2 July 2013

Commission consultation on the Green Paper "A 2030 framework for climate and energy policies"

AFEP and Cercle de l'Industrie's reply

Afep and Cercle de l'Industrie would like first to thank the Commission for giving them the opportunity to submit comments on the Green paper on "a 2030 framework for climate and energy policies".

Afep and Cercle de l'Industrie very much support the principle of the Emission Trading Scheme (ETS), as an essential tool to combat climate change. However, they consider that the 2020 energy and climate framework has not succeeded in ensuring clarity, consistency and visibility, and in setting up sound governance at EU and at Member State level; thus, it has not fostered as many investments as expected within the EU. The "3x20" framework has overlooked competitiveness and security of energy supply issues.

As regards the new 2030 framework, AFEP and Cercle de l'Industrie believe that **one GHG headline target** should be set, alongside with **security of supply and competitiveness headline targets**, and that other derived sub-targets should be assessed. Further **coherence and efficiency** should be the major drivers of the 2030 instrumental framework, and a **reinforced and structurally reformed ETS** must be the key instrument of the EU post 2020 energy and climate policy. Competitiveness and security of energy supply must be as much a priority as climate action in the post-2020 framework. As regards the future international agreement on climate change, the EU should aim to reach a **binding international agreement including all major GHG emitters**, by widening the negotiation process while maintaining incentives. R&D and financial instruments must be focused on the **identification and deployment of low carbon technologies** which can help companies to meet the strategic targets for the future.

Afep and Cercle de l'Industrie wish that the Green paper contributions help the Commission to propose **by the end of 2013 strategic non legislative guidelines** in order to tackle the 2030 framework issues.

I. Lessons learnt from the 2020 framework

1. The energy and climate framework has not succeeded in ensuring clarity, consistency and visibility, and in setting up a sound governance at EU and at Member State level; thus, it has not fostered as many investments as expected

There has been a lack of consistency and coordination between the "3x20" targets and among instruments:

- the design of the Emissions Trading Scheme (ETS) Directive based on a cap and trade system and relying on the assumption of continuous growth of the economy, **did not boost investments** in low carbon technologies. The emission reduction targets were indeed met notably through the economic crisis impact and side-effects of the Renewable Energy Directive;
- the **changing position of the Commission** within the 2008-2012 period in regard to the aim of the ETS contributed to create an unclear understanding of the ETS. The Commission first considered the ETS as a sheer quantity driven instrument although some Member States succeeded in including provisions in case of excessive price rise. However, it has then supported the idea that the system could be at the same time a price driven tool, while no ad hoc structure was defined in the Directive in order to steer the allowance price;
- the 2020 framework has not provided enough details on the **interactions** between the 3 objectives on greenhouse gases (GHG), renewable energy sources (RES) and energy efficiency (EE);
- the **lack of harmonisation** at EU level on the ways RES could be promoted has encouraged national RES support schemes. These national schemes have captured available investment flows whereas they could have benefited to low carbon technologies or the deployment of energy efficiency solutions. Besides, those national schemes have been of no use to shape or support the emergence of national RES supply chains;
- the growth of RES and their integration in energy networks have not been anticipated. This has **disorganised EU energy markets** and even **threatened EU security of electricity supply**, with flexible power generation units (such as gas stations) being closed even though they are needed to complement the intermittency of renewable energy sources.

2. The "3x20" framework has overlooked competitiveness and security of energy supply issues

The 2020 framework relies on three prominent targets ("3x20") which promote environmental sustainability. However, no target was set up in this framework in order to foster the other two objectives stated in the "Energy 2020" strategy of 2010: EU competitiveness and security of energy supply. The EU and Member States have mainly focused on environmental sustainability concerns, in particular climate action and the growth of renewable energy sources (energy efficiency was also tackled though without mandatory targets). **Uncoordinated national RES support schemes** and increases of taxes on energy have led to significant additional costs. In some countries electricity prices have increased to such a level that they threaten the international competitiveness of the industry (especially for energy intensive companies).

Besides, there has been a **strong imbalance** between the constraints imposed upon **ETS sectors** (manufacturing units or energy production units) and **non-ETS sectors** (mostly housing and transport sector, with the exception of the automobile industry). The formers bear most of the GHG emission reduction burden, whereas their competitiveness should be supported as a tool to restore growth and employment in Europe. Also, it has to be recalled that penalties for not reaching the targeted GHG level only apply to ETS sectors, while no clear sanctions are defined for non-ETS sectors. Furthermore, neither the EU nor Member States have set clear targets for year 2020 for the specific sectors constituting the non-ETS emissions.

