

COMMISSION DECISION**of 27 October 2014****determining, pursuant to Directive 2003/87/EC of the European Parliament and of the Council, a list of sectors and subsectors which are deemed to be exposed to a significant risk of carbon leakage, for the period 2015 to 2019***(notified under document C(2014) 7809)***(Text with EEA relevance)**

(2014/746/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC ⁽¹⁾, and in particular Article 10a(13) thereof,

Whereas:

- (1) Directive 2003/87/EC provides that auctioning should be the basic principle for allocation of greenhouse gas emission allowances to operators of installations within the scope of the Emission Trading System of the Union ('EU ETS') from 2013 onwards. However, eligible operators continue to receive free allowances between 2013 and 2020 in accordance with the rules set out in Directive 2003/87/EC and Commission Decision 2011/278/EU ⁽²⁾.
- (2) The absence of an ambitious international agreement on climate change aiming to limit the global temperature increase to 2 °C could undermine the benefit of actions carried out by the Union. The absence of binding action at the international level could lead to an increase in greenhouse gas emissions in third countries where industry is not subject to comparable carbon constraints ('carbon leakage'). To address this risk of carbon leakage, Directive 2003/87/EC provides that, subject to the outcome of the international negotiations, the Commission is to determine a list of sectors and subsectors deemed to be exposed to a significant risk of carbon leakage ('list of sectors and subsectors'). Those sectors and subsectors should receive free allowances at 100 % of the quantity determined on the basis of Directive 2003/87/EC and Decision 2011/278/EU, subject to the cross-sectoral correction factor referred to in Article 10a(5) of Directive 2003/87/EC and set out in Annex II to Commission Decision 2013/448/EU ⁽³⁾.
- (3) In this respect, the Commission analysed the extent to which third countries representing a decisive share of global production of products in sectors and subsectors on the carbon leakage list firmly commit to reducing greenhouse gas emissions in those relevant sectors, and whether those commitments are comparable with those of the Union and are carried out within the same time-frame. In addition, the extent to which the efficiency of the installations located in those countries is comparable to the installations located in the Union was also examined. The Commission concluded that no sufficient comparability can be established on the commitment to reduce greenhouse gas emissions, and therefore the comparability of carbon efficiency is not relevant.
- (4) The first list of sectors and subsectors deemed to be exposed to a significant risk of carbon leakage was established for 2013 and 2014 by Commission Decision 2010/2/EU ⁽⁴⁾ in 2009.
- (5) The assessment should be based on a number of quantitative and qualitative criteria, and based on data from the three most recent years. In this regard, the Commission used data from the years 2009, 2010 and 2011, since data from 2012 were available for only some of the parameters.

⁽¹⁾ OJ L 275, 25.10.2013, p. 32.

⁽²⁾ Commission Decision 2011/278/EU of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ L 130, 17.5.2011, p. 1).

⁽³⁾ Commission Decision 2013/448/EU of 5 September 2013 concerning national implementation measures for the transitional free allocation of greenhouse gas emission allowances in accordance with Article 11(3) of Directive 2003/87/EC of the European Parliament and of the Council (OJ L 240, 7.9.2013, p. 27).

⁽⁴⁾ Commission Decision 2010/2/EU of 24 December 2009 determining, pursuant to Directive 2003/87/EC of the European Parliament and of the Council, a list of sectors and subsectors which are deemed to be exposed to a significant risk of carbon leakage (OJ L 1, 5.1.2010, p. 10).

