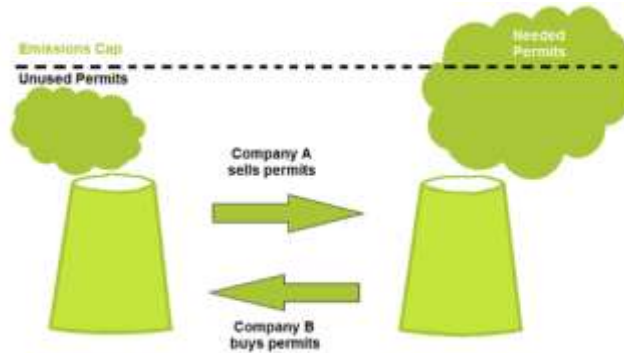




EU ETS – a cap and trade system



- ETS Directive 2003/87
- Auctioning Regulation 1031/2010
- Registry Regulation No 389/2013

Source: [Climate Policy Info Hub](#)

The UK's role in the EU ETS

- Big supporter and driver of EU ETS
- Second largest emitter of GHGs
- UK companies are amongst the largest buyers of allowances
- Paris Agreement: EU reduction target: 40% from 1990 level by 2030 (no individual goals of EU MS)
 - UK Climate Change Act: 57% from 1990 levels by 2030



3

Three options and 3 implications for the EU 27

1. Remain a full member of the scheme: carrying on as if nothing has changed
2. Half way member: own UK ETS and linkage to EU ETS
3. Full exit: introduction of UK ETS without linkage or Carbon Tax



4

Option 1: Remain a full member of the scheme – business as usual

- Similar to Norway:
- Not EU MS but companies participate in the scheme
- Norwegian ETS was designed to be compatible with the EU ETS
- EU implications: not big, trading will continue
- Norway is EFTA Member and hence subject to rulings of CJEU
 - “No-go” for Theresa May, but 22.09.2017:

“Where there is uncertainty around underlying EU law, I want the UK courts to be **able to take into account the judgments** of the European Court of Justice with a view to ensuring consistent interpretation. On this basis, I hope our teams can reach firm agreement quickly.”



5

Option 2: Half way member –uncertainty for EU

- Creation of own UK ETS and linkage it to EU ETS (Switzerland)
- EU implications:
 - Eu would be in the driving seat but long and complicated process
 - Negotiations with Switzerland took more than 7 years (plus 2 years before entry into force)
 - Uncertainty if negotiations will be successful at all and in between phase
 - UK: Would not want to be linked back to EU ETS: oversupply of allowances and low prices



6

Option 3: Full exit –collapse of the system?

- Introduction of UK ETS without linkage or Carbon Tax:
- UK ETS: linkage with other systems such as Californian ETS
- More likely: Introduction of UK Carbon Tax
 - April 2013: Carbon Price Floor (CPF)
 - Economic crisis lead to price drop of allowances
 - € 29.20 in July 2008 to € 2.78 in April 2013
 - Trajectory: £ 30 in 2020 and £ 70 in 2030
 - Capped at £ 18 from 2016-2020 in order to limit competitive disadvantage for UK industry and consumers
 - Has given investor confidence and legal certainty in the UK



7

EU position – David or Goliath?

- European Parliament (Christian Democrat, Socialist, Liberal and Green groups): proposed amendment to prevent British business from massively selling of allowances if the UK chooses to leave the ETS
 - Proposes to void all emissions permits issued by a country leaving the 28-nation bloc from January 2018 onward. Any changes would also have to be agreed by EU member states and the European Commission

Amendment 47
 Proposal for a regulation
 Article 1 – paragraph 1 – point 11 (new)
 Directive 2003/85/EC
 Article 12 – paragraph 3a (new)

(11) In Article 12, the following paragraph is inserted before paragraph 3a:

"3a) In order to protect the environmental integrity of the EU ETS, aviation operators and other operators in the EU ETS may not use allowances that are issued from 1 January 2018 onwards by a Member State in respect of which there are obligations arising for aviation operators and other operators. The legal act referred to in Article 19 shall implement this paragraph."



8

EU position – David or Goliath?

- Amendment will split carbon market as of 1st January 2018 already
- Contractual and trading risks affecting both UK and EU market
- Full Exit: EU needs to tighten the supply/demand balance and impacts on the cap
 - Excluding UK would tighten the cap: Sandbag says 5% of total phase 4 CAP



9

Conclusion – Turning crisis into opportunity

- For global carbon commitments: EU would need to step up
 - Carbon Price Floor on EU level?
 - Big opportunity for EU ETS
- Depends on political will of both UK and EU
- Hard Brexit threatens economic efficiency of the programme
- *"If sufficient reforms to the EU ETS do not appear achievable, we recommend that the Government considers alternative options, such as establishing a **separate UK system linked with wider international schemes**. We further recommend that the Government should not seek to leave the EU ETS until it has established clear and well-tested alternative approaches which can deliver our emissions reduction targets at low cost and without destabilizing investment or undermining the UK's commitment and ambition to tackle climate change."*

House of Commons, April 2017, p.27



10



Brexit and the implications for (European)
energy and environmental law – the EU
Emissions Trading Scheme as a case-study

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