Feedback to the Effort Sharing Regulation

September 2016

T&E is actively involved in the discussions regarding EU climate and energy policy developments. The policy package that was released on the past 20 July - including proposals for Effort Sharing Regulation and Land Use, Land Use Change and Forestry, as well as a communication on low-carbon mobility - is definitely key for the future of EU's climate commitments in line with the Paris Agreement and EU.

With this note T&E aims at giving feedback on the ESR. T&E has followed the topic very closely because having a robust and environmentally integral ESR is a key driver to ensure GHG reductions in the transport sector in the years to come. Without a solid ESR, both EU and national policy measures to reduce emissions in the transport sector will not be needed.

We'd like to analyse what we consider positive and also what needs further improvement in the proposal.

We welcome a few points of the proposal:

- There is no **carry-over** of emission allocations from the "ESD I" to the ESR. T&E advocated against this measure, that was proposed by some. We welcome that the Commission understands that this would be in detriment of the final target, as it'd be like moving hot air from one place to another.
- **Forest management** (FM) has been left out of possible LULUCF offsetting within the ESR due to methodological uncertainties. Although this is welcome, the proposal still leaves that open to review. Methodology is not the only reason to leave FM out.

Points to improve/amend:

- There is no mention whatsoever to a **long-term goal** to be adopted EU-wide**.** While we understand the proposal is for regulating non-ETS emission up to 2030 - and given that -30% is not in line with 2050 targets - urgency for action and commitments acquired with the Paris Agreement changed the circumstances compared to October 2014, including EU's own climate goals in the coming decades. Ratchet up mechanisms should be in place to ensure higher ambition is acquired as technology evolves and international policy develops. With current mechanisms, the 2°C objective (not to mention the 1.5°C) is highly unlikely to be met.
- The proposed **5-years compliance checks** represent a big risk for the achievement of the overall 30% reduction target. This means that MS will only be sanctioned in 2027 if they are not in the right

path to comply with their national objectives, which is likely to be too late for corrective plans. In this line, the second compliance check would then happen in 2032, which is definitely too late. Risk is that if in 2032 we learn that MS were not compliant with the 2030 goals, how will the Commission then penalise something that should have occurred in *2030* in *2032*?

- The proposed **starting point** will unavoidably allow member states to emit more during the first years of the ESR period, making it more difficult for some countries to make the necessary effort to achieve the 2030 targets. The total cumulative emissions will be larger than with a different starting point, which seems to be incompatible with the Paris agreement. This is because the starting point has been set at a level that is higher than the emissions trajectory that most MS have (the majority of the member states will overachieve the objective, meaning that their emissions will be lower than what they were allowed to emit by 2020). The starting point should therefore be established in a realistic way: continuing trajectories, and the efforts will be more gradual.
- Unlimited **banking** of emission allocations for MS that are emitting less than their annual allocation for a given year. If a country keeps banking unlimited amount of allocations for subsequent years, combined with a poor starting point, we might end up in the situation that the country accumulates more and more allocations towards the end of the period, having *the right* to emit more by 2030. This means that the 30% reduction goal will be met *in paper, but not in practice.* Banking should be limited to a certain amount, to ensure surplus accumulation does not occur. T&E will publish a paper on the issue in the upcoming days.
- The emissions of the sectors covered by the ESR should not be offset by **LULUCF credits**. The Commission needs to take into account than in order to meet EU's climate commitments and to be in line with the Paris Agreement, we can't choose which sector must reduce emissions: all sectors need to contribute their fair share. While the LULUCF-ESR connection is limited, it still gives room for certain sectors to continue emitting and delaying the necessary efforts and actions towards climate change mitigation. Also, the Commission needs to clarify where and how the limit will be set: How will it be ensured that LULUCF credits are *only* offsetting agricultural emissions?
- The connection between the **ETS and the ESR** should be eliminated. The ETS is vastly oversupplied. Moving hot air between the ETS and the ESR would not solve the ETS or reduce emissions in neither the ETS nor the ESR sector. Besides, it is unclear its connexion between the Market Stability Reserve and the ESR has not been established.
- Article 10.2, that includes an **additional allocation** for lower income member states in 2021, should be eliminated. This adjustment is politically driven rather than a compensation for overachievement in the first ESD period.

Further information

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