

Euro Chlor response to the public consultation on draft ETS State aid Guidelines

Euro Chlor, based in Brussels, is a sector group of Cefic (European Chemical Industry Council) and represents 38 chlor-alkali producing members operating 58 manufacturing locations in 19 European countries. Euro Chlor covers 97% of all European chlor-alkali production capacity. Being highly electro-intensive, the sector decided to introduce some specific comments to supplement the Cefic response to this consultation.

Chlor-alkali production is covered by NACE Code 20.13, third on the Annex I list and thus recognised by the Commission and the consultant report to qualify for indirect compensation.

Risk of competition distortion within the EU

- 11 ... Member States should adopt financial measures in favour of sectors or subsectors which are exposed to a genuine risk of carbon leakage ...
30. ... when needed, Member States may limit the amount of the indirect costs to be paid at undertaking level to [...] % of the gross value added...

There are currently differences among the Member States in terms of granting compensation, as indicated in the Report on the functioning of the European carbon market last year (COM (2018) 842 final). Since there is no obligation for Member States to provide compensation, the risk of competition distortion in the internal market remains. Being against every possible form of distortion between players in the EU, Euro Chlor welcomes the change of 'may' into 'should'. As already stated in the Cefic response, the Commission should actively encourage those Member States that do not yet give compensation to participate in the future.

The draft Guidelines allow Member States to adjust the indirect cost compensation for sectors and subsectors, allowing the possibility that sectors and subsectors may only be provided with compensation at below the maximum allowed levels. This opens the door to further distortions within the internal market. Therefore, Euro Chlor does not favour this proposal.

Activity level

14. For the purposes of these Guidelines the following definitions apply:
- (11) 'actual output', in tonnes per year, means the installation's actual production in year t , determined ex post in year $t+1$;

Euro Chlor encourages the proposed improvements regarding the activity level. The proposed definition will use a yearly update output figure; hence it will give a more accurate output level than was previously the case.

Level of compensation and benchmark determination

26. The aid is proportionate and has a sufficiently limited negative effect on competition and trade if it does not exceed 75 % of the indirect emission costs incurred.

Euro Chlor believes that the capping of the compensation to 75% will systematically disadvantage domestic electro-intensive chlor-alkali manufacturing in Europe, because of the following:

- Electricity is a raw material in the chlor-alkali production and represents typically 50%-60% of the variable production costs.
- The calculation determining the amount of compensation applies a benchmark representing the most electricity-efficient technology available on the market. This rightfully drives producers to continuously optimise/minimise electricity consumption. However, aid intensity of 75% implies that even the best in class does not receive full compensation and will be subject to significant carbon leakage. Therefore, Euro Chlor believes the aid intensity has to be 100%.

66. The Commission will adapt these Guidelines to update the electricity consumption efficiency benchmarks and the CO₂ emission factors in 2025.

Benchmark calculations are complex. For the chlor-alkali industry, the benchmark needs to reflect actual technological progress of the 10% best performers in Europe. There are technologies available that produce chlorine-caustic and hydrogen and technologies producing chlorine-caustic without hydrogen. The latter may have a lower electricity consumption per ton of chlorine but miss out the energy/electricity gain provided by hydrogen. Benchmarks should not be subject to a yearly decrease [ETS article 10a (2)], but should be based on real data following technological developments. Yearly decreases will result in an arbitrary reduction of the level of compensation. Therefore, Euro Chlor welcomes the benchmark updating schedule (at the beginning of the phase and in the middle of the trading period).

Regional pass through factors & geographical regions

*10. ...the following geographic areas can be identified: Nordic (Sweden and Finland), Baltic (Lithuania, Latvia and Estonia), Iberia (Portugal and Spain), Czechia and Slovakia (Czechia and Slovakia) and all other Member States separately...
...In order to ensure equal treatment of sources of electricity and avoid possible abuses, the same CO₂ emission factor applies to all sources of electricity supply...*

Euro Chlor welcomes the equal treatment of all sources of electricity for the indirect cost compensation from 2021 onwards. It avoids possible discrimination as the same CO₂ emission factor will be applied to auto generation, electricity supply contracts or grid supply. This caused unequal treatment for some beneficiaries across the EU in the past.