- (6) In order to establish the list of sectors and subsectors, the Commission assessed the risk of carbon leakage of sectors and subsectors at NACE-4 level of the Statistical classification of economic activities in the Union in accordance with Regulation (EC) No 1893/2006 of the European Parliament and of the Council ⁽¹⁾. NACE-4 is the level with optimal data availability defining sectors precisely. A sector is denoted at a 4-digit level of the NACE classification, and a subsector is denoted at CPA (6-digit) or Prodcod (8-digit) level, that is, the classification of goods used for statistics on industrial production in the Union, following directly from the NACE classification.
- (7) The sectors were first assessed on the basis of the quantitative criteria set out in Article 10a(15) and (16) of Directive 2003/87/EC. To apply those quantitative criteria, the Commission had to determine the sum of direct and indirect additional costs induced by the implementation of Directive 2003/87/EC.
- (8) The direct additional costs, induced by the quantity of allowances that a sector would need to purchase if not deemed to be exposed to a significant risk of carbon leakage, were calculated on the basis of the data on direct CO₂ emissions at sectoral level. The data in the European Union Transaction Log ('EUTL') are considered to be the most accurate and transparent source of CO₂ emissions data at installation level and have therefore been used to calculate the direct cost for sectors. For sectors and greenhouse gases only covered by the EU ETS from 1 January 2013, there are no emissions data in the EUTL available. Therefore, the Commission used the data on direct CO₂ emissions provided by Member States in the National Implementation Measures (NIMs) pursuant to Decision 2011/278/EU in those cases.
- (9) In order to determine the indirect additional costs, the Commission collected data on electricity consumption at sectoral level from Member States, ensuring that no double counting of electricity consumed occurred between different NACE codes. To determine the emissions related to the production of electricity consumed by the different sectors for the list of sectors and subsectors in Decision 2010/2/EU, the Commission used the average emission factor derived from the total fuel mix for electricity production as it was considered to be based on the most accurate data. The same average emission factor has been used for the assessments underlying this Decision.
- (10) Furthermore, to determine the direct and indirect additional costs, the Commission had to estimate the average carbon price. In order to establish the first list of sectors and subsectors an assumed carbon price of EUR 30 per tonne of CO₂ equivalent was used for the assessments. In the period of application of Decision 2010/2/EU, there has been a substantial difference between the carbon price assumed for the assessments and the actual carbon price, the latter one being considerably lower. However, the Commission has in its Communication entitled 'A policy framework for the climate and energy in the period from 2020 to 2030' ⁽²⁾ proposed a 40 % unconditional greenhouse gas emission reduction target by 2030 as compared to 1990 and a corresponding renewable energy sources target. The Commission has also proposed to establish a market stability reserve in the EU ETS. Under those circumstances, it is expected that the carbon price will in the future be more strongly driven by mid- and long-term emission reductions. It is therefore considered justified to continue using an assumed carbon price of EUR 30 per tonne of CO₂ equivalent for the assessments underlying this Decision.
- (11) The direct and indirect additional costs should be calculated as a share of gross value added. Regarding the estimation of gross value added at sectoral level, data from the Eurostat Structural Business Statistics have been used.
- (12) Furthermore, the Commission assessed the trade intensity for each sector and subsector on the basis of data obtained from the Eurostat Comext database.
- (13) In total, the Commission assessed 245 industrial sectors and 24 subsectors classified under the 'Mining and quarrying' and 'Manufacturing' divisions of the NACE classification. The sectors and subsectors listed in point 1 of the Annex to this Decision meet the criteria set out in Article 10a(15) and (16) of Directive 2003/87/EC and should be deemed as exposed to a significant risk of carbon leakage.
- (14) Assessments based on the qualitative criteria set out in Article 10a(17) of Directive 2003/87/EC have been carried out on a number of sectors that were not deemed to be exposed to the risk of carbon leakage based on the quantitative criteria set out in Article 10a(15) and (16). The qualitative assessment was carried out in cases which met the qualitative criteria in the context of the determination of the previous list, in cases of sectors considered to be borderline, and on request by industry representatives.

⁽¹⁾ Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

⁽²⁾ COM(2014)15 final/2 of 28 January 2014.

- (15) In the case of the sectors 'Finishing of textiles' (NACE code 1330), 'Manufacture of bricks, tiles and construction products, in baked clay' (NACE code 2332), 'Manufacture of plaster products for construction purposes' (NACE code 2362), 'Casting of iron' (NACE code 2451) and 'Casting of light metals' (2453), the qualitative assessments carried out in the context of the determination of the previous list of sectors and subsectors, valid for 2013 and 2014, have been updated. It was concluded that the circumstances justifying the addition of those sectors to the list of sectors and subsectors still prevail. Therefore, those sectors should be deemed as exposed to a significant risk of carbon leakage also for the period 2015 to 2019.
- (16) A qualitative assessment was carried out for the sector 'Manufacture of malt' (NACE code 1106), as this sector represented a borderline case with regard to Article 10a(16b) of Directive 2003/87/EC. Taking into account the increased cost resulting from the implementation of Directive 2003/87/EC, the assessment demonstrated high trade intensity and a significant drop in the profitability of the sector in the Union. The low profit margins limit the capacity of installations to invest and reduce emissions. Based on the combined impact of those factors, the sector should be deemed as exposed to a significant risk of carbon leakage.
- (17) The sectors listed in point 2 of the Annex should be deemed as exposed to a significant risk of carbon leakage on the basis of the qualitative criteria.
- (18) As the list of sectors and subsectors which are deemed to be exposed to a significant risk of carbon leakage to be laid down in the Annex is to be valid for the period from 2015 to 2019, this Decision should apply from 1 January 2015.
- (19) For reasons of legal certainty and clarity, Decision 2010/2/EU should be repealed with effect from 1 January 2015.
- (20) The measures provided for in this Decision are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS DECISION:

