A trick list of how countries can avoid climate action in their non-ETS sectors

July 2016

Introduction

About 60% of the EU's emissions are covered by national targets under the currently called Effort Sharing Decision (ESD). It includes sectors not covered by the Emissions Trading System, such as road transport, agriculture, waste and buildings. As part of its overall at least 40% emission reduction pledge for 2030, the EU agreed to cut emissions by 30% (from 2005 levels) from these non-ETS sectors. The 30% EU target will be divided into different Member State targets. It is important to note that in order for the EU to be in line with the objectives of the Paris Agreement, the -30% target would need to be substantially increased. The same applies for the national targets. It is deeply troubling that countries continue to look for ways to reduce their targets instead of increasing them.

This briefing discusses the **loopholes** that some countries are pushing for in order to reduce the efforts they would have to make to cut emissions in the non-ETS sectors. These loopholes include using:

- the forest and land-use sector instead of reducing emissions in the non-ETS sectors;
- surplus from pre-2020 to fulfil obligations after 2020;
- ETS allowances to meet targets in the non-ETS sectors.

Specifically the briefing looks at what loophole each country would profit from and discusses which countries have been calling for which loophole.[1]

1 Please note that these positions are based on official documents but also on non-papers available to us and on statements made during council meetings.

This paper does not discuss the individual Member States targets, Brexit[2] or the emissions levels at the starting point in 2021[3].

Land-use and forestry sector (LULUCF)

The October 2014 Council Conclusions, which set the framework for 2030 climate policies, are unclear on how emissions and reductions from forests and land-use (LULUCF) should be treated under the overall 2030 target. LULUCF was also not included in the EU's 2020 target. On the whole the LULUCF sector in the EU is a "sink": it soaks up more emissions than it emits. Some countries want to count their forest and land-use sinks to help them meet their non-ETS reduction target[4]. But such a trade-off is problematic because emissions reductions need to be made very rapidly in all sectors and forest and land-use sinks should not be used to delay actions in other sectors. In addition, such sinks are notoriously unreliable because a forest can store carbon only temporarily and because using accounting tricks is very easy (because the rules are so complex) and common.

Some **countries with high agricultural emissions** have been calling for such a trade-off between agricultural emissions and planting trees (afforestation). This would be especially beneficial for the countries with high agriculture emissions, see table.

In addition, some of the **EU countries with large forested areas** (see table) have been pushing to partially count their forests towards their non-ETS target, with one country asking to count them towards their ETS target (Poland). Although protecting existing forests is vital, the way these sinks are counted towards a climate target can undermine climate goals and lead to less emission reductions overall.[5] Ten countries have sent a letter this spring urging the Commissioner to keep weak accounting rules and to allow for a trade-off between forests and emissions in other sectors.[6]

To summarize, Ireland, Denmark, Finland and Poland are among the strongest voices calling for a LULUCF loophole. But they are not the only ones. The list of the LULUCF loophole fans includes:

---

2 Brexit causes uncertainty on how the overall ESD target should be shared among the remaining 27 EU Member States. Without the UK, the remaining countries will have to take on higher emissions target, if the EU is to stick to its 30% overall target for non-ETS sectors. This is because the UK would have had a higher reduction target than many other (poorer) Member States.

The ESD for post-2020 must include a clause that allows the EU to rapidly adapt Member States' targets when the overall contribution of the EU to the Paris Agreement is revised. Given the results of the Brexit referendum, such a clause will need to be integrated anyway, as a Brexit would require a revision of the targets of the EU27 Member States, even if the EU is only intending to keep its current low level of ambition.

3 The point at which the emissions trajectory for the 2021-2030 period starts influences the overall emissions budget. These starting points should be set as ambitiously as possible (see here).

4 LULUCF is a sink under the current weak accounting rules. If these were improved LULUCF could become a small source of emissions.

5 The rules for measuring forest management (i.e. against a business-as-usual reference level) hide emissions. Countries can set a high business-as-usual harvest rate, and when they don't harvest that much, they can count those "reductions" towards their target.