In order to illustrate the **lack of integration of the competitiveness issue**, it has to be reminded that the ETS, which represents the cornerstone of the EU climate policy, has never aimed at supporting the competitiveness of European companies:

- it has not succeeded in ensuring **confidence and long term predictability** (as illustrated by the current EUA price) or a sufficient and predictable carbon price signal. One of the reasons is that there is still confusion on the objectives of the ETS: technically, it is a cap-and-trade system, with targets set in CO_2 emission volumes (as stated in the ETS Directives); but politically, it has been systematically presented as a tool to incentivise investments in low carbon technologies, even though its design could not guarantee such a result;
- it is **disconnected** from the real level of economic activity and is therefore too rigid: the *ex ante* GHG emission cap was elaborated theoretically 8 years ago, on the assumption of a continuous growth pathway. It has not taken into account the impact of the financial and economic crisis in the EU;
- major competing economies of the EU (USA, BRIC countries) have not implemented so far an equivalent Emission Trading Scheme ; thus **isolating the EU** and widening the

already existing distortions of external competitiveness on other fields (labor cost, energy cost…) between the EU and the rest of the world.

The ETS is a relevant instrument. As it enables harmonisation throughout the 27 Member States, it is still very much supported by economic actors as a way to create a "level-playing field". But **it needs to be more adapted to changing economic conditions**, in order to renew confidence of all key actors.

II. AFEP and Cercle de l'Industrie's proposals for a new 2030 framework

1. Targets: one GHG headline target alongside with security of supply and competitiveness headline targets are key for 2030; other derived sub-targets should be assessed

Afep and Cercle de l'Industrie support **a 2030 GHG emission reduction binding headline target at EU level**, in the range of the Commission "Low carbon economy Roadmap" (- 40 % up to 2030), so as to be able to reach a 80-95% GHG emission reduction in 2050 compared to 1990. We believe that setting a 2030 GHG emission target is an absolute necessity to restore confidence in the ETS because it would create medium-term predisctability for economic actors and would therefore stimulate investments. Such an objective should be technologically neutral in order to foster low carbon technologies that are the more competitive to expand according to market demand. It should be defined alongside two other headline objectives on competitiveness and security of supply.

RES and EE are also key to achieve a sustainable and low carbon European economy. The option of setting up **RES sub-targets at Member State level for given technologies**, depending on economic and technological maturity levels, should therefore be assessed. Such a possibility should be based on a common definition of mature and immature RES throughout the Member States. As regards EE, sectoral sub-targets (in particular for buildings) based on possible cost-effective energy efficiency gains in each sector could be considered. Those sub-targets would have to be derived from the GHG headline target in order to ensure consistency.

Any of those targets should be set via a bottom-up approach, on the basis of **benchmarks and investment cycles**, and taking into account constrained investment capacities. They should be expressed as much as possible under efficiency ratios integrating the level of activity, in view of stimulating continuous improvement and investment over time.

2. Instruments: further coherence and efficiency should be the major drivers of the 2030 framework

First of all, the ETS should be safeguarded as the main decarbonisation tool for the energy and industry sectors through fundamental and comprehensive reform (see below).

The choice between instruments should be based on the following principles:

- instruments should be chosen if they generate changes with the most favourable cost-efficient ratio. Public support should cover the investments that are needed today to anticipate the higher energy prices of tomorrow;
- they should not be overlapped with one another;
- they should be implemented only if a clear target has been set for the actors concerned within a timeframe integrating competitiveness constraints.

In this context, energy measures decided and/or implemented at national level must be **better coordinated** among Member States and between national and EU level. This is essential to create a level-playing field for European companies and encourage investments.

In addition, energy production capacities and infrastructures should be better coordinated through mid/long-term common investment schemes. The EU, due to the growing scarcity of Member States' financial resources, cannot afford a waste of capital expenditures through over-investment in energy, which by nature have a very long pay-back.