Article 1

The sectors and subsectors listed in the Annex shall be deemed to be exposed to a significant risk of carbon leakage.

Article 2

Decision 2010/2/EU is repealed with effect from 1 January 2015.

Article 3

This Decision shall apply from 1 January 2015.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 27 October 2014.

For the Commission
Connie HEDEGAARD
Member of the Commission

ANNEX

Sectors and subsectors which, pursuant to Article 10a(13) of Directive 2003/87/EC, are deemed to be exposed to a significant risk of carbon leakage

1. BASED ON THE CRITERIA SET OUT IN ARTICLE 10a(15) AND (16) OF DIRECTIVE 2003/87/EC

1.1. At the NACE-4 level

NACE Code	Description	Criteria met
0510	Mining of hard coal	C
0610	Extraction of crude petroleum	C
0620	Extraction of natural gas	C
0710	Mining of iron ores	C
0729	Mining of other non-ferrous metal ores	C
0891	Mining of chemical and fertiliser minerals	C
0893	Extraction of salt	A
0899	Other mining and quarrying n.e.c.	A, C
1020	Processing and preserving of fish, crustaceans and molluscs	C
1041	Manufacture of oils and fats	C
1062	Manufacture of starches and starch products	A
1081	Manufacture of sugar	A
1086	Manufacture of homogenised food preparations and dietetic food	C
1101	Distilling, rectifying and blending of spirits	C
1102	Manufacture of wine from grape	C
1104	Manufacture of other non-distilled fermented beverages	A
1310	Preparation and spinning of textile fibres	C
1320	Weaving of textiles	C
1391	Manufacture of knitted and crocheted fabrics	C
1392	Manufacture of made-up textile articles, except apparel	C
1393	Manufacture of carpets and rugs	C
1394	Manufacture of cordage, rope, twine and netting	C
1395	Manufacture of non-wovens and articles made from non-wovens, except apparel	C
1396	Manufacture of other technical and industrial textiles	C

NACE Code	Description	Criteria met
1399	Manufacture of other textiles n.e.c.	C
1411	Manufacture of leather clothes	C
1412	Manufacture of workwear	C
1413	Manufacture of other outerwear	C
1414	Manufacture of underwear	C
1419	Manufacture of other wearing apparel and accessories	C
1420	Manufacture of articles of fur	C
1431	Manufacture of knitted and crocheted hosiery	C
1439	Manufacture of other knitted and crocheted apparel	C
1511	Tanning and dressing of leather; dressing and dyeing of fur	C
1512	Manufacture of luggage, handbags and the like, saddlery and harness	C
1520	Manufacture of footwear	C
1622	Manufacture of assembled parquet floors	C
1629	Manufacture of other products of wood; manufacture of articles of cork, straw and plaiting materials	C
1711	Manufacture of pulp	A, C
1712	Manufacture of paper and paperboard	A
1724	Manufacture of wallpaper	C
1910	Manufacture of coke oven products	A, C
1920	Manufacture of refined petroleum products	A
2012	Manufacture of dyes and pigments	C
2013	Manufacture of other inorganic basic chemicals	A, C
2014	Manufacture of other organic basic chemicals	A, C
2015	Manufacture of fertilisers and nitrogen compounds	A, B
2016	Manufacture of plastics in primary forms	C
2017	Manufacture of synthetic rubber in primary forms	C
2020	Manufacture of pesticides and other agrochemical products	C
2042	Manufacture of perfumes and toilet preparations	C

