

Consultation Response to the draft Implementing Regulation on revised benchmark values for free allocation 2026-2030

We have looked at the [draft Implementing Regulation](#) setting the benchmark values for free allocation in 2026-2030 and set out our position below. The three headline points are elaborated in the correspondingly numbered sections.

Headline positions

- 1. The 50% cut of the heat and fuel fallback benchmarks weakens the protection against carbon leakage.** Free allocation calibrated by the ex-ante benchmarks is the EU's legal safeguard against carbon leakage. The draft fallback benchmark values sit at the legal limit and are unattainable for most installations, so not a real benchmark.
- 2. Interim relief is needed before the new fallback methodology is even defined.** Recital (16) of the draft states that the methodology will be revised, but the shape of the replacement is not yet known. Locking in the maximum cut for the full 2026-2030 period, under a methodology the Commission itself considers inadequate, is the wrong outcome.
- 3. Improved fallback and product benchmarks are welcome in principle.** They should be representative by being based on widely available resources (e.g. not biomass, exothermic heat) and represent 10% of the volume of heat/fuel consumed or product produced. They must be developed in close consultation with the sectors involved and supported by a proper impact assessment. They are a parallel track to interim relief, not a substitute for it. If no interim relief is offered, these improvements need to be applied retroactively.

1. The 50% cut of the heat and fuel fallback benchmarks weakens the protection against carbon leakage

The benchmarks are the legal calibration of the carbon leakage safeguard

The assessment of the draft Implementing Regulation starts from the purpose of the benchmarks themselves. Article 10a of the ETS Directive sets ex-ante benchmarks as the basis for free allocation, and free allocation is the EU's principal protection for industrial installations exposed to carbon leakage. The Directive is explicit on this purpose:

"The free allocation should serve the purposes of preventing significant risks of carbon leakage ... The free allocation should be based on Union-wide ex-ante benchmarks that ensure that free allocation takes place in a manner that provides incentives for reductions in greenhouse gas emissions and energy-efficient techniques."

Directive 2003/87/EC (consolidated 01.03.2024), Article 10a(1), as amended by Directive (EU) 2023/959

For the few CBAM goods this protection is gradually replaced by the border adjustment mechanism under Regulation (EU) 2023/956. For all other installations that face non-EU competition, benchmark-based free allocation remains the only protection on the table.

More info?

Saartje Swinnen

Chair WP Climate & Efficiency IFIEC

Director Energy & Climate essenscia

sswinen@essenscia.be

IFIEC Europe
International Federation of Industrial Energy Consumers
www.ifieceurope.org | chaput@ifieceurope.org | Mobile: +32 496 59 36 07
a.i.s.b.l. NI 436 343 513 | VAT: BE 0436.343.513 | EU Transparency Register:
1978775156-31

The proposed cut sits at the legal limit and is unattainable for most installations, so it is not a real benchmark

The heat benchmark would drop from 47.3 allowances/TJ in 2021-2025 to 31.2 in 2026-2030; the fuel benchmark from 42.6 to 28.1. Both values are exactly half of the original 2013-2020 baseline (62.3 and 56.1) and correspond to the maximum 50% reduction allowed under Article 10a(2)(d) of the ETS Directive. They are the lowest values the law permits.

These values do not measure achievable performance. The reduction rate calculated from the 2021-2022 data exceeded the 2.5%/yr that Article 10a(2)(d) sets as a ceiling, so the legal cap took over. The high apparent improvement of the top 10% of installations reflects a small set of configurations (biomass-fuelled heat, large-scale cogeneration, electrified high-temperature heat, heat from exothermic processes) that most installations on the fallback cannot reproduce at scale or on the required timeline. Under Article 10a, a benchmark should reflect efficient performance and incentivise further improvement. A value derived from the legal maximum cut, out of reach for most installations that use it, does not do this. It functions as an across-the-board cut in free allocation, not as a benchmark.

2. Interim relief is needed before the new fallback methodology is even defined

Recital (16) of the draft states recognize the concerns expressed by industry for the fallback benchmarks), and announces sector-specific fallback benchmarks for the upcoming ETS revision. The shape of that future regime is, however, not yet known. Open questions include which sectors will be covered, what data will be used, how the new benchmarks will interact with the CLEF and the CBAM factor schedules, and when the regime will apply for the first time.

This is exactly why interim relief is needed now. If the 50% reduction enters into force for the full 2026-2030 period, EU industry will operate for five years under a methodology that the Commission has identified as inadequate. The legal framework leaves room for a less stringent outcome. Article 10a(2)(d) sets a maximum reduction rate of 2.5%/yr and a minimum of 0.3%/yr. The choice between those bounds is a policy choice, not a methodological one. We see three workable approaches:

Option A. Suspend the update of the two fallback benchmarks. The 2021-2025 values (47.3 and 42.6 allowances/TJ) remain in force until the new fallback regime has been agreed and is ready for application.

