8th November 2012

Dear President Barroso,
Dear Commissioners,

On 25 July, the European Commission has tabled a proposal to amend the ETS Directive in order to provide the legal basis for including the possibility by the Commission to change the auctioning rules (Regulation EU 1031/2010) and decide the volumes of allowances to be put on the market in a determined period of time. **In the public consultation, national industry federations and confederations have strongly opposed the draft proposal known as "backloading"**, thus reiterating the concerns we raised in our letter to the European Commission of 12 June 2012.

We are very concerned about the proposed amendment of the Art. 10 par 4 ETS Directive and the announced alteration of the auctioning rules (Regulation EU 1031/2010) in order to withhold a considerable number of allowances from the market in the first three years of the 3rd period of the ETS (2013-2015) and subsequently reinsert the same amounts in the following years (2018-2020). Until now, the Commission has put forward three different options of amounts of allowances to be temporarily frozen (1.2 bln, 900 mln, 400 mln), which should be considered when modifying the Auctioning Regulation. None of these options were accompanied by an impact assessment on sectors affected.

Given the reactions from many stakeholders from various sectors, it is clear that the way the European Commission is dealing with this politically sensitive issue raises a number of serious concerns, both in terms of procedure and content.

In order to respect the democratic process, there should be no decision taken by the Climate Change Committee on an adjustment of the Auctioning Regulation before the European Parliament has voted on the proposed amendment of the ETS Directive (plenary vote foreseen in spring 2013) to approve the legal basis to change the Auctioning Regulation.

According to previous statements of the European Commission, the desired effect of the proposed measures is that of raising the CO2 price which has lowered to 7-8Eu/ton. Such decrease, due to the build-up of a surplus of allowances, has been the consequence of a number of factors related to the unexpected economic crisis, the high number of international credits and the structural interactions of the different policy instruments adopted with the Energy and Climate package in 2008 (renewable energy target and energy efficiency measures). While the economic crisis was unforeseeable, the use of international credits was intended by the ETS Directive in order to achieve global CO2-reductions in a cost-efficient manner. Flaws in the ETS due to a number of technical issues and interactions have been evident for some time and lately were highlighted in the approval of the Energy Efficiency Directive.

We understand that on 14 November the Commission will release a report on the functioning of the CO2 market highlighting that the backloading will not achieve its overall aim of strengthening the ETS. **In short, EU institutions are presently called to vote on a legislative proposal that the European Commission has already judged as insufficient to meet its objective.**

In fact, such measure would disrupt the market once again and recreate the same surplus effect that it intended to avoid in the first place. To overcome such failure in the proposed backloading mechanism, the Commission proposes further measures ("structural" measures) which all aim to delete the allowances from the system on a permanent basis. None of these measures addresses the structural flaws of the system, i.e. the need for coherent climate and energy policies. This gives the strong impression that the Commission's single policy objective is raising the carbon price.

For this reason, the undersigned national confederations consider the "Backloading" proposal as simple price interventions striving at a minimum carbon price. Such political price intervention is leading to unpredictable economic effects and would seriously damage **the credibility of the ETS as a market instrument.** As the carbon price is mainly determined by long-term speculation, it would be far more appropriate to set-up as early as possible a credible post-2020 energy and climate framework instead. This is even more important in a period when Europe needs stability and measures to reinforce the economy.

With price interventions and encouragement to use revenues for public budget reasons **the ETS will stop being a market instrument and become another tax on industry.** The European Commission should avoid measures that directly hamper economic recovery, job creation and competitiveness for a very large and important part of European industry.

We therefore call upon the European institutions to abstain from any short-term intervention in the EU ETS and to start a comprehensive debate on integrated industrial energy and climate policy after 2020. This debate on core questions must take stakeholders from all parts of the value chain on board. Any subsequent policy measures in the climate, energy and environment sectors need to be accompanied by a competitiveness proofing on industrial sectors affected and a detailed economic impact analysis to be discussed with all involved stakeholders. To this aim, a few key issues will need to be addressed:

- Future role of the ETS as cost-efficient instrument to achieve GHG reductions and/or as driver for investment into low carbon technology

- Cumulative price effects of different European and national policies to reach the GHG reduction, renewables and energy efficiency targets, **given that energy prices in Europe are already among the highest at global level**

- How to avoid counterproductive interactions between the instruments which result in inefficiencies and multiple and additional burdens on companies

- How to transform Europe into a low carbon economy while assuring globally competitive energy prices

We understand that similar national actions support our cause.

We therefore reiterate the urgency of our request and we trust that our concerns will be seriously considered when taking strategic policy decisions which will impact on Europe's future.

CEOE
CONFEDERACIÓN ESPAÑOLA DE ORGANIZACIONES EMPRESARIALES

CONFINDUSTRIA

Confederation of Finnish Industries EK

**Luís Serrano Rubiera**
Chairman of the CEOE Committee on Sustainable Development and Environment

**Daniel Kraus**
CONFINDUSTRIA Deputy Director General

**Mikko Pukkinen**
EK Director General

**Christoph Neumayer**
IV Director General

**Lech Pilawski**
PKPP Director General

**Gediminas Rainys**
LPK Director General

**Peter Molnar**
RUZ Secretary General

**Stanislav Kázecký**
SPCR Vice President for Foreign and EU Affairs

**Annika Lundius**
SN Director General