

**29<sup>th</sup> meeting of the ETG EU WG held at the BEIS Conference Centre, 1 Victoria Street,  
London on 18 December 2018**

**Attendees:**

Bill Thompson	Co-Chair
Lucy Candlin	Co-Chair
John Craven )	ETG Secretariat
Anne-Marie Ferguson)	
Joanne Allan	Scottish Government
Jess Ayres	BEIS
Bryan Bateman	CPI
Iain Begg,	LSE
Robert Brookes	British Sugar
Roz Bulleid	UK Steel
Richard Busby	Uniper
Lawrence Burton	Phillips 66
Diana Casey	MPS
Matt Croucher	SMMT
Melanie Eddis	ERM CVS
Michael Evans	DfT
David Fairchild	Bureau Veritas
Charlotte Fryer	Shell
Steve Freeman	CPI
Ged Farmer	LRQA
Janet Gascoigne	UKAS
Fiona Graham	SEPA – by phone
Neil Hadden	Hurley Palmer Flatt
Adam Hedley	Reed Smith – by phone
Martin Hills	Cemex
Iwan Hughes	Welsh Environment Agency – by phone
Katie Irving	BEIS
Zoe Jones	SGS
Henry Kemp	EDF Energy
Alastair Kerr	WPIF
Jude Lemmens	Tata Steel
Bob Lewis	Tata Steel
Ross Loveridge	Scottish Government
Andrew McDermott	BCC
Alice Mitchell	Scottish Government
Mat Newton	Hanson
Amanda Pakes	Bsi
Rick Parfett	ADE
Rhiannon Phillips	Welsh Government
India Redrup	Energy UK
Daniel Radov	NERA
Steve Reeson	FDF
Andy Roberts	UKPIA
David Robinson	Lucideon CICS
Hugh Salway	BEIS
Rachel Skinner	Carbon Clear
Lesley Thomas	Kiwa
Ryan Tinggal	BEIS
Naomi Walker	EA
Theo Walsingham	BEIS
Will Webster	Oil & Gas UK
Trevor Williams	ExxonMobil
Adam Windmill	Redshaw Advisors
Richard Woolley	CIA

**Co Chair's Introduction and safety briefing and Agreement of the agenda**

1. The meeting commenced at 10.35 hours. Co-Chair (Policy) Bill Thompson welcomed those present to the 29<sup>th</sup> meeting of the EU ETS WG, reminded attendees of ETG competition Policy,

and gave a safety and security briefing. The revised draft agenda was agreed as tabled, subject to a change in the running order.

### **Minutes of EU ETS WG meeting held on 3 July 2018 + Actions**

2. The minutes of the 28<sup>th</sup> EU ETS WG meeting on 3 July 2018 were agreed as an accurate reflection of the discussion by meeting participants.
3. John Craven said that actions recorded at the previous meeting were complete except for the one at paragraph 3 - flowing from paragraph 25 of earlier minutes - on which BEIS had advised that the Commission had not been able to provide clarification on their approach to the use of NACE Codes – cf the information that they had provided for Phase 2.

### **EU ETS WG Co-Chair (Policy): Expiry of 2-year term of office**

4. Bill Thompson said that his current 2-year term of office as EU ETS WG Co-Chair (Policy) was about to expire. He would be willing to continue for a further term but new blood was welcome. Another option was for a second EU ETS WG Co-Chair (Policy) to be appointed to work alongside him to share the agenda. EU ETS WG members were warmly invited to send their expressions of interest in either becoming policy co-chair or sharing some of the policy agenda with bill to John Craven – [John.Craven@etg.uk.com](mailto:John.Craven@etg.uk.com). These issues relating to the co-chair (Policy) appointment would be considered at the next EU WG Meeting.