NACE Code	Description	Criteria met
2053	Manufacture of essential oils	C
2059	Manufacture of other chemical products n.e.c.	C
2060	Manufacture of man-made fibres	C
2110	Manufacture of basic pharmaceutical products	C
2120	Manufacture of pharmaceutical preparations	C
2211	Manufacture of rubber tyres and tubes; retreading and rebuilding of rubber tyres	C
2219	Manufacture of other rubber products	C
2311	Manufacture of flat glass	A
2313	Manufacture of hollow glass	A
2314	Manufacture of glass fibres	A/C (!)
2319	Manufacture and processing of other glass, including technical glassware	C
2320	Manufacture of refractory products	C
2331	Manufacture of ceramic tiles and flags	A, C
2341	Manufacture of ceramic household and ornamental articles	C
2342	Manufacture of ceramic sanitary fixtures	C
2343	Manufacture of ceramic insulators and insulating fittings	C
2344	Manufacture of other technical ceramic products	C
2349	Manufacture of other ceramic products	C
2351	Manufacture of cement	B
2352	Manufacture of lime and plaster	B
2370	Cutting, shaping and finishing of stone	C
2391	Production of abrasive products	C
2410	Manufacture of basic iron and steel and of ferro-alloys	A
2420	Manufacture of tubes, pipes, hollow profiles and related fittings, of steel	C
2431	Cold drawing of bars	C
2441	Precious metals production	C
2442	Aluminium production	A, C

NACE Code	Description	Criteria met
2443	Lead, zinc and tin production	A
2444	Copper production	C
2445	Other non-ferrous metal production	C
2446	Processing of nuclear fuel	A, C
2540	Manufacture of weapons and ammunition	C
2571	Manufacture of cutlery	C
2572	Manufacture of locks and hinges	C
2573	Manufacture of tools	C
2594	Manufacture of fasteners and screw machine products	C
2599	Manufacture of other fabricated metal products n.e.c.	C
2611	Manufacture of electronic components	C
2612	Manufacture of loaded electronic boards	C
2620	Manufacture of computers and peripheral equipment	C
2630	Manufacture of communication equipment	C
2640	Manufacture of consumer electronics	C
2651	Manufacture of instruments and appliances for measuring, testing and navigation	C
2652	Manufacture of watches and clocks	C
2660	Manufacture of irradiation, electromedical and electrotherapeutic equipment	C
2670	Manufacture of optical instruments and photographic equipment	C
2680	Manufacture of magnetic and optical media	C
2711	Manufacture of electric motors, generators and transformers	C
2712	Manufacture of electricity distribution and control apparatus	C
2720	Manufacture of batteries and accumulators	C
2731	Manufacture of fibre optic cables	C
2732	Manufacture of other electronic and electric wires and cables	C
2733	Manufacture of wiring devices	C
2740	Manufacture of electric lighting equipment	C

NACE Code	Description	Criteria met
2751	Manufacture of electric domestic appliances	C
2752	Manufacture of non-electric domestic appliances	C
2790	Manufacture of other electrical equipment	C
2811	Manufacture of engines and turbines, except aircraft, vehicle and cycle engines	C
2812	Manufacture of fluid power equipment	C
2813	Manufacture of other pumps and compressors	C
2814	Manufacture of other taps and valves	C
2815	Manufacture of bearings, gears, gearing and driving elements	C
2821	Manufacture of ovens, furnaces and furnace burners	C
2822	Manufacture of lifting and handling equipment	C
2823	Manufacture of office machinery and equipment (except computers and peripheral equipment)	C
2824	Manufacture of power-driven hand tools	C
2825	Manufacture of non-domestic cooling and ventilation equipment	C
2829	Manufacture of other general-purpose machinery n.e.c.	C
2830	Manufacture of agricultural and forestry machinery	C
2841	Manufacture of metal forming machinery	C
2849	Manufacture of other machine tools	C
2891	Manufacture of machinery for metallurgy	C
2892	Manufacture of machinery for mining, quarrying and construction	C
2893	Manufacture of machinery for food, beverage and tobacco processing	C
2894	Manufacture of machinery for textile, apparel and leather production	C
2895	Manufacture of machinery for paper and paperboard production	C
2896	Manufacture of plastic and rubber machinery	C
2899	Manufacture of other special-purpose machinery n.e.c.	C
2910	Manufacture of motor vehicles	C