Maintaining the current imbalance of efforts between ETS and non-ETS sectors after 2020 is likely to fuel rejection and would be costly. There should be a debate on how **non-ETS sectors** could have a higher share in the effort of reducing GHG emission levels, and on what specific sectors to focus. However, it does not mean that those sectors should be systematically included in this trading system. The non-ETS sectors must be covered by a clear framework that can tackle diffuse emissions and ensuring consistency and coordination among various levels of action (EU/Member States).

Existing legislation must be duly implemented by Member States (ex: Energy Efficiency Directive, Energy performance of Building Directive, Ecodesign and Energy Labelling Directives) as this will help to reach the already decided targets.

The EU should stop focusing on reaching energy and climate objectives mainly through constraints imposed on companies. Efforts at EU and Member States levels must also be devoted to find solutions to help industrial companies to integrate those constraints without undermining their competitiveness. Indeed, the new 2030 framework should help economic actors to **identify business opportunities**. This could be fostered by introducing a strong EU commitment in favour of a more balanced approach between constraints, price signals and

incentives for R&D and innovation through relevant funding and public procurement. Innovation should also include pilots and pre-commercial phases.

A reinforced and structurally reformed ETS must be a key instrument of the EU post 2020 energy and climate policy. ETS is the right instrument to ensure emission reductions in European industry at lowest costs; however, it must be adjusted in order to deliver results while boosting investments:

a/ In the short term: the aim of ETS (volume vs. price) must be clarified, as a necessary preliminary step to recreate confidence in the system.

b/ The opportunity for European companies to carry over emission allowances from the 2013-2020 phase to the 2020-2030 phase ("banking rules") should be maintained. This would have a quick and significant effect on the current CO_2 price (economic operators anticipating future scarcity) as it would ensure predictability and confidence in the ETS.

c/ An independent high authority in charge of regulating the ETS could be set up (on the model of the Australian authority). It would be composed of legitimate actors at EU level. They could be in charge of assessing the volume of allowances to be delivered on the basis of current scientific and economic data, in order to ensure flexibility and connection with the real economic activity level.

d/ EUAs allocation methodology should be dynamic: it would be interesting that the Commission assess the case of adapting the number of free allowances by calculating it on the basis of the **real level of activity of an installation**, for example the production level of the preceding year (dynamic allocation). This would enable to allocate more allowances for an installation with a higher level of production than expected, and reduce the allocation in the opposite case. In both situations, the main driver for investments would be to reach the **best practices in terms of emissions/unit of production** existing in the same field of activity. It would therefore avoid the current situation of the ETS where the production level is an adjustment factor. If this tool was to be used, it could replace the independent high authority.

e/ The idea of further adapting the ETS rules to the specificities of certain operators should be explored. Focus should be put on operators highly impacted by the predictable rise of CO_2 emissions in the coming years, such as electricity producers (high CO_2 emission volumes, de facto obligation to pass the rise in electricity generation costs on clients, with the risks of impacts on the competitiveness on the economy). The question of setting two different ETS compartments between energy producers and energy users should take into account a fundamental distinction: energy producers tend to be able to transfer the CO_2 constraints into their product

prices, whereas energy users are more likely to be unable to transfer this price signal. The ETS compartments should be designed accordingly.

f/ As regards the list of sectors exposed to carbon leakage:

- the validity period of the list should be the same as the ETS phase, which is not the case up to now;
- the criteria used to update the list must be transparent and stable;
- the list should be as stable as possible in order to maintain medium-term predictability for investments.

3. Competitiveness and security of energy supply must be as much a priority as climate action in the post-2020 framework

Specifying **clear EU level targets for competitiveness and security of supply** is of utmost importance in order to establish a more balanced 2030 framework boosting investments and environmental products as well as energy efficiency.

Limiting the increase of energy prices must be a priority. At the same time, energy prices for end users must cover all incurred costs, reflect the necessary investments in the energy sectors and give the right signals for energy efficiency investments. It is also crucial to ensure that European energy intensive industries can benefit from energy at reasonable costs, compared to other parts of the world. Specific support measures should be adopted for this purpose, which should be coordinated at EU level to ensure a European level playing field for energy intensive companies.

Limiting the increase of energy prices could be achieved by:

- phasing out of support schemes for mature technologies. In any case, retroactive changes must be avoided;
- developing energy efficiency, which allows simultaneously to reduce GHG emissions and to strengthen competitiveness. Energy saving potentials must be tapped where it is/will be the most cost-effective;
- adapting the legal framework for long-term contracts of energy supply, which must enable companies (especially energy intensive ones) to secure their energy supply at a competitive cost (compared with energy prices in other economic regions);
- streamlining and coordinating, at EU level, investments in energy capacities and networks to avoid any waste of capital expenditures through over-investments;
- strengthening EU efforts to convince other major countries to commit as well to ambitious GHG reduction targets.

