



28 December 2020

## **EuLA Position on the European Commission (EC) Draft determining revised benchmark values for free allocation of emission allowances for the period from 2021 to 2025 under the European Emission Trading System (EU ETS)**

### **• Introduction**

EuLA acknowledges the opening by the European Commission on 7<sup>th</sup> December 2020, of the public consultation on the draft Commission Decision determining the benchmarks values for free allocation in the period 2021-2025. As earlier noticed, the product benchmark value for lime is announced to be 0,725 (allowances/t), being this the maximum reduction possible (24%) applied between 2007-2008 and 2023<sup>1</sup>.

As also discussed during the bilateral meeting EuLA hold with DG CLIMA (Unit B.2 ETS Implementation & IT), on the 8<sup>th</sup> May this updated valued is not feasible to be reached. During this meeting, the European Commission recognised that they wish to elaborate the benchmarks in a way that the best performing installations will receive 100% of free allocation at their benchmark level. Under the current DG CLIMA approach based on the full consideration of biomass for the calculation of the benchmarks update within the IV Phase of the EU ETS (2021-2030), the 10% best lime sub-installations will not cover their portfolio of free allocation fully.

### **• The proposed benchmarks values risk the EU Law being challenged.**

Indeed, the point that at least the 10 % most efficient sub-installations of the sectors and subsectors deemed at risk of carbon leakage shall receive 100% of free allocation, is recognised through EU Law:

- Thus, the EU ETS Directive [2003/87/C](#) in its article 10b (1) mentions “Such sectors and subsectors [this is, sectors and subsectors deemed to be at risk of carbon leakage] shall be allocated **allowances free of charge for the period until 2030 at 100 %** of the quantity determined pursuant to Article 10a”.
- The Commission Delegated Decision (EU) 2019/708 (so called Carbon Leakage List (CLL) 2021-2030), within the recital 3 of the aforementioned reiterates this compromise: “To address the risk of carbon leakage, paragraph 5 of Article 10b of Directive 2003/87/EC provides that the Commission is to determine a list of sectors and subsectors deemed to be at risk of carbon leakage list. **Those sectors and subsectors are to receive free allowances at 100 % of the quantity** determined pursuant to Article 10a of Directive 2003/87/EC”.

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<sup>1</sup> Annex I of the draft which includes the list of benchmark values (allowances/t) for 2021-2025.

