

19 November 2021

EuLA Position on the European Commission (EC) Proposal amending Directive 2012/27/EC on energy efficiency ([COM \(2021\) 558 final](#)).

On 14 July the European Commission (EC) announced substantial amendments to both the Energy Efficiency (EED) and EU Emission Trading System (ETS) directives. The EU ETS Directive would require mandatory energy audits to ETS installations based on the current Article 8(4) of Directive 2012/27/EU. Not implementing the recommendations proposed by the auditors could lead to a **“penalty”** i.e., the reduction of 25% of free allocation quotas. EuLA is supportive of measures to encourage energy savings but needs to alert the EU legislator when measures can have non-desirable and counterproductive effects. This is the case for sectors where most of the carbon emissions are not related to energy use but originate from an inevitable chemical reactions in the manufacturing process, for example, decarbonation of limestone during the manufacture of lime products.

1. What is at stake?

Free allocation is there to protect sectors that are vulnerable to carbon leakage. Any measure that undermines this protection will undermine the competitiveness of EU manufacturing and jobs.

The new provisions under the article 11 (former article 8) of the EED may have a detrimental impact on lime installations operating under EU ETS. Based on the recent proposed modifications of the Art 10a of the EU ETS Directive (COM(2021) 551), *“In the case of installations covered by the obligation to conduct an **energy audit under Article 8(4) of Directive 2012/27/EU** (...), free allocation shall only be granted fully if the recommendations of the audit report are implemented, to the extent that the pay-back time for the relevant investments does not exceed five years and that the costs of those investments are proportionate. Otherwise, the amount of free allocation shall be reduced by 25 % (...).”*

Typically, energy auditors perform their audits and formulate their recommendations in “isolated” way, not always acknowledging the difficulties, practicalities or even impossibility of implementing them. There needs to be a formal and objective process allowing the audited company to explain the reasons why a certain recommendation cannot or should not be implemented and an appeal process should be organised when such difficulties occur. It would be totally unbalanced, and in contrast with the basic principles of the rule of law, that not complying with what is *in se* a subjective decision, would lead to such a drastic sanction (i.e., loss of 25 % of free allowances, representing a serious financial loss).

Making a linkage between energy efficiency audits and the CO₂ free allocation under the EU ETS is, in certain cases, contradictory and counter to the desired outcomes of the proposed legislation, e.g.: the reference installations determining the benchmark for lime and dolime are burning biomass. Using biomass as a fuel often requires a higher energy consumption. In this case, there is a conflict between two goals: reducing CO₂ emissions and reducing energy consumption. From an ETS perspective, it is better to maximise the use of biomass despite a higher energy consumption, and doing so, there is no justification to reduce free allocation.

2. Which are our concerns?

EuLA has strong concerns about the widening the scope to all companies with an average annual consumption > 10TJ which will be very **burdensome for lime installations operating under a stricter EU ETS and climate policy**, notably:

- There is no reference in the current EED proposal to the **practical implementation of this linkage (design, monitoring and above all, appeal mechanism)**.
- The **scopes of EU ETS (climate) and EED (energy efficiency)** are not the same and linking the two might lead to unwanted side – effects such as the one below.
- Unjustifiably reducing free allowances with 25% will **jeopardise the financial resources available** and will **reduce the CO₂ mitigation investment capacity** of lime operators. 80% of lime production in Europe is with shaft kilns having very high energy efficiency values and with very small improvement margin, if any. In the EuLA roadmap 2050 exercise, the energy efficiency potential impact on total CO₂ emissions was estimated to < 1%; 0.30% base case. A penalty of 25% of allocations is totally disproportional and not acceptable.
- **Auditor’s lack of knowledge of lime operations.** Meaning that in practice, certified auditors performing energy audits are often consultants with general knowledge on energy efficiency but low understanding of the lime operations. In many cases auditor recommendations are not fit for improving the overall energy efficiency of the production process. It is not sufficient that an auditor identifies improvement margins. He or she, should also propose solutions that are technically and economically compatible. And indeed, the **possibility of challenging the report and appealing shall be mandatory**.
- The **current benchmark values already provide free allocation under what is technically feasible** for all lime installations. Reducing them even further on the basis of an energy audit that is questionable (subjective, lack of knowledge, no formal process in place) is clearly unacceptable for our sector.
- **Risk of conveying double audit work** to comply with legislative requirements and **potential administrative burden** increase due to the obligation to implement mandatory energy management systems, such as assessing energy consumption, replacing outdated installations, optimising operational procedures, staff training, etc.

3. This provision should be removed.

First, it should be acknowledged that the benchmark values are already taking into consideration the best performers only, in most of the sectors. Article 10a of the EU ETS Directive states that the benchmarks values shall provide “incentives for reductions in greenhouse gas emissions and **energy efficient techniques, by taking account of the most efficient techniques**, substitutes, alternative production processes, high efficiency



cogeneration, efficient energy recovery of waste gases, use of biomass and capture and storage of CO₂, where such facilities are available”.

EuLA calls for:

- **Maintaining the current level of flexibility.** Lime companies are already part of voluntary agreements which provide commitments to reduce CO₂ emissions and to improve energy efficiency. While action plans and implementation schedules are indicative, the commitments are binding. This way of working incentives companies rather than setting recommendations in many cases **not achievable due to the pure nature of the production process.**
- **Should the proposed provision on audit be maintained, setting a process of appeal at administrative level** so unrealistic recommendations can be appealed by the audited company before the conclusion are implemented. This will further increase the chance that the feedback provided by the auditor is useful in terms of output. In many cases, we notice that some of the recommendations formulated by energy auditors are not achievable due to a lack of specific knowledge of lime installations, its functioning and the quality requirements that influence the production process.
- **To guarantee a minimum level of competence for auditor’s in charge of the energy audit.** Auditors who declare the performance of an energy audit should demonstrate a basic knowledge of the technological processes carried out in companies for which they undertake the energy audit.
- Should the proposed provision on audit be maintained, **to incorporate climate mitigation measures as a condition to define the auditors’ recommendations.** i.e., certain energy savings measures should not be implemented if they would increase the installation’s emissions or global emissions in the value chain (scope 1, 2 or 3)

About EuLA

EuLA, the European Lime Association, represents about 95% of the European non-captive lime production through its 23 covered Member States (companies & national associations). The European lime sector operates around more than 160 sub-installations (plants) in the EU, producing a total of more than 22 million tons of lime and dolime (2019). Lime is an essential but often unseen ingredient, which possesses many applications for downstream industries. As a strong "enabler", lime is used from steel to water treatment and pharmaceuticals, environmental protection, glass and paper industrial processes, in the construction and civil engineering and in agriculture.