



CAN EUROPE'S POSITION ON THE POST-2020 EFFORT SHARING REGULATION

27. September 2016

Climate Action Network (CAN) Europe is Europe's largest coalition working on climate and energy issues. With over 130 member organisations in more than 30 European countries - representing over 44 million citizens - CAN Europe works to prevent dangerous climate change and promote sustainable climate and energy policy in Europe.

INTRODUCTION

The European Commission's proposal on the non-ETS sectors for 2021-2030 (now called the Effort Sharing Regulation, ESR) was released on July 20 2016, see [CAN Europe's analysis of the Commission's proposal](#).

The ESR sets binding annual greenhouse gas emission reduction targets for Member States for the period 2021–2030 for the sectors of the economy not regulated under the EU Emissions Trading System (ETS). These so called non-ETS sectors include buildings, agriculture, waste management, and road transport accounting for almost 60% of total EU emissions in 2014.

The proposed Regulation is an unambitious interpretation of the European Council conclusions of October 2014 which set a reduction of emissions in the non-ETS sectors of 30% by 2030. This comes on top of the fact that this target in itself is too weak to be in line with the objectives of the Paris Agreement to keep temperature rise well below 2°C and pursuing efforts to limit it to 1.5°C.

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1. INCREASING THE 2030 NON-ETS TARGET

In October 2014, EU Heads of State and Government set a binding economy-wide domestic emissions reduction target of at least 40% by 2030, compared to 1990. This target is to be achieved by reductions of 43% in the ETS and of 30% in the non-ETS sectors compared to 2005 emission levels. These targets are not in line with the needed global efforts to keep temperature rise well below 2°C, let alone to limit it to 1.5°C. The global carbon budget we have left¹ to achieve these temperature goals of the Paris Agreement is very small.

Currently the EU's goal is to reduce its greenhouse gas emissions by 80-95% by 2050, with the current 2030 climate targets on a trajectory to meet 80% domestic emission reductions only and most of those reductions postponed until after 2030, see [here](#).

If the current 2030 targets for energy efficiency and renewable energy are taken into account (each currently at least 27% by 2030)², a pollution permit surplus of 512 million will build up under the ESR by 2030. **In other words, the EU is expected to overshoot its 30% target if it simply meets its unambitious targets for energy efficiency and renewable energy.**

The current target means the EU aims to reduce its emissions by merely 1% per year over the next 16 years, while in the last five years an annual reduction of almost 2% was achieved. It also means we postpone necessary reductions to much later: in order to fully decarbonize the non-ETS sectors by 2050 or earlier, much higher reductions will be necessary after 2030.

In order to avoid the worst impacts of climate change and align the EU's targets with the Paris Agreement ambition in the ESR sectors must be raised considerably. CAN Europe has been calling for raising the EU's overall 2030 target to at least 55%. This would translate into an at least 47% reduction in non-ETS and an at least 57% in the ETS sectors below 2005 emissions by 2030.³

CAN EUROPE CALLS FOR

- **The EU-wide ESR target to be raised from 30% to at least 47%.**

ALL EU MEMBER STATES TO PEAK THEIR EMISSIONS BY 2020 LATEST

The European Commission set a target for each Member State.⁴ Under the current proposal, nine countries (Bulgaria, Croatia, Cyprus, Greece, Hungary Lithuania, Portugal, Romania, and Slovakia) would be able to increase their emissions from current levels because their current emissions are already below their proposed 2030 targets.

CAN EUROPE CALLS FOR

No Member State to be allowed to increase emissions after 2020 and their 2030 target should be adapted accordingly.

¹ See Carbon Brief Analysis: [Only five years left before 1.5C carbon budget is blown](#)

² EUCO27: A scenario that achieves the at least -40% GHG reduction target (with the split ETS/non-ETS reducing by -43%/-30% in 2030 compared to 2005), a 27% share of renewables and 27% energy efficiency improvements.

³ The at least 55% overall EU target can be split between the ETS and non-ETS sectors in different ways.

Same split as...	...with the 40% target in 2030	...will be reached in 2020 with 2020 target	... it was in 2005
ETS	-56.6%	-54.6%	-51.2%
Non-ETS	-46.7%	-48.3%	-51.2%

⁴ Together these targets must add up to the EU-wide 30% non-ETS reduction target. Based on the Council Conclusions from October 2014, countries with GDP per capita below the EU average received a target exclusively based on their GDP. The 11 richer countries received a target that also took into account cost-effectiveness of their mitigation potential.