### **Part one – Policy work – co-Chair Bill Thompson**

#### **COP 24 Report - Hugh Salway, Head of Global Carbon Markets, BEIS**

5. Hugh Salway reported back from COP 24 held from 3 December to 14 December in Katowice, Poland. He said that to provide clarity to underline the Paris agreement, the COP24 UN climate summit had agreed on a rulebook including how governments will measure, report and verify their emissions reduction efforts. However, there was no agreement on guidance around the three main points on Article 6, market mechanisms i.e. 6.2, the basis of co-operation in meeting targets – where a small minority of parties were against provisions preventing double claiming on exchanged emission reduction or mitigation units - 6.4, the successor to CDM and 6.8, on non-market mechanisms. This was disappointing but, on the more positive side, there had been no dilution of robust rules needed to prevent double-counting. Hopefully agreement on Article 6 issues would be reached at COP 25.

6. Bill Thompson emphasised the importance to UK business of Article 6 trading provisions. Hugh Salway responded that in so far as provisions were in the Paris agreement itself, he would expect voluntary co-operation to continue, although clearly the position on 6.4 was more complicated in that a successor to the CDM required the prior establishment of a new operational body. He added that some further details could be resolved mid-year in Bonn. Bryan Bateman flagged the UK Government announcement at the COP of £100 million for renewable energy projects in Africa and asked whether this was new money. Hugh Salway responded that the money was included in the current spending review and was therefore only new in that it had not been allocated before. Thanking Hugh Salway for his report, Bill Thompson expressed the hope that BEIS would be able to report again to the ETG on Trading and other issues either just before or just after COP 25.

## **BREXIT and EU ETS**

### What are the options in the BREXIT process? - Iain Begg, LSE

7. Iain Begg gave the presentation at Annex 1 (subsequently circulated to EU ETS WG entitled 'Is there a way out of the Brexi-Chaos'. This included his assessment on various criteria contained in 4 options, i.e. no-deal, the UK Government's proposed deal, the Norway + option and remaining in the EU. A wide range of views was expressed in discussion, as follows:

- There was attraction in the Norway + option – which would entail continued freedom of movement.
- Remaining in the EU and second referendum options were politically explosive, but rapidly becoming viable.
- The voting base might have changed – opinion polls currently suggested 55%/45% in favour of remaining in the EU.
- Estimates of the extent to which the UK economy could shrink as a consequence of Brexit were varied and questionable.
- Continued disagreement in UK Parliament would lead to long period of uncertainty - there would need to be at least a 20-week lead time for a second referendum and extension of Article 50 would need the agreement of all 27 remaining MSs
- The Irish border issue could be seen as a 'red herring' since similar concerns were not being expressed over other EU/Non-EU borders, e.g. between Finland and Russia and Sweden and Norway whilst Switzerland had a border with 4 EU states.

8. Bill Thompson thanked Prof. Begg for his presentation and participation in Q&A. He felt that listing the pros and cons of each of the four options to enable comparison was a welcome addition to the EU WG's understanding of BREXIT.

### Preparations for BREXIT without agreement – update

9. Ryan Tinggal confirmed that preparations for Brexit without agreement had been set out in the Government's technical notice on 12 October and also in the subsequent Budget announcement. Accordingly, in the event of no deal the UK would leave the EU ETS and an interim carbon emissions tax would be introduced pending consideration of the UK's longer-term climate change policy, including the option of a UK ETS either stand-alone or linked. The MRV requirements would remain the same during the operation of the interim carbon emissions tax with verified emission reports due at the end of the normal compliance period. However, the interim tax would not start until April 2019, would not apply to aviation, and would be the subject of detailed consultation before introduction. A statutory instrument to facilitate the MRV requirement had been published on 11 December.

10. In the event of a deal, unmarked allowances would be redistributed on the basis of new regulations. Bill Thompson said that a key point for market transparency was whether there would be any UK auctioning or free allocation during the first quarter of 2019. Later note: It is understood that this will not be the case. In response to Andrew McDermott, . Steve Reeson drew attention to a potential conflict if EU ETS participants were required to move to an interim

Carbon Emissions Tax in addition as an alternative to participate in a CCA. Later note: It is understood that this point has been taken account of in the relevant statutory instrument.