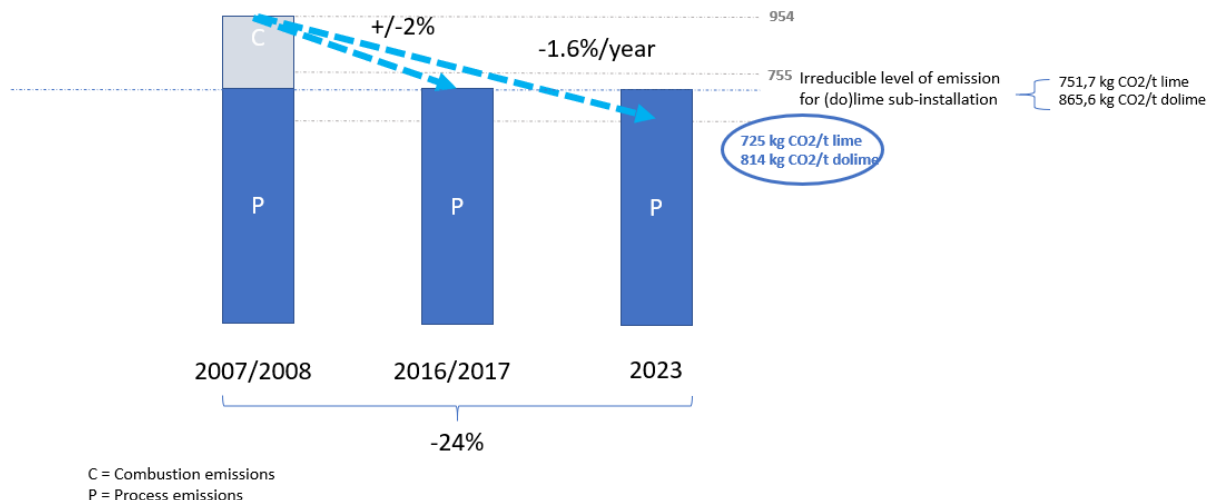


In addition, recital 17 of the same CLL, mentions “The sectors and subsectors listed in point 1 of the Annex to this Decision meet the criteria set out in Article 10b (1) of Directive 2003/87/EC and should be deemed to be at risk of carbon leakage”. **This is, indeed, the case of the Sector “Manufacture of lime and plaster” (NACE Code 23.52)**, explicitly classified as a sector which, pursuant to Article 10b of Directive 2003/87/EC, is **deemed to be at risk of carbon leakage**, and as such, **where at least 10% most efficient sub-installations in terms of CO<sub>2</sub> emissions shall receive 100% of free allocation at benchmark level**.

- **But this is not the case, as even 10% best sub-installations will not receive 100% free allowances.**

The production of lime is based on a simple chemical reaction: fuel is used to reach the optimal temperature where CaCO<sub>3</sub> decomposes into CaO (lime) and CO<sub>2</sub>. The latter – called ‘process emissions’ – represents 2/3 of the total CO<sub>2</sub> emissions and is the natural result of the chemical decarbonation; as such, these emissions are not reducible. The remaining one third comes from the use of fuel.

A sub-installation burning solely biomass has no accountable emissions for the energy combustion; the only remaining emissions are the process emissions. Therefore, when applying the annual reduction rate proposed by the EC (reducing the benchmark figure annually based on emissions from the best installations in 2016-17), the benchmark value for the lime industry would simply be technically unfeasible: as explained, the process emissions are irreducible (see below). This would therefore not be feasible and not lead to GHG emission reduction.



For the ETS to be an effective tool and to effectively protect the lime sector against carbon leakage, the benchmarks should be based on feasibility, as provided by the ETS Directive. In this sense, a fair and feasible solution could be limiting the benchmark to the cap of process CO<sub>2</sub>, this is, the application of article 16 (2e) of Regulation 2019/331, where “for process emissions sub-installations, the preliminary annual number of emission allowances allocated free of charge for a given year shall correspond to the process-related historical activity level multiplied by 0,97”.



- **Our call:**

The values presented within the draft were expected considering the EC is willing to include **full biomass** in the benchmark calculation, something that not only EuLA but also other European Federations have been strongly advocating against as:

1. Sub-installations burning biomass are not the most energy efficient sub-installations,
2. Biomass fuel availability is geographically limited due to very specific local conditions, and
3. Biomass burning does not provide the right incentives to achieve the EU climate neutrality goal (air pollutant emissions and negative impact on biodiversity are among others).

Even if these solid arguments have not been considered by the policy maker, we are still optimistic that the European Commission aims to respect the basic principles of the EU ETS Directive and free allocation. In a nutshell:

1. Determining the benchmark on biomass is artificial to a certain extent due to lack of availability and future conflict on biomass preservation. The main long-term source of biomass will be biomass waste and the capacity will never exist to cover all industries' needs.
2. The artificial extension of the improvement factor is inappropriate in a sector with very high proportion of process & irreducible emissions. As a dramatic consequence, the level of free allowances determined by this methodology will not be sufficient even for the 10% best sub-installation. Mutatis mutandis, applying the provision of art 16e to the process emission's share could be a fair way to address this very particular case.
3. The proposal of the commission is disproportionate as in the case of lime, the benchmark value will not be sufficient to cover the emissions of the best in class while in other sectors the proposed benchmarks values are much higher than the actual 10% best emitters.

Within this paper, **we call the European Commission to consider the issue of the lime sector having a huge proportion of (irreducible) process emissions and the consequences of the proposed reduction**: If the proposed values are adopted, the 10% best lime sub-installations will not receive full free allocation at benchmark level so delocalisation or carbon leakage and other negative consequences of this decision will be visible in the short term.

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*About EuLA*

*EuLA, the European Lime Association, represents about 95% of the European non-captive lime production through its 23 covered Member States (companies & national associations). The European lime sector operates around more than 160 sub-installations (plants) in the EU, producing a total of more than 22 million tons of lime and dolime (2019). Lime is an essential but often unseen ingredient, which possesses many applications for downstream industries. As a strong "enabler", lime is used from steel to water treatment and pharmaceuticals, environmental protection, glass and paper industrial processes, in the construction and civil engineering and in agriculture.*