REVIEW CLAUSE TO ENSURE TARGETS ARE RAISED EVERY FIVE YEARS

The Paris Agreement requires all countries to come up with contributions to reduce emissions every five years. The UNFCCC reviews of collective efforts to tackle climate change under the Paris Agreements will take place in 2018, 2023 and every five years thereafter. The review clause proposed in Article 14 of the Commission's proposal does not reflect this requirement sufficiently.

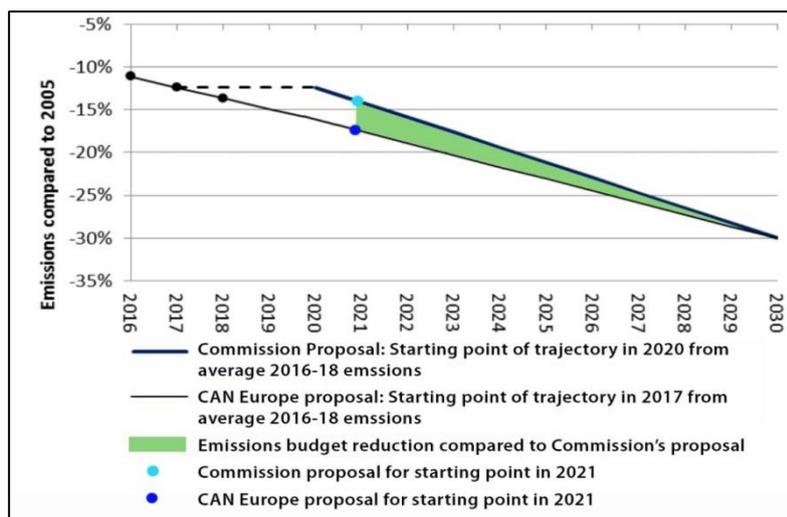
CAN EUROPE CALLS FOR

- **The ESR to include a revision clause that ensures that when the EU changes its Nationally Determined Contribution under the UNFCCC, all Member States targets will automatically be adapted according to the current distribution rules.**

2. CLOSING LOOPHOLES

LOOPHOLE 1: THE 2021 STARTING LEVEL

The emissions budget for 2021-2030 is determined by both the end target and the starting point. The Commission proposes a starting point based on 2016-18 actual emissions. This value would then be used in 2020 to draw a linear pathway to the 2030 target of each Member State. CAN Europe calls for starting this trajectory already in 2017. A 2021 starting point based on such a trajectory would more closely reflect actual emission in 2020, see graph.



Graph modified from Table 11 of the [Commission's Impact Assessment](#)

The Commission's starting point proposal also needs to be improved because it would reward countries that are projected to miss or are slow in making progress towards their 2020 target. This is because for these countries the proposed starting point would be higher than their 2020 target. (For details see our briefing paper [here](#).) Under the 2016 reference scenario, five richer Member States (Belgium, Denmark, Ireland, Luxembourg, and the Netherlands) are projected to miss their national 2020 targets.

CAN EUROPE CALLS FOR

- **The starting point in 2021 to be set on the basis of a trajectory starting in 2017 based on the average 2016-2018 emissions, towards the 2030 target.**
- **For those countries for whom this trajectory would lead to an emissions level in 2020 which is above their 2020 target, the starting point in 2021 should be defined on the basis of a trajectory from their target in 2020 to the target in 2030.**

LOOPHOLE 2: OFFSETTING FROM LAND-USE SECTOR

Article 7 of the ESR proposal spells out the rules for using offsetting from the land use sector. In total this loophole would allow EU countries to increase greenhouse gas emissions in the non-ETS sectors by **280 million tonnes**. The Commission proposes that this loophole can be used by all countries but to a different degree. The higher a country's agricultural emissions are (in % of their total emissions), the more offsetting they can use. Luxembourg can only use the equivalent of 0.2% of its 2005 emissions whereas Ireland can use 5.6%.

The Commission proposes to limit the type of land-use activities that can be used for offsetting, i.e. only from planting trees (afforestation) or from properly managing cropland and grassland. Existing forests (forest management) cannot be used for offsetting under the ESR. But the proposal specifies that this exclusion is subject to review; depending on the development of new accounting rules, this could change at a later date. Relying on credits from planting trees is problematic because the sequestered CO₂ can be rereleased any time (non-permanence).

CAN EUROPE CALLS FOR

- **Rejecting the possibility for countries to use offsets from the land use sector to reduce efforts in the non-ETS sectors.**

LOOPHOLE 3: ETS POLLUTION PERMITS UNDER THE ESR

The Commission proposes that nine countries should be able to use part of their surplus ETS pollution permits to meet their ESR targets. Luxembourg and Ireland would be allowed to use the equivalent of 4% of their 2005 emissions, whereas Austria, Belgium, Denmark, Finland, Malta, Netherlands, Sweden would be allowed to use 2%. **In total this loophole would increase non-ETS greenhouse gas emissions by 100 million tonnes**. Eligible Member States would have to notify the Commission before 2020 of the extent to which they intend to use this flexibility over the period.

