

EUROPEAN COMMISSION IMPACT ASSESSMENT BOARD

Brussels, D(2009)

1 7 JUL 2009

Opinion

Title

Impact Assessment on: Commission Decision determining a list of sectors and subsectors which are deemed to be exposed to a significant risk of carbon leakage pursuant to Article 10a (13) of Directive 2003/87/EC

(draft version of 1 July 2009)

Lead DG

DG ENV and DG ENTR

1) Impact Assessment Board Opinion

(A) Context

The Directive 2009/29/EC revising Directive 2003/87/EC requires the Commission to establish the list of the sectors potentially vulnerable to the carbon leakage by December 2009 and eligible to a compensation by allocation of free allowances. The actual compensation for individual installations will depend on the sector benchmarks, which, in line with the directive, will be established only in 2010. The total amount of allowances is set and will not change due to this Commission decision, nor due to the benchmark exercise. The decision on how to compensate for potential carbon leakage might be reviewed depending on the outcome of the international negotiations on climate change.

(B) Positive aspects

The impact assessment report includes all the elements needed for a proportionate analysis of the issues. It shows clearly the consequences of different methodological choices for the eligibility of different sectors.

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

General recommendation: The IA report includes an appropriate, proportionate analysis of the methodology for establishing the list of sectors exposed to carbon leakage. It should, nevertheless, place the current initiative more firmly in the context of the international climate change negotiations and the benchmarking exercise foreseen for 2010. It should also explain how uncertainties about factors determining eligibility for carbon leakage

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E-mail: <u>impact-assessment-board@ec.europa.eu</u> Website: <u>http://www.cc.cec/iab/i/index_en.cfm</u> compensation have been, or will be, handled. Finally, more information about the process of the qualitative assessment should be added.

- (1) The problem definition should explain more clearly the overall context of this initiative. The IA should explain the significance of this exercise in relation to the benchmarking exercise foreseen for 2010, as well as briefly indicate what future changes may be necessary depending on the outcome of the international negotiations on climate change. The benchmarking exercise should be explained more fully, including the link to the total cap on allowances. This analysis should be included in the section on problem definition.
- (2) Some methodological aspects need to be clarified. The IA should indicate more clearly the role of three main factors level of auctioning, carbon price and benchmarks in determining vulnerability to carbon leakage, and explain how uncertainties about these factors have been or will be handled. For this specific initiative of determining the list of eligible sectors, it should justify more fully using the assumption of 100% as opposed to 70% auctioning. In this context, it should also explain the difference between auctioning and allocating for free, from the (sectoral) perspective of the ability to pass costs through.
- (3) More information about the process of the qualitative assessment is needed. The IA report contains a good explanation of how the provisions of art. 10a17 have been understood. It should nevertheless provide more information on how the process of identifying sectors that would qualify for free allowances under this article has been carried out. In particular, the report should clarify whether the same 'values' (e.g. market structure) were applied across all sectors in a uniform manner and whether the process would be repeated annually, together with a general update of the list of sectors.

(D) Procedure and presentation

The IA report would benefit from a glossary explaining technical terms. Greater coherence between the report and its executive summary should be ensured.

2) IAB scrutiny process

Reference number	(comitology item)
Author DG	ENV
External expertise used	No
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