Paragraph 10 plus Annex III define the maximum regional CO₂ emission passthrough factors (tCO₂/MWh) per geographical area. The draft Guidelines include the proposed geographical areas and a methodology for calculating the passthrough factors. The actual applicable factors for each region will be established at a later stage.

Euro Chlor would like to present the following considerations as first input for an informed discussion:

- What would be considered a “significant number of all hours in a year” in above definition?
- How could the risk of creating within EU distortions (due to fragmented and separate CO₂ emission factors in each of the geographic zones) be mitigated?
- Why has DG COMP opted for the parameter of “price convergence” and not “price correlation”?

Proposed conditions linked to compensation

54. *Member States also commit to monitoring that beneficiaries covered by the obligation to conduct an energy audit under Article 8(4) of the Energy Efficiency Directive will:*

- implement recommendations of the audit report, to the extent that the pay-back time for the relevant investments does not exceed [5] years and that the costs of their investments is proportionate; or alternatively*
- reduce the carbon footprint of their electricity consumption, for example, through installing an on-site renewable energy generation facility (covering at least 50% of their electricity needs), through a carbon-free power purchase agreement; or alternatively*
- invest a significant share of at least 80% of the aid amount in projects that lead to substantial reductions of the installation’s greenhouse gas emissions and well below the applicable benchmark used for free allocation in the EU Emissions Trading System.*

The European chlor-alkali sector is driven to compete in the global market, and as such must be as energy efficient as possible. The use of an efficiency benchmark when determining the indirect cost compensation strongly incentivises to be among the best in class in terms of efficiency. In addition, companies have ISO 50001 or EMAS systems in force which challenges them to e.g. set energy efficiency targets, define energy KPIs, show improvements in their energy usage.

It is in the own interest of all energy intensive installations to use energy management systems and audits under the Energy Efficiency Directive (EED). However, State aid as compensation of indirect EU ETS costs should not be made conditional to obliging companies’ use of the aid received, but must be recognised as balancing additional costs that do not occur for installations in regions beyond the EU. Further constraints by the State aid Guidelines are a double regulation in this context.

In relation to the proposed conditions:

- a) The energy efficiency investments with a payback period of 5 years do not reflect the reality of business decisions, which are bound to a significantly shorter period. Furthermore, the draft text does not take into account earlier actions such as recent energy efficiency investments.
- b) The requirement to install an onsite renewable energy generation facility covering at least 50% of the electricity needs does not match with the very large energy consumption of industrial sites and the physical limits of such on-site generation. Considering the land requirements and also the regulatory restrictions, this conditionality requirement is not technically feasible, hence it cannot be realistically achieved by the eligible sectors. Additionally, heat seems to have been forgotten in this context. Most of the energy supplying units at chemical sites are highly efficient combined heat and power (CHP) plants, supplying production installations 24/7 with electricity and heat. By replacing CHP plants by renewables, additional heat generation units need to be installed separately, which is not efficient. The proposed options only speak about renewable energy. We propose to keep this option technology neutral, since, for example, a change from coal based to gas based electricity would also imply a significant decrease; or to nuclear which also delivers low GHG emission electricity.
- c) The requirement to invest at least 80% of the received State aid into investments to reduce direct emissions of the installation is not consistent with the scope of the Guidelines, which target indirect costs. The direct emissions from the chlor-alkali sector are very limited as it is a highly electrified sector.

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About Cefic

Cefic, the European Chemical Industry Council, founded in 1972, is the voice of large, medium and small chemical companies across Europe, which provide 1.2 million jobs and account for 16% of world chemicals production.