Security of electricity supply must be ensured in the EU. For this purpose, flexible power generation units must be preserved, as they are needed to complement the intermittency of renewable energy sources. Unconventional gas exploration and production should be permitted in the EU under safe and environmentally appropriate oversight.

4. The future international agreement on climate change: reaching a binding international agreement including all major GHG emitters, by widening the negotiation process while maintaining incentives

EU "leadership by example" must not mean leading by being isolated from the rest of the world. Reaching an international agreement with all competing economies emitting large amounts of greenhouse gases (GHG) is the best solution in order to combat global warming and create a global level playing field between economic operators who are subject to GHG constraints and those who are not.

In order to achieve this goal, the European Union must widen the negotiation process and shift its strategy towards a more integrated approach by considering relevant aspects going beyond climate issues, such as trade negotiations and energy efficiency.

Given the urgent necessity to restore quickly the European industry competitiveness (and especially its energy competitiveness), the latter should be introduced as a core element in the EU position.

It is also necessary to use prior negotiations gathering large emitters under G8, G20 and the Major Economies Forum and build a stronger and more comprehensive diplomacy.

Without undermining the principle of common but differentiated responsibilities and capabilities, the EU should engage in negotiations with **pledges expressed in absolute terms only if all other major emitters do so**. If the EU is the only major economy ready to commit itself to ambitious GHG reduction targets, the EU should consider committing itself to relative pledges taking into account the intensity of its economic activity. Otherwise, the costs and the social acceptability of such pledges would be severely undermined. In any case, the EU may reconsider its energy and climate long-term policy in the light of the international agreement. Should commitments in carbon intensity be agreed, an option would be to complement these commitments by creating globally consistent and reliable price signals for GHG emissions for all parties.

It is of utmost importance that any future agreement be **binding, include major emitters and represent the major part of global emissions (USA and China)**.

The negotiation process will have to embrace also all issues at global stage relevant for the Parties other than climate-related ones (inter alia: EU-US bilateral talks on a free trade and investment agreement, and the opportunity to set up complementary commitments in terms of energy efficiency etc.). The agreement must also include **mechanisms against carbon leakage.**

The challenge of reviewing **Clean Development Mechanism** (CDM) must be addressed (counting emissions where they are emitted vs. where they are consumed).

5. R&D and financial instruments must be focused on the identification and deployment of low carbon technologies which can help companies to meet the strategic targets for the future

The best drivers for R&D and innovation in the area of low carbon technologies are 1/ energy and climate targets expressed in performance terms and that are technologically neutral, and 2/ an efficient market. The allocation of public funding must not distort or interfere in usual market's functioning.

There is a need for an **improved European framework for investments**, ensuring long-term predictability, and a fair level playing field for all market participants. It must be favorable to investments in trans-European energy networks and interconnections. The recently adopted EU Guidelines on trans-European energy infrastructures must be implemented, especially the provisions simplifying and accelerating authorisation procedures given to transnational projects at Member State level.

Companies, especially energy intensive ones, should be authorised to conclude **long-term energy supply contracts** (more than 15 years) to rely on stable supply at reasonable cost. The conformity of those contracts to EU competition rules should be ascertained at an early stage to ensure legal certainty and stability. Those rules should take into account not only the EU market but also external markets. The development at EU level of mechanisms set up in certain Member States such as Exeltium in France or Mankala in Finland, should be explored.

Support schemes for mature technologies should be phased out. For technologies that still need support, it is necessary to enhance more coordination among national support schemes and adopt a support mechanism that can evolve with the development and the maturity of the concerned technology. Among the investments in Research & Development that should be fostered and supported, energy storage capacities at very large scale are crucial, as they are key for the deployment of low carbon energies.

The scarcity of **long-term financing at reasonable price** for companies investing in low carbon technologies must be tackled at EU level. It has become harder and harder for companies to

get financing for project guarantees. The recently published Commission Green paper on this issue[1] will have to be followed by concrete actions. Among the options to be explored, the European Investment Bank (EIB)'s role must be reassessed and oriented more strongly on supporting non-financial companies' investments in R&D and innovation.