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 which can be fully carried over to the next trading period. Therefore if ETS allowances are used, it will mean fewer reductions are made in the non-ETS sectors without achieving more reductions in the ETS.

CAN EUROPE CALLS FOR

- **Rejecting the possibility for countries to use surplus allowances from the ETS to reduce efforts in the non-ETS sectors.**

LOOPHOLE 4: 2021 BONUS FOR LOWER-INCOME MEMBER STATES

The Commission introduced another loophole in Article 10 (2) which would allow some countries to have a larger emission budget for the year 2021. This loophole would benefit Bulgaria, the Czech Republic, Croatia, Estonia, Latvia, Lithuania, Hungary, Poland, Portugal, Romania, Slovenia and Slovakia.

Even though the text is somewhat unclear in this regard, according to information from the Commission this loophole would only increase their 2021 target as a one-off addition and would not affect their trajectory up to 2030. Under these conditions, **this loophole would allow these countries to increase greenhouse gas emissions by a total of 39 million tonnes**.

Under the current Effort Sharing Directive, these countries are allowed to increase their emissions until 2020. Given almost all these countries have actually reduced rather than increased emissions until now, and given the Commission proposes a trajectory starting only in 2020, this bonus is unnecessary under the current proposal.

However, if the CAN Europe proposal to start the trajectory in 2017 for the 2021 starting point is established, then a compensation could be proposed taking into account the country's 2020 target and their average 2016-18 emissions.⁵

CAN EUROPE CALLS FOR

- **Rejecting this loophole if the Commission's proposal to set the starting level on the basis of 2016-2018 average emissions starting on a trajectory from 2020 remains.**
- **However, if the trajectory for the starting level would be set from 2017 onwards and the starting level would thus better reflect actual emissions, such a bonus could be considered but should not be larger than 20 million in total.⁶**

LOOPHOLE 5: ENSURING NO CARRY OVER OF SURPLUS

The EU is expected to overachieve its 2020 10% reduction target in the non-ETS sectors. According to EU projections, in 2020, emissions are expected to be reduced by 16% in these sectors compared to 2005. This means a surplus of over 1.5 billion ESD pollution permits will accumulate.⁷ If that surplus was carried over, it would decrease actual emissions reductions in the coming period by that amount. Carry over from 2020 to 2021 is not possible neither foreseen in the current Directive nor in the proposed Regulation.

CAN EUROPE CALLS FOR

- **The current situation to be continued which does not allow carry over of surplus allowances to post 2020.**

LOOPHOLE 6: NO USE OF INTERNATIONAL OFFSETS

As the European Council Conclusions of October 2014 specified that the at least 40% overall emissions reduction target is a domestic one, it implicitly excludes the use of international carbon market units (offsets and allowances) to meet that target. Nevertheless some Member States have been calling for the use of international offsets if the overall EU target is raised or if Member States chose unilaterally to take a higher target.

International offsets have discouraged European industries and governments from investing in lowering emissions in the EU. The quality of Clean Development Mechanism and Joint Implementation offsets have shown to be very low.⁸ The use of low quality offsets leads to a rise in global emissions. In addition, it is still very unclear what offsets would be available post-2020 and if accounting rules will be sufficient to avoid double counting – a situation where the emissions reductions from an offset are counted both by the buyer and the seller country). In order to protect the integrity of European mitigation targets, international offsets should not be eligible for compliance.

CAN EUROPE CALLS FOR

- **International offsets not to be used to reach the EU's 2030 reduction target. The reduction target should remain strictly domestic, also in the case that the EU raises its 2030 greenhouse gas targets.**

⁵ We propose that such a compensation should be calculated as follows: average 2016-2018 emissions X 2020 target / 8 (number of years from 2013-2020) X 3 (number of years from 2018-2020)

⁶ See footnote 4

⁷ <http://www.eea.europa.eu/publications/trends-and-projections-in-europe-2015>

⁸ See for example [CDM Impact assessment](#) which estimates that under realistic assumption (see box 1 on p.77 "pessimistic scenario") for each CDM offset (which entitles the buyer to emit one tonne more) only 0.38 tonnes of emissions were actually reduced. For Joint Implementation [recent research findings](#) are even more extreme: for each JI offset on average only 0.25 tonnes or less were reduced. Given that these shortcomings have been known to policy makers for years but have not been addressed and given that under a new climate agreement rules will very likely be considerably more lax, it would be unrealistic to assume that the environmental integrity of offsets will increase post-2020. Also, even though the EU has passed quality restrictions on international offsets used under the ETS, they have not prevented the EU's ETS target to be undermined by at least 400 million tons for the period from 2008-2012 alone, see [here](#).