Option B. Apply the minimum reduction rate of 0.3%/yr over 2008-2028. This yields indicative values of 58.6 (heat) and 52.7 (fuel) allowances/TJ. The principle of an annual update is preserved, but the result no longer depends on a top decile that is not representative of the sector.

Option D. Base the fuel and heat benchmark once again back on natural gas reference while taking into account the increase in the use of zero-emission solutions and improved efficiency since 2008 and until 2030. This builds on the method used for the 2013-2020 benchmarks.

All options stay within Article 10a(2) of the ETS Directive. All options can be adjusted up or down once the new methodology is in place. The current proposal cannot.

When making adjustments to the fall back benchmarks, it is important to also reiteratively update the product benchmarks that are affected via emission factors for heat imports and exports, which are based on the heat and fuel benchmark values. Recital 13 mentions the usage of different values for these cases. It should be clarified for which product benchmarks these values are utilized. IF a different methodology is applied for the fall back benchmarks, this update fall back benchmark value should also be applied in relevant product benchmarks.

In order to ensure adequate protection against carbon leakage, the application of a cross-sectoral correction factor must be avoided. In the event that, following adjustments to the benchmark methodology, the available volume of free allocation under the top-down approach is insufficient to meet bottom-up demand, the Commission should assess a broad range of alternative options to address this gap for example by considering using the EUA from the Market Stability Reserve.

More info?

Saartje Swinnen

Chair WP Climate & Efficiency IFIEC

Director Energy & Climate essenscia

sswinnen@essenscia.be

IFIEC Europe
International Federation of Industrial Energy Consumers
www.ifeceurope.org | chaput@ifeceurope.org | Mobile: +32 496 59 36 07
a.i.s.b.l. NI 436 343 513 | VAT: BE 0436.343.513 | EU Transparency Register:
1978775156-31

Finally, it should be stressed that the timing for finalizing the benchmark update for the 2026–2030 period is crucial for industry and must be ensured as soon as possible. A clear interlinkage exists between the deadline for the allocation of free allowances and the compliance deadline for surrendering allowances for the previous year (30 September). These deadlines cannot be considered in isolation. Any misalignment could trigger a temporary increase in demand for allowances, potentially leading to price spikes and negatively impacting the competitiveness of European industry as a whole.

3. Improved fallback benchmarks: structured development

We support the move to improved fallback benchmarks. The case for it is straightforward. A single Union-wide benchmark for heat or fuel cannot reflect the abatement potential of sectors as different as chemicals, ceramics, copper, non-ferrous, food, pulp and paper, among others. The risk, however, is that 'sector-specific' becomes a vehicle for further generic tightening rather than a more honest calibration. For the update of the fallback benchmarks it should be considered if distinguishing between type of heat (high versus low) isn't more straightforward than between sectors. Different technologies are available depending on the type of heat. Within any revision of the methodology for fallback benchmarks, it is important they are representative by being based on widely available resources (e.g. not biomass, exothermic heat) and represent 10% of the volume of heat/fuel consumed or product produced.

The commission should separate and in parallel to the upcoming ETS revision set up a fast-track process empowering the commission to:

- To set the calculation method in a delegated or implementing act, respecting principles described above
- require consultation of each candidate sector before any value is proposed, including data validation by the sector concerned;
- make impact assessment and viability analysis a precondition for the adoption of any value;
- clarify how the new benchmarks will interact with the CLEF schedule, the CBAM factor, the CSCF, the LRF, and the conditionality provisions of Articles 22a and 22b FAR.
- require in case no interim relief is foreseen the adapted benchmark values are applied retroactively from 1/1/2026.

Improved fallback benchmark methodology development is a parallel track to the interim relief described in section 2, not a replacement for it. On any realistic timeline, a credible sector-specific regime will not be ready for the 2026 allocation year, and possibly not for 2027 either.

Conclusion

We ask the Commission to revise the draft so that the 2026-2030 heat and fuel fallback benchmarks (and product benchmarks significantly impacted by fall back benchmarks) are not set at the maximum legal reduction. Our preferred approach is set out in section 2. The introduction of improved fallback benchmarks in the upcoming ETS revision is welcome on the conditions described in section 3. We are at the disposal of Commission services for any follow-up on the points raised in this response.

More info?

Saartje Swinnen

Chair WP Climate & Efficiency IFIEC

Director Energy & Climate [essenscia](mailto:essenscia@essenscia.be)

sswinnen@essenscia.be

IFIEC Europe
International Federation of Industrial Energy Consumers
www.ifeceurope.org | chaput@ifeceurope.org | Mobile: +32 496 59 36 07
a.i.s.b.l. NI 436 343 513 | VAT: BE 0436.343.513 | EU Transparency Register:
1978775156-31