NACE Code	Description	Criteria met
2931	Manufacture of electrical and electronic equipment for motor vehicles	C
3011	Building of ships and floating structures	C
3012	Building of pleasure and sporting boats	C
3030	Manufacture of air and spacecraft and related machinery	C
3091	Manufacture of motorcycles	C
3092	Manufacture of bicycles and invalid carriages	C
3099	Manufacture of other transport equipment n.e.c.	C
3109	Manufacture of other furniture	C
3211	Striking of coins	C
3212	Manufacture of jewellery and related articles	C
3213	Manufacture of imitation jewellery and related articles	C
3220	Manufacture of musical instruments	C
3230	Manufacture of sports goods	C
3240	Manufacture of games and toys	C
3250	Manufacture of medical and dental instruments and supplies	C
3291	Manufacture of brooms and brushes	C
3299	Other manufacturing n.e.c.	C

(¹) The sector 'Manufacture of glass fibres' is described by two CPA codes: '231411 Slivers, rovings, yarn and chopped strands, of glass fibre' and '231412 Voiles, webs, mats, mattresses, boards and other articles of glass fibres, except woven fabrics'. Assessed at the NACE-4 level, the sector does not meet the criteria set out in Article 10a(15) and (16) of Directive 2003/87/EC. However, subsector 231411 meets the criterion set out in Article 10a(16)(b), and subsector 231412 meets the criterion set out in Article 10a(15). As the two CPA codes cover the entire sector 'Manufacture of glass fibres', the sector is added to the list at NACE-4 level for ease of reference.

1.2. At the CPA or Prodcom level

CPA or Prodcom	Description	Criteria met
081221	Kaolin and other kaolinic clays	C
08122250	Common clays and shales for construction use (excluding bentonite, fire-clay, expanded clays, kaolin and kaolinic clays); andalusite, kyanite and sillimanite; mullite; chamotte or dinas earths	C
10311130	Frozen potatoes, prepared or preserved (including potatoes cooked or partly cooked in oil and then frozen; excluding by vinegar or acetic acid)	A

CPA or Prodcom	Description	Criteria met
10311300	Dried potatoes in the form of flour, meal, flakes, granules and pellets	A
10391725	Concentrated tomato puree and paste	C
105121	Skimmed milk powder	C
105122	Whole milk powder	C
105153	Casein	C
105154	Lactose and lactose syrup	C
10515530	Whey and modified whey in powder, granules or other solid forms, whether or not concentrated or containing added sweetening matter	A, C
108211	Cocoa paste, whether or not defatted	C
108212	Cocoa butter, fat and oil	C
108213	Cocoa powder, not containing added sugar or other sweetening matter	C
10891334	Bakers' yeast	C
20111150	Hydrogen	B
20111160	Nitrogen	B
20111170	Oxygen	B
203021	Prepared pigments, opacifiers and colours, vitrifiable enamels and glazes, engobes, liquid lustres and the like; glass frit	C
239914	Artificial graphite; colloidal or semi-colloidal graphite; preparations based on graphite or other carbon in the form of semi-manufactures	C
23991910	Slag wool, rock wool and similar mineral wools and mixtures thereof, in bulk, sheets or rolls	A
23991920	Exfoliated vermiculite, expanded clays, foamed slag and similar expanded mineral materials and mixtures thereof	A
25501134	Open die forged ferrous parts for transmission shafts, camshafts, crankshafts and cranks etc.	A, C

The criteria based on which a sector is deemed to be exposed to a significant risk of carbon leakage are the following:

A: criterion set out in Article 10a(15) of Directive 2003/87/EC;

B: criterion set out in Article 10a(16)(a) of Directive 2003/87/EC;

C: criterion set out in Article 10a(16)(b) of Directive 2003/87/EC.

2. BASED ON THE CRITERIA SET OUT IN ARTICLE 10a(17) OF DIRECTIVE 2003/87/EC

NACE Code	Description
1106	Manufacture of malt
1330	Finishing of textiles
2332	Manufacture of bricks, tiles and construction products, in baked clay
2362	Manufacture of plaster products for construction purposes
2451	Casting of iron
2453	Casting of light metals