6 Austria, Croatia, Czech Republic, Estonia, Latvia, Finland, Lithuania, Romania, Slovenia, and Sweden

Austria, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, Ireland, Latvia, Lithuania, Poland, Romania, Slovenia, Spain, and **Sweden.** On the other hand, the countries more sceptical towards LULUCF offsetting include: **France, Germany,** and **Luxembourg.**

If soaking up of emissions by forests and land-use (LULUCF) could be used to compensate for emissions in other sectors, it would lower non-ETS targets from 30% to only 10-20% and it could increase emissions by up to **1.3 billion tonnes**. The Commission will likely suggest such trading in the range of **300 million** and limit it to countries with high agricultural emissions which could compensate those emissions with afforestation but not forest management. Under such a proposal, countries with large forested areas but fewer agricultural emissions may not profit from such a loophole.

CAN Europe is calling for LULUCF to be covered under a separate pillar AND for reductions not being counted towards the non-ETS target.

Using ETS allowances for non-ETS sectors

The European Council in October 2014 agreed that certain Member States should be able to use some of their surplus ETS pollution permits for meeting their non-ETS target. This new flexibility applies to Member States with national reduction targets significantly above both the EU average and their cost effective reduction potential as well as for Member States that did not have free allocation for industrial installations in 2013.

This flexibility was added because small, rich Member States complained that they will not be able to meet their 2030 targets and therefore needed more "flexibility".

Because of the weak 2020 target in the ETS, a huge surplus of about 3-4 billion ETS pollution permits will have accumulated by the end of 2020. If these are used, it will mean fewer reductions are made in the non-ETS sectors without achieving more reductions in the ETS.

Six Member States fulfil the requirements for the more stringent interpretation of the Council Conclusion whereas twelve would do so in the more lenient interpretation (those additional countries in parenthesis): **Austria, (Belgium), Denmark, Finland, (France, Ireland, Italy, Luxembourg, UK,) Malta, Netherlands, Sweden.**[7] The countries that are in the Green Growth Group[8] stated that they are favorable towards such a link. However, many of them mentioned that it should be limited. Hungary on the other hand stated that they are in favor of a strong link between the ETS and the ESD. Since this loophole was approved by the Council in 2014, in principle, all countries agreed to it.

This flexibility would allow the use of **up to 300 million** ETS pollution permits for all these countries together. The Commission will probably suggest such trading in the range of **100 million**.

---

7 Oeko Institute: [Enhanced flexibilities for the EU's 2030 Effort Sharing Decision]

8 Belgium, Denmark, Estonia, Finland, France, Germany, Italy, Netherlands, Portugal, Slovenia, Spain, Sweden, UK

CAN Europe is against such flexibility because it would not lead to additional emissions reductions neither in the ETS nor in the non-ETS sectors.

Using surplus from pre-2020 to fulfil obligations after 2020

Most countries are expected to overshoot their 2020 ESD targets (except Austria, Belgium, Ireland and Luxembourg). For the most part this is because the targets are too weak. This means a surplus of ESD pollution permits (yes they also exist under the ESD, not just in the ETS) will accumulate.

According to current rules this surplus cannot be carried over.

The Czech Republic, Hungary, Latvia and **Malta** are in favor of changing the rules to allow for carry-over of surplus allowances.

CAN Europe is against such carry-over of surplus. The total surplus is estimated to be **1.5 billion tonnes**. If that surplus was carried over, it would decrease actual emissions reductions in the coming period by that amount. Although **carry-over of surplus is unlikely given current rules**, it will be used by some Member States to leverage some other benefits or exceptions.

Conclusion

Under the -30% target, the 2030 Effort Sharing Decision could result in emission cuts of 2.4 billion tonnes, except if loopholes water the target down even further. The loopholes include:

- LULUCF offsetting (maximum 1.3 billion, likely less than 300 million)
- ETS pollution permit use (maximum 300 million, likely around 100 million)
- Surplus carry-over (maximum 1.5 billion, likely zero)

The Table on the next page summarizes which loophole would benefit which country and which countries have stated an opinion on this loophole. The table contains the following information:

- **The color of the cell indicates the country's position.** Red means in favor of the loophole, green means against and grey means we do not know the country's position. Please note that these positions are based on official documents but also on non-papers available to us and on statements made during Council meetings. Please note that many countries have not explicitly stated their position.