11. Bryan Bateman noted that if operators needed access to pre-2019 allowances, they would require an EU Registry account in another EU Member State. He speculated as to whether there were any legal remedies to obtain access to the value of such allowances were they to be unable to open an EU Registry account in an EU Member State. Lucy Candlin asked what research had been done by Government to ensure that operators could open a Registry account in another EU State where they were not resident; it was noted that ETG's own research had established that the Republic of Ireland was not in a position to assist since they – like a number of other MSs – required applicants to be both VAT-registered and resident.

12. BEIS responded that they regarded such research as a matter for individuals rather than Government to pursue. Naomi Walker asked whether similar restrictions applied to verifiers. Lucy Candlin responded that the position on verifiers was dependent on whether they could secure accreditation and added that it seemed likely that Ireland would have no verifiers post-Brexit since they had been relying on those from the UK.

13. Adam Hedley concurred in the position on Registries; his firm had been looking closely at possible routes and had had enquiries out with Republic of Ireland, Germany – which had particularly specific requirement - and The Netherlands. An additional potential obstacle was the lead time to open a Registry account. Guidance in the legislation quoted a minimum of 4 weeks but it was more likely to take up to 8 weeks or even longer. On the marking provisions, he added that should any UK auction or free allocation go ahead at the start of 2019 (albeit subsequently confirmed as not the intention), an ability to use them for trading purposes would depend on the particular documentation on which they relied. They could not be used under EFET documentation but neither of the other documentation providers, IETA and ISDA, had published advice.

#### Development of the 4 post BREXIT EU ETS options – update

14. BEIS confirmed that all of the 4 options still remained on the table and noted that the Political Declaration – dependent on the acceptance of the Withdrawal Agreement - offered the possibility that a UK ETS could be linked with the EU ETS. Work was ongoing on the options and it was hoped to move to wider stakeholder engagement in 2019.

#### **EU ETS Phase 4**

##### Update on the progress of implementing legislation

15. Theo Walsingham updated the meeting on the progress of implementing legislation. He confirmed that the recent changes to EU MRR and AVR voted in through the CCC that come into effect before a potential no deal EU Exit, have effect in the event of no deal where MRVA requirements are maintained. The following points arose or were clarified.

##### *Auctioning*

16. An initial agreement had been reached on the delegated provision for auctioning to cover the early monetisation of £50m allowances for the Innovation Fund (see below). A further revision to the Auctioning Regulation will follow in 2019/20.

### *Innovation fund*

17. To facilitate a timely start of the Innovation Fund before 2021, the Commission had arrangements in hand for the monetisation of a first batch of 50 million allowances but work continued on how the innovation fund would operate. A consultation on this had not yet been launched. Bill Thompson said that there was an issue about relevant costs – the additional costs of production were a risk over the entire technology, not just the element that was being bolted on. More generally, big step changes were needed for 2030/2050.

### *MRR and AVR*

18. Initial revisions of the MRR and AVR had been agreed by the Commission's Climate Change Committee two weeks previously (see links below) and were due to be adopted on 19 December ahead of publication around 28 December. More substantive discussion of these regulations would start in 2019. The majority of the MRV requirements to be applied from 2021 were not new but further revision was needed for some other big policy areas. Two areas would be in effect sooner – those associated with the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) and free allocation.

MRR (2018/2066) <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1547472125703&uri=CELEX:32018R2066>

AVR (2018/2067) [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2018.334.01.0094.01.ENG&toc=OJ:L:2018:334:TOC](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2018.334.01.0094.01.ENG&toc=OJ:L:2018:334:TOC)

### *FAR and carbon leakage list*

19. Work on the FAR and carbon leakage list was now drawing to a close – with the Commission adopting the same approach as previously plus some technical drafting changes. Some elements were left unfinished – with discussion ongoing - but it was hope to adopt this near to the year end. Bill Thompson noted that a provisional consultation on carbon leakage was running through to 2 January 2019. Theo Walsingham commented that the final version was unlikely to change significantly following the extensive bilateral discussions carried out by the Commission. Will Webster asked about the process for approval; BEIS undertook to check on who is responsible for the regulatory decision. – **Action BEIS**