Public funding of R&D and innovation projects should not be focused only on upstream research activities. It is essential to allocate funds to **pilot or demonstration projects and to the pre-commercial phase**, which play a key role in creating new business opportunities for European companies. Furthermore, the Commission should investigate and take into account the financial support (including hidden subsidies) provided by third countries to their industries. In this context, EU guidelines on State aid to R&D&I projects, which are being reviewed, should be made more flexible so as to allow more easily public funding to downstream R&D or innovation projects. The activation of the "matching clause" by companies should also be facilitated by alleviating the burden of proof.

Auctioning revenues should be collected directly at EU level and dedicated to fund R&D projects in low carbon technologies. In this context, clear and strong governance is needed to ensure that intellectual property rights (IPRs) of those companies are duly enforced: there must be a guarantee that companies' IPR will be used only in the framework and for the purpose of the R&D or innovation projects, especially when those projects have an international dimension (since the enforcement of IPR is still limited by national legal and judiciary frameworks).

Public procurement in Europe must be used as a tool to promote green innovative products (e.g. through the introduction of the whole-life-cost criteria).

6. Next steps

Afep and Cercle de l'Industrie wish that the Green paper contributions help all the relevant Commission DGs (ENER, CLIMA, COMP, RTD, ENTR) to work more closely together in order to propose by the end of 2013 strategic non legislative guidelines in order to tackle the 2030 framework issues. This contribution will be of utmost interest in view of helping the March 2014 European Council to define common positions for the way towards 2030.

Besides, Afep and Cercle de l'Industrie look forward to the Commission analysis of the composition and drivers of energy prices and costs in Member States, as demanded by the

[1] Commission Green Paper Long-term financing of the European Economy, COM/2013/150, 25 March 2013

European Council of 22 May 2013, with a particular focus inter alia on the impact on energy intensive industries, and on EU competitiveness vis-à-vis its global economic counterparts[2].

Companies do not only expect from the Commission a more coherent package between different issues. They expect that the Commission will bring forward proposals that will enhance a new vision that make R&D, innovation, competitiveness and sustainability the pillars of a new challenging and inspiring European policy for the future.

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[2] Conclusions of the European Council of 22 May 2013.

About AFEP (French Association of Large Companies)

The purpose of Afep is to present the views of large French companies to the European Institutions and the French authorities, mainly with regard to the drafting of non-sectoral legislation (on the economy, finance, taxation, company law, financial information and markets, competition, intellectual property rights, consumer affairs, social protection, employment legislation, environment and energy, corporate social responsibility, etc.).

In 2013, Afep represents more than 100 of the top private sector companies operating in France. The companies which belong to Afep have 6.7 million employees and a combined turnover of 1 700 billion euros. Their market capitalisation amounts to 1 100 billion euros.

As a major force for analysis and proposals, Afep is also a prime forum for contacts between member firms and public authorities, which consult the Association when considering plans for reforms or regulations. Senior officials in the European Union and French administrations regularly take part in meetings organised at the head office of the Association, enabling direct and constructive dialogue to take place.

Afep (French Association of Large Companies)
11, avenue Delcassé, 75008 Paris, France
4 - 6, rue Belliard, 1040 Bruxelles, Belgique
Transparency register identification number: 953933297-85
www.afep.com

Contacts:
François-Nicolas Boquet
Environment – Energy Director
E-mail: environnement@afep.com
Tel: +33 1 43 59 71 40
Justine Richard
European Affairs Deputy Director
E-mail: justine.richard@afep.be
Tel: +32 2 227 57 25

About Cercle de l'Industrie

Based in Paris and Brussels, Cercle de l'Industrie is a forum for dialogue and exchange. It brings together the Chairmen of large businesses in all industrial sectors and policy - makers. In 2011, member companies of Cercle de l'Industrie had a turnover of around 850 billions euros; they employed 2.5 million people.

Cercle de l'Industrie
5, rue Tronchet, 75008 Paris, France
8, avenue des Arts, 1210 Bruxelles, Belgique
Transparency register identification number: 60974102057-03

Contact : Aurélie Portalier, Representative in Brussels
E-mail : aurelie.portalier@cercleindustrie.eu;
Tel : (32) 2 506 88 43)
www.cercleindustrie.eu