- **LULUCF offsetting:** Countries that would profit most from this loophole are countries that have high agricultural emissions and countries with large forested areas. We therefore give the percentages of agricultural emissions compared to total emissions of each country and the percentage of forested area for each country. As mentioned above, the Commission may propose to limit such trading to countries with high agricultural emissions that could use afforestation to compensate those emissions. Countries with large forested areas but fewer agricultural emissions would not profit from such a loophole.

- **ETS offsetting**: In the 2014 Council Conclusions all countries approved this one-off use of ETS allowances for certain rich Member States. We therefore did not indicate the country positions (cells in grey).

- **ESD carry-over**: A negative number indicates that the country is overshooting their target. A positive number indicates the country will miss their target, e.g. Austria has a 2020 target of -16% but will likely only reach -11.5%, so will miss its target by 4.5 percentage points. Countries with a negative number would benefit from carry-over.

The three loopholes discussed could significantly lower the reductions achieved in the non-ETS sectors in the period 2021-2030. If the EU is serious about doing its fair share to reaching the goals of the Paris Agreement, it will have to close all these loopholes and increase the current non-ETS target substantially.

Table of loopholes indicating which Member State would benefit from each loophole and their positions (as known) on the loopholes.

Member State	LULUCF Offsetting		ETS offsetting	ESD carry-over
	Percentage of agricultural emissions (EU average 10.1%)[9]	Percentage of wood land (EU average 37.1%)[10]	Qualify for one-off use of ETS allowances	Projected overshoot or failure to meet 2020 target in percentage points[11]
Austria	9.2	47.1	yes	4.5
Belgium	7.8	24.4	(yes)	6.6
Bulgaria	9.3	37.7		-21.2
Croatia	11.8	No data		-18.1
Cyprus	8	19.4		-50.8
Czech Republic	6	37.5		-15.5
Denmark	17.2	17.7	yes	-0.7
Estonia	6.1	53.5		-12.3
France	18.8	30.7		0
Finland	8.8	61.1	yes	-3.8
Germany	7.7	32.8		-0.9
Greece	7.8	30.2		-28.6
Hungary	13.2	22.7		-36.1
Ireland	30.8	11.7	(yes)	12.6
Italy	6.9	32.9	(yes)	-6.2
Latvia	20.2	52.6		-8.1
Lithuania	23	36.3		-16.1
Luxembourg	5.5	33.2	(yes)	27.2
Malta	2.4	3.8	yes	-25
Netherlands	8.3	12.6	yes	-5.4
Poland	8.8	33.7		-6.6
Portugal	10.7	37.2		-25.6
Romania	15.4	30.9		-12.9
Slovakia	9.8	45.1		-12
Slovenia	6.9	60.0		-14.7
Spain	10.7	29.6		-2.7
Sweden	12.7	62.9	yes	-13.7
United Kingdom	8.4	15.1		-3.5

9 Based on EuroStats - 2011 numbers

10 Based on EuroStats 2012 numbers

11 Based on WEM scenario in EEA Trends and projections in Europe 2015

More information

Introduction to the current ESD and related legislation: Tackling 60% of the EU's Climate Problem: The Legislative Framework of the Effort Sharing Decision

Newest Numbers: EEA Report No 4/2015. Trends and projections in Europe 2015

Oeko Institute studies on 2030 non-ETS targets and sectors:

- EU effort sharing for the 2021-2030 period
- Enhanced flexibilities for the EU's 2030 Effort Sharing Decision
- Impacts on the EU 2030 climate target of including LULUCF in the climate and energy policy framework

For more information, please contact:

Anja Kollmuss, Climate policy coordinator, anja@caneurope.org, + 41(0)77 48 536 67, +49 (0)157 340 133 07