3. IMPROVING REPORTING OBLIGATIONS

The proposal maintains annual reporting and compliance obligations for the period 2021-2030. However, a comprehensive review of Member States' GHG emissions reports and the more formal compliance check would only be carried out every five years (in 2027 and 2032), rather than annually. If the first formal compliance check happened only in 2027 it would give countries no time to implement additional policies if they are not on track to meet their targets.

CAN EUROPE CALLS FOR

- **Annual reporting and compliance to ensure that countries are on track with meeting their target.** The reports determining the initial AEAs as well as the final report should undergo a full compliance cycle to ensure overall environmental integrity.
- **Annual reporting of greenhouse gas emission projections and policies and measures in the 2021-2030 period.** This is essential to check if Member States are on track to meeting their ESD targets in the 2021-2030 commitment period, or if additional policies and measures at EU or national level are required. Annual reporting on projections and policies and measures is also necessary to estimate the expected supply and demand for AEA transfers.

4. ENSURING FLEXIBILITIES DO NOT WEAKEN TARGETS

Flexibility instruments should under no circumstance lead to a reduction of the overall ambition level or to an increased risk of non-compliance.

CAN EUROPE CALLS FOR

- **The borrowing rules to be changed from 5% to 2% of 2005 emissions levels to limit borrowing to approximately one year's worth of reduction efforts.** Borrowing capabilities beyond 2% would enable countries to delay mitigation action and increase the risk of compliance problems at the end of the ESD period. The earlier mitigation actions are implemented the better. Borrowing should not enable countries to postpone significant mitigation action to later years.
- **The 5% limit for transfers emissions allowances (AEA) from the following year must not be increased** as it can lead to compliance problems later in the commitment period.
- **Introduce mandatory auctioning and an auction reserve price of EUR 40 to avoid a price that is too low to incentivize mitigation action in the non-ETS sectors.** In years when the auction reserve price is not met and the auction is cancelled, the respective AEAs must be cancelled. Putting a clear price on carbon introduces the polluter-pays concept in the ESR and increases the visibility of the costs of climate emissions in national budgets. This could allow richer Member States to offset part of their emissions and provide revenues to lower-income Member States to reduce more emissions domestically.
- **All AEA revenues must be earmarked for climate measures.** A mechanism similar to the ETS solidarity fund could be introduced to support lower-income Member States in their transition to a climate friendly society.
- **Limit banking to 5% of a Member State's budget for that year.** A member state must not bring more than 5% of its yearly AEA budget to the following years. Such a limitation would help limit build-up of surplus.

ESTABLISHING A PROJECT-BASED MECHANISM

A project-based mechanism should be established that would function similarly to the current Joint Implementation (JI) Track 2. Such a mechanism would involve the private sector (project developers) and may therefore lead to more mitigation actions, e.g. in the building sector. Such a mechanism would enable buyer countries to purchase offsets from specific projects which may be more attractive to buyer countries than purchasing AEAs.

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Establishing a project-based mechanism with the following principles:

For each offset issued the host country must cancel an AEA. Offset projects in sectors covered by the ETS must be prohibited (as is currently the case with JI). These measures would avoid double claiming. Offset projects would need to be additional and not over-credited.

- **Projects must foster transformational change and be limited to sustainable renewable energy and energy savings. Project that could lead to locking-in of fossil fuel infrastructure must be prohibited. To ensure such environmental integrity, projects must be validated and verified by an accredited, independent third-party auditor.** This is especially important in the case of an AEA oversupply (e.g. due to an economic crisis).
- **Projects must be implemented based on EU-wide agreed methodologies.**
- **Host countries must be able to apply a discount factor**, i.e. to issue fewer offsets than emissions reductions that were achieved by the offset project. The not credited emissions reductions would then be counted towards the ESD target of the host country and therefore make it easier for the host country to meet its target.
- **Host or buyer countries must be able to cancel a certain percentage of offsets** after they have been issued. This would lead to a net atmospheric benefit: additional emissions reductions that go beyond the 30% ESD target.
- **If a country is in non-compliance with its ESD requirements it must be prohibited from issuing offsets.**
- The project mechanism **must be separated from Art. 24a of the ETS Directive** to ensure a clear separation of the two instruments and avoid methodological and other problems linked to project mechanisms under the ETS.



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