In view of the current discussions on the EU ETS Directive review in the European Parliament ENVI Committee and in the Council, we believe that it is essential to ensure a continued possibility of carbon leakage risk assessment of sectors and sub-sectors at their relevant statistical level. Limiting legally the use of statistical data to NACE-4 activities in the fourth period - solely for the sake of reducing the administrative workload - puts at risk a number of key sectors representing a very minor share of the total CO2 emissions and create significant and unjustifiable competitive distortion for some. We consider that our sectors deserve to be fairly assessed, to be protected if needed, and call for amending the proposed Art. 10b (4).

Under the European Commission proposal only activities at a 4-digit level (NACE-4 code) would be eligible for the carbon leakage risk assessment. This statistical categorisation at NACE-4 does not always reflect market realities. NACE codes are useful statistical classifications but they have never been conceived for the purpose of analysing the impacts of the EU ETS. As a consequence, this classification, although largely accurate and logical, sometimes provides inaccurate information on a few sectors at the time of assessing their carbon leakage exposure.

The use of NACE-4 renders the carbon leakage assessment of a specific sector inaccurate when:

- activities that are subject to ETS and activities that are excluded from the scope of the ETS are grouped under the same NACE-4 code, or;
- sectors are clustered in a NACE which was either too broad or heterogeneous, containing activities delivering products with different energy and carbon intensities and/or different trade intensities, or;
- a single sector, recognised as such, is falling in different NACE-4 codes.
We therefore consider that this limited number of sectors, whose carbon leakage assessments are substantially altered by one of the situations described above, should be eligible for an assessment at disaggregated level, i.e. a 6-digit (CPA) or an 8-digit level (Prodcom), upon a specific request by that (sub)sector.

Under the current Directive and Phase III, disaggregated assessment was allowed by way of quantitative and qualitative assessment at disaggregated level. 22 sectors or sub-sectors, representing only 2% of the total free allocations, were to be assessed at disaggregated level. These sectors did not benefit from looser criteria: the procedure was thorough and stringent, as individual trade and production and financial characteristics had to be proven and backed by externally verified data. It is the stringency of the process (and not any threshold) that discouraged unfounded applications in Phase III, and it will be the same for the fourth period. It is worth noting that the work was carried out by independent and certified companies, the workload being mainly borne by Industry and not by the European Commission.

The assessment at disaggregated level was and should remain the exception. What is at stake is fairness, and the proper evaluation of important industrial sectors that provide jobs, know-how, industrial growth and added-value in the European Union. It would be regrettable to penalise these few sectors due to mismatches in statistical classifications.

In view of the above, we would support the following amendment to the EU ETS Directive proposal:

**Draft amendment on Article 1 (6) amending Article 10b (4) – Measures to support certain energy-intensive industries in the event of carbon leakage Article 10b (4)**

4. By 31 December 2019, the Commission shall adopt a delegated act for the preceding paragraphs for activities at a 4-digit level (NACE-4 code) as concerns paragraph 1, in accordance with Article 23, based on data for the three most recent calendar years available.

**Amendment**

4. By 31 December 2019, the Commission shall adopt a delegated act for the preceding paragraphs for activities at a 4-digit level (NACE-4 code) **or at the relevant level of disaggregation based on public and sector specific data when appropriate and justified** as concerns paragraph 1, in accordance with Article 23, based on data for the three most recent calendar years available.

**Justification**

Certain sectors are currently deemed at risk of carbon leakage due to an assessment at the level of disaggregation relevant for them, i.e. 6 or 8 digit levels. These sectors should continue to have a possibility of an assessment at that level. This change will ensure that subsectors for which NACE-4 is not a relevant level of disaggregation will not be excluded from the actual assessment of risk of carbon leakage.