

Ms. Margot Wallström  
Member of the European Commission  
200 Rue de la Loi  
B - 1049 Bruxelles

9 October 2001

Dear Commissioner,

**Re. Emissions Trading**

After further consultation with stakeholders in September, DG ENV is bringing forward again its proposal for establishing a framework for greenhouse gas emissions trading within the EU.

In June, UNICE wrote to the Commissioners most directly concerned, making clear that we support emissions trading as an approach that allows flexibility to meet environmental targets most cost-effectively, but how such a regime is established in Europe is of crucial importance for the viability and competitiveness of companies. This is especially so after the agreement at Bonn, and the Gothenburg commitment to EU leadership in implementing the Kyoto protocol.

In June, we concluded that the draft proposal was not ready to be forwarded for adoption as a formal proposal. In bringing forward the proposal again, we consider that changes must be made to recognise the need for flexibility in the 2005-7 pilot phase, before the Kyoto first commitment period, and as part of a 'learning by doing' approach to this new policy instrument. The attached two-page note outlines how, in UNICE's view, the proposal needs to be further developed to combine environmental integrity with the flexibility essential to maintain the competitiveness of European business & industry.

Our suggestions follow the following four sound and simple principles:

- **Compatible with Kyoto:** The proposal needs to match the principles for emissions trading agreed at Kyoto and Bonn, and to be elaborated at Marrakech, to eventually become the global approach. This means covering all the greenhouse gases and project mechanisms.
- **Adding value to Member State strategies:** Emissions trading should be compatible with existing and proposed policies & measures in Member States that are already delivering greenhouse gas emission reductions, rather than interfere with commitments, agreements and trading.
- **'Learning by doing':** The 2005-7 pilot phase should allow flexibility for different approaches, and then scope to learn and apply the lessons of experience through a review.
- **Coherent policies & measures:** Policies & measures at EU and Member State level need to work together to meet the challenge of climate change targets. Control of greenhouse gases from installations must be detached from the scope of IPPC, emissions trading must support rather than detract from agreements, and targets should be appropriate for a sector.

We believe that the attached amendments that we have advocated to the Commission services meet these four sound principles, and would ensure the emissions trading proposal could offer European business & industry flexibility in meeting the challenge of climate change targets.

Yours sincerely,

(original signed by D.Cloquet for)

D. Israelachwili  
Acting Secretary General

Addressees :

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## **DG ENV Draft Emissions Trading Proposal: Amendments Proposed by UNICE**

### **1. Links to IPPC:**

- Pleased to see in Article 27 proposal of a specific amendment that will exclude greenhouse gases from scope of IPPC provided 'no significant local pollution is caused'. This condition is insufficiently precise, and so should refer instead to 'no significant local damage is caused to human health or the environment'.
- It is also important to be clear that IPPC Article 3(d) on energy efficiency will not apply to installations whose energy use is to be controlled by this proposal. This will require an amendment to Recital 8, as well as to Article 8 itself.

### **2. Include All Greenhouse Gases within the Kyoto Protocol 'Basket':**

- Pleased to see all the Kyoto protocol greenhouse gases listed in Annex II. UNICE believes all the gases can be included within the scope of the directive from 2008, focusing on emissions from installations, rather than uses of gases. Business & industry has expertise to help enable them to be included this way, and believe some gases can already be included in the initial period of 2005-7.

### **3. Crediting Certified Emission Reduction Units from JI and CDM Projects:**

- There should be a Recital included now that commits the Commission to bring forward a proposal to include credits from the project mechanisms, as soon as implementation of these mechanisms has been agreed in UNFCCC, and on the basis agreed there, consistent with Recital 17 on compatibility with UNFCCC.

### **4. Consistency with the 1990/1995 Kyoto Protocol Baselines:**

#### **5. Recognising and Crediting Early Action:**

- Consistency with the Kyoto protocol should be extended to the baselines used by Member States in making allocations. So Annex III should include an extra criterion for allocation plans, requiring them to relate to 1990/1995 baselines of the Kyoto protocol in ways that would help recognise and encourage early action. An approach used to do this in some Member States is benchmarking.

### **6. 2005-7 as a Pilot Phase, with Review for 'Learning by Doing'—Lead time:**

- Emissions trading is a new measure for implementing EU policy, and so it is widely recognised, including by those who have given a lead in this area, that initial phases will initially have a 'learning by doing' character. For this reason UNICE proposes that there is a review at the end of the 2005-7 pilot phase. To allow for the EU political process of agreeing how to amend this directive, the review needs to be completed by mid-2008, to allow industry sectors sufficient lead time to adjust to the changes proposed for implementation from end 2009.
- UNICE supports the principle of penalties that will ensure compliance and fair competition in the single market, but the 'learning by doing' nature of the pilot phase from 2005-7 should be recognised by a significantly lower penalty.

### **7. Compatible with Member State Strategies & Other Policies & Measures:**

- Several Member State strategies already include existing policies & measures that extend through the Kyoto first commitment period 2008-12. So Article 25 exclusions should be extended to 2012 at the discretion of the Member State. Similarly, surely the Member State is competent to decide whether national policies limit those installation emissions sufficiently to contribute to meeting the national target under EU burden

sharing. So, the only relevant test that the Commission should apply, when notified of proposed exclusions, is to satisfy itself that these exclusions would not create barriers in the EU single market.

**8. Agreements, Relative Targets, and Voluntary Participation:**

- Environmental agreements are an important part of several Member State's strategies to meet their greenhouse gas emissions targets. This emissions trading proposal must be designed to have the potential to offer added value to these strategies and so must not undermine these existing national agreements. For this to happen, Member States need to be able to continue agreements through to 2012 and to be able to choose between absolute and relative targets, as well as being able to agree to share responsibility through collective targets,
- Some Member States have recognised the motivational value of negotiated agreements that industrial sectors entered voluntarily. There needs to be scope for such voluntary commitments to be continued especially during a transition.

**9. Coverage–Business Sectors Included, Including by Member State Choice:**

- Industry sectors that want to participate must not be prevented or discouraged from doing so, especially as the widest sectoral coverage will help emissions trading to work more effectively, both environmentally and economically.

**10. Organisation of the Market, including Annex III Guidelines:**

- Article 10 on Method of Allocation should not be limited to 2005-7. We believe that the logic for free allocation is just as applicable to the period of 2008-12, and that reasons to accept this within EU single market rules –that companies are in no way advantaged by being allocated allowances related to their existing and historic operating patterns- are just as applicