annex II of the Energy Efficiency Directive.</p>						

Proposal

Activity:

1. Release for consumption of fuels which are used for combustion in the sectors of buildings and road transport.

This activity shall not include:

(a) the release for consumption of fuels used in the activities set out in Annex I to this Directive, except if used for combustion in the activities of transport of greenhouse gases for geological storage (activity row twenty seven);

(b) the release for consumption of fuels, **including sustainable biomass fuels and renewable fuels of non-biological origin**, for which the emission factor is zero.

2. The sectors of buildings and road transport shall correspond to the following sources of emissions, defined in 2006 IPCC Guidelines for National Greenhouse Gas Inventories, with the necessary modifications to those definitions as follows:

(a) Combined Heat and Power Generation (CHP) (source category code 1A1a ii) and Heat Plants (source category code 1A1a iii), insofar as they produce heat for categories under (c) and (d) of this point, either directly or through district heating networks **and only referring to the fuel use associated with the heat output; the splitting of GHG emissions between electricity output and heat output is carried out in analogy to Annex II of the Energy Efficiency Directive**;

- (b) *Road Transportation* (source category code 1A3b), excluding the use of agricultural vehicles on paved roads;
- (c) *Commercial / Institutional* (source category code 1A4a);
- (d) *Residential* (source category code 1A4b).

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