

Response to BEIS consultation on bringing forward EU ETS 2018 compliance deadlines in the UK

21 November 2017

Introduction

Energy UK is the trade association for the GB energy industry with a membership of over 90 suppliers, generators, and stakeholders with a business interest in the production and supply of electricity and gas for domestic and business consumers. Our membership encompasses the truly diverse nature of the UK's energy industry – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

Our members turn renewable energy sources as well as nuclear, gas and coal into electricity for over 26 million homes and every business in Britain. Over 730,000 people in every corner of the country rely on the sector for their jobs with many of our members providing long-term employment as well as quality apprenticeships and training for those starting their careers. The energy industry adds £88bn to the British economy, equivalent to 5% of GDP, and pays £6bn in tax annually to HM Treasury.

Key messages

- Energy UK's starting preference is for the UK to remain within the EU Emissions Trading System (EU ETS) whilst retaining influence over its future development so as to help to deliver a robust carbon price signal through this existing EU-wide carbon trading system.
- Further, regardless of the longer-term position into the 2020s, we are strong supporters of the UK's continued participation in the EU ETS in Phase III through to the end of 2020 (including as part of a Brexit transition phase as necessary). The reasoning behind our position on participation in the EU ETS in the current phase is driven by the need to ensure a workable degree of forward certainty for market players.
- We understand and recognise in principle the intention of the European Parliament and Council to protect the environmental integrity of the EU ETS in the context of the UK's withdrawal from the EU (as reflected in the recent amendments to the EU ETS Directive). However, we consider that the current steps being taken at EU level to achieve this may, in practice, risk having negative implications for maintaining the overall integrity of the current trading system. In particular, we consider that the proposed amendments to the Registry Regulation (in their current form) look as though they would have negative and disruptive effects on participants in the carbon market across the

whole of the EU. Alongside added complexity to trading and compliance for operators, there is a risk that invalid UK allowances are used to satisfy forward contract obligations, that disruption occurs in trading exchanges and that there will be uncertainty over 2018 auction schedules.

- Energy UK therefore strongly supports the UK Government's proposal to bring forward the 2018 compliance deadlines to before the UK's exit date from the EU, as a means to avert the need to implement measures in the Registry Regulation that would have the effect of invalidating UK issued allowances for compliance. This should then provide further time for the resolution of the position in respect of the first three months of 2019 through the wider Brexit negotiations.
- We consider that the BEIS proposal is a sensible step that should be capable of generating widespread support in the UK and across the EU. It represents a pragmatic administrative solution that is consistent with the terms of the EU ETS Directive and with maintaining the integrity of the trading system.

Response to consultation questions

Q1. Do you agree that bringing forward the 2018 compliance deadlines is a proportionate response to the issues identified and preferable to the proposal to make UK allowances invalid for compliance from 1 January 2018?

We strongly support the proposal to bring forward the 2018 compliance deadlines in response to the issues arising from the recent amendment to the EU ETS Directive (which was made in response to the UK's triggering of Article 50 and an assessment of the state of play of Brexit negotiations). Without this step, the outcome of all UK allowances issued from 1 January 2018 being deemed ineligible for surrender for compliance purposes would have significant negative consequences for forward and options contracts throughout the EU, cause disruption in trading exchanges and introduce uncertainty over 2018 auction schedules, potentially leading to multiple legal conflicts and the loss of trust and confidence in the functioning of the existing ETS market.

The UK's proposal to confirm its obligations for 2018 compliance in UK law (by bringing forward the 2018 compliance deadlines) would enable negative and disruptive effects on participants in the carbon market across the whole of the EU to be avoided. The proposal to bring forward the 2018 compliance deadlines represents a pragmatic and relatively straightforward administrative step that is fully consistent with the terms of the EU ETS Directive and with maintaining the integrity of the trading system.

Based on these actions being taken forward, we consider that the proposed amendments to the Registry Regulation due to be considered at the EU Climate Change Committee on 30 November 2017 would need modification or clarification to recognise the legislative changes made by the UK Government. The Government should endeavour to demonstrate to EU partners that its proposal to bring forward its compliance deadlines for 2018 is sufficiently robust to address their concerns. Any clarity the Government is able to provide on the process and likely outcome of EU-level discussions would be most welcome.

The Government's proposal also represents a positive step towards the possibility that the UK will continue to participate in EU ETS Phase III for the remainder of its duration. It provides clarity for EU ETS participants in the short term, allowing the issue of the period from January to

March 2019, and then beyond, to be resolved in the near future against the background of progress in the wider Brexit negotiations.

In this wider context, our preference continues to be to have a clear decision on the UK's participation in the rest of Phase III in the early part of 2018, on the assumption that the European Council meeting in December this year will open the door to discussions about the need for a period of transition lasting about two years after the exit of the UK from the EU on 29 March 2019.

Should the EU decide to go ahead with its plans to mark UK-issued allowances and make them invalid for compliance from 1 January 2018, a contingency plan should be developed as quickly as possible by the Government with the support of relevant stakeholders.

Q2. Do you agree with the proposed deadlines for 2018 compliance of 28 February 2019 to report emissions and 22 March 2019 to surrender allowances?

We support the bringing forward of the proposed dates for the reporting and surrender of allowances for compliance for the 2018 calendar year.

From an administrative point of view, it appears that the verification/reporting process is likely to be more sensitive to potential constraints on time and resources than the surrender process. Accordingly, we consider that the best approach would be to move the date for reporting emissions some way into March 2019 (whilst retaining the surrender date at 22 March 2019 as proposed, and taking care to leave sufficient time between verification and surrender) provided that this can be settled with the Commission and EU partners. We would also encourage BEIS and the Environment Agency to work closely with the verifiers and other relevant stakeholders to enable early verification.

Q3. Would there be any impacts or administrative burdens that could result from bringing forward the 2018 compliance deadlines, for instance for contracts to deliver allowances or from the fact that the surrender deadline would fall at the end of the 2018-2019 financial year, rather than the beginning of the 2019-2020 financial year?

Bringing forward the 2018 compliance deadlines will inevitably have some impact on the administrative burden for both reporting installations (because of the need to adjust established internal schedules for verification and surrender) and trading agreements (because of the need to adjust contract terms). However, given clarity on revised timescales a year in advance, making the necessary administrative adjustments should be manageable. The associated administrative burden will be small in comparison to the order of costs associated with managing the two tiers of allowances that would be created if the approach being considered in Brussels were to be implemented as currently proposed at the Climate Change Committee on 30 November 2017.

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