### *BEIS/EA preparations for the UK's FAR data collection exercise*

20. Bill Thompson noted that data collection related to Phase 4 would continue regardless of the outcome of Brexit since it would in any event be needed for other policies underpinning the UK's climate budget. Naomi Walker updated the meeting from the brief included under the heading '2019 NIMs and free allocation rules Environment Agency preparations' in Annex 3. She added that a draft version of templates should be available in January 2019 and would be shared with John Craven for circulation to members in addition to being publicised via EA Newsletters. – **Action EA**. The EA were working with the Netherlands and Belgium on workshops for competent authorities and were keen to have one in early February 2019. Later note: This has been arranged for 5 February. It would be important for the workshops to consider in particular on how best to disseminate learning to operators, including possibly by webinar which could be recorded and made available for those who could not attend. Whereas for Phase 3, the Environment Agency assisted UK Government with receipt, review and

collation of NIMs data for the UK, in Phase 4 each UK Regulator would receive, assess and collate for their respective geographical area.

*MRR and AVR*

#### *Registry regulation*

21. Work on the Registry regulation was ongoing.

#### *Dynamic Allocation*

22. Bill Thompson gave the presentation at Annex 2 (subsequently circulated to EU ETS WG members) on the EC Consultation on Dynamic Allocation (i.e. to allow for activity changes) under Phase 4. The main issue was that there was a distortion due to +/-15% threshold. Allocation for activity change was rewarded in a smaller installation... but not a large one! There was a need for an absolute threshold as well as the +/-15% threshold to trigger the allocation adjustment. He suggested a second threshold trigger based on allocation of say 50,000 EUA allocation makes sense for large installations, but he was open to and interested in other views of the EU WG membership. The Commission's Public Consultation on Revising the rules for free allocation in the EU Emissions Trading System (Dynamic Allocation) issues was to close on 22 February 2019.

#### *Small emitters*

23. On the implementation of Article 27 – small emitters – and the Article 27A scheme, Theo Walsingham said that finalisation was awaiting confirmation of UK policy. A communication in early January would set out provisional pre-consultation policy thinking.

#### **Other updates**

##### EU ETS Aviation and International Aviation – Michael Evans, DfT

24. Michael Evans reported that the EU ETS aviation plan remained as for mainstream activity but air operators would not be required to comply with the interim Carbon Emissions Tax (if introduced) in recognition of the potential resulting competitive disadvantage against other operators. However, they would be required to continue to monitor emissions. On the international front work continued on implementation of the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA). MRV is being implemented at EU level using a delegated act under the EU ETS, a draft of which was currently out for consultation. The monitoring obligation was due to commence from January 2019. On the implementation of CORSIA in the UK, applications were being received from operators, and the EA and SEPA would be approving monitoring plans with an eye to the necessary deadlines.

##### **State Aid issues – Arjan Geveke, BEIS**

25. Arjan Geveke has advised as follows.

##### Compensation for the indirect emission cost due to the EU ETS

On the UK's long-standing request to the Commission to review eligibility for compensation for the indirect emission cost due to the EU ETS, with the aim of

extending it, BEIS gathered UK and European data from various sectors a few years ago, but time has moved on through two elections and a referendum. BEIS have therefore provided updated advice to our Ministers and will communicate their decision shortly.

#### FiT exemption and state aid

In its [response](#) to the consultation to close the Feed-in Tariff (FiT), the Government has decided to close the export tariff alongside the generation tariff. This means that the scheme will close in full to new applications after 31 March 2019, subject to the time-limited extensions and grace period detailed in this response. A statutory instrument amending the Feed-in Tariffs Order 2012 will be laid in Parliament and the scheme will close to new applications from 1 April 2019. The statutory instrument will also implement the exemption for Energy Intensive Industries from FIT costs from 1 April 2019, subject to receipt of state aid approval. We have had a preliminary discussion about the FiT exemption with the Commission and will submit a notification in due course.

#### Consultation on widening eligibility

BEIS has [consulted](#) on whether there is evidence of potential competitive distortions as a result of the current eligibility threshold for the renewable electricity cost exemption schemes, to what percentage should the current threshold of 20% electricity intensity be lowered in order to address the distortions and, if the threshold is lowered, how to minimise the cost on non-eligible consumers. This consultation also asked questions regarding redistribution of money recovered from over-exempted EIIs and improving operation of the exemption schemes. Any decision to change the exemption schemes following the consultation will need to meet state aid requirements and will be subject to parliamentary approval. We are currently analysing the responses.

#### Brexit and state aid

The Government published a [notice](#) explaining to state aid beneficiaries how the state aid rules will apply in the United Kingdom in the event that the UK leaves the EU in March 2019 with no agreement in place. If there is ‘no deal’, the government is creating a UK-wide subsidy control framework to ensure the continuing control of anti-competitive subsidies. The EU state aid rules will be transposed into UK domestic legislation under the European Union (Withdrawal) Act. This will apply to all sectors, including EIIs. If the UK were to leave the EU on 29 March 2019 with no agreement, the Competition and Markets Authority (CMA) will take over state aid regulation within the UK at that point. The new regime will apply to all businesses with operations in the UK – whether UK, EU or third country based. From that point, existing approvals of state aid will remain valid and will be carried over into UK law under the Withdrawal Act and any full notifications not yet approved by the Commission should be submitted to the CMA.

## **Part two - Technical and administration work – Co Chair Lucy Candlin**

### **MRV overview, permitting and registry**

26. Naomi Walker reported on the basis of the EA brief at Annex 3.

### **Accreditation**

27. Janet Gascoigne reported on the basis of the UKAS brief at Annex 4.

### **Provisional EU ETS WG meeting programme for 2019 and closure of the meeting**

28. It was noted that the provisional EU ETS WG meeting programme for 2019 remained under consideration and would be announced as soon as possible. Later note: The following programme has now been announced to members - all meetings from 10.30 – 13.30 at the BEIS Conference Centre, 1 Victoria Street, London SW1:

Monday 28 January 2019  
Tuesday 2 April 2019  
Tuesday 2 July 2019 (incorporating ETG AGM)  
Wednesday 9 October 2019  
Tuesday 10 December 2019.

29. Bill Thompson closed the meeting at 13.30, thanked members and Government representatives for their contributions and wished everyone a happy Christmas and a prosperous New Year.

**ETG Secretariat  
11 January 2019**

Brief for ETG EU ETS Working Group meeting 18 December 2018Phase III permitting and compliance

- A reminder that the deadlines for 2018 compliance GHG permit holders (installation) and aviation have been brought forward to 11 March 2019 (reporting and propose/verify emissions in the Union Registry) and 15 March 2019 (surrender).
- All GHG permit holders and aviation operators should have received an ETSWAP workflow task to enable them to start completing their AER task from 1 December 2018
- Ensure that you have two authorised representatives set up so that you can surrender your allowances on time.
- GHG/aviation operators should prepare for not being able to use UK 2019 allowances to meet their 2018 compliance obligation. (We are awaiting confirmation on whether there will be any allocation in 2019.)
- Specific communications are being sent on registry related matters and queries can be directed to [etregistryhelp@environment-agency.gov.uk](mailto:etregistryhelp@environment-agency.gov.uk)
- Excluded installations: ETSWAP AER task remains at 1 January 2019 because the compliance deadlines for remains at 31 March 2019
- The MPA advised us of an error in the published version of national factors contains for scrap tyres. Due to the small number of cement operators affected, we do not intend to update ETSWAP but a new version of the national factors will be published on GOV.UK in due course (if not already). Individual operators will be notified but verifiers should be aware. Later note: GOV.UK was updated 31/12/18 with the correct data.
- Annual Capacity/Activity Level Notifications – reminder to submit these by 31 December 2018

## MRR/AVR revision phase I

- Both regulations were unanimously endorsed by the CCC on 6/12/18; adoption by the Commission (19/12); publication in the EU Official Journal (28/12)
- entry into force (29/12) AVR to be in effect from publication date (free allocation and CORSIA)
- AVR Regulation continues to be in effect for verification of 2018 annual emissions
- MRR – some provision to be in effect from publication (CORSIA and court rulings on transferred CO<sub>2</sub> – Article 76), the rest takes effect from January 2021

## MRR/AVR revision phase 2

- Starts early 2019 and completed by the end of 2020
- CCU, RED (solid biomass), CORSIA, FAR, allocation adjustment, E-reporting and templates
- Consider the possibility of requiring lead verifiers to be rotated every 6 years (for installations as well as aviation)
- Remove references to ISO standards because they are outside of EU laws
- Rules for verification of annual activity reports

## Free Allocation Rules (if not covered by BEIS)

- Anticipate Commission adoption 17 December 2018; publication and entry into force end of Feb 2019

Document		status	Published?
GD1	General Guidance to allocation methodology	comments on 3 Jan for meeting on 24 Jan	
GD2	Allocation methodology at installation level	comments on 3 Jan for meeting on 24 Jan	
GD3	Data collection	comments on 3 Jan for meeting on 24 Jan	
GD4	Verification	comments on 3 Jan for meeting on 24 Jan	
GD5	Monitoring and reporting	Comment returned on draft v1	
GD6	Cross-boundary heat flows	comments on 3 Jan for meeting on 24 Jan	

GD7	New entrants and closures	2019	
GD8	Waste gases	Final comments 11 Jan Finalise beginning of Feb	
GD9	Sector specific		
GD10	Mergers and splits	2019	
NIMS template		Expected to be available from end of January 2019	
MMP template			
Verification opinion template		tbc	

#### Carbon leakage (if not covered by BEIS)

- Public consultation open until 2 January 2019
- [https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-5046070\\_en#isc-2018-08045](https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-5046070_en#isc-2018-08045)
- Anticipate Commission adoption January 2019; publication and entry into force March 2019

#### Production level changes (if not covered by BEIS)

- Public consultation 30/11/18 to 22/2/19 on Commission portal
- Expert group meeting 18/3/19
- Anticipated vote in CCC May/June 2019; adoption July 2019

#### Benchmark updates (if not covered by BEIS)

- Update rates Q12020
- Anticipated votes in CCC Q1/Q2 2020; adoption Q2 2020

#### 2019 NIMs and free allocation rules Environment Agency preparations

- Communications delayed due to lack of legal certainty (everyone has had opportunity to see the draft version available for public feedback and industry involved in expert groups).
- We are planning to launch the data collection early January and share draft versions of the NIMs and MMP template.
- Environment Agency is liaising with other UK regulators but it is important to note that, unlike, for Phase 3, individual regulators will be assessing applications.
- 'Train the trainer' workshops for competent authorities mid-Feb/early March. We are considering how to disseminate this to operators and considering to do this by webinar. Views please? Is there a role for ETG?
- Also considering specific workshop for verifiers, also to be by webinar
- All operators will have to provide some data but some will provide more than others. For example, we do not anticipate electricity generators, as defined in the Directive, to provide verified data.
- Operators who wish to apply for a free allocation of allowances must do so by the deadline (anticipated to be 30 May 2019). Engage with your verifier as soon as possible, particularly as a site visit will be required. Draft GD4 has text that allows a pragmatic approach towards site visits but this is not yet guaranteed.
- Implementation of Art 27/27A schemes and NIMs data submissions are subject to confirmation of UK policy by BEIS.

Prepared by Naomi Walker 17 December 2018

UKAS REPORT TO ETG EU WG 18 December 2018

EU ETS Phase 3

UKAS has received work plans from its accredited verification bodies, and is working to prepare the work programme required by Regulation 600/2012 Article 70. Because of the Christmas break this effectively means the programme has to be prepared by this week.

EUETS Phase 4

In early January 2019 UKAS plans to issue a call for applications for extension to scope to cover Phase 4 baseline.

ICAO CORSIA

In early January 2019 UKAS plans to issue a call for applications for extension to scope to cover the ICAO CORSIA (Carbon Offsetting and Reporting Scheme for International Aviation) to cover verification of annual emissions.

All information technical and otherwise is available on the ICAO and CORSIA website. Also a 50 FAQ document is available that answers most pertinent questions.

Janet Gascoigne/Kirsty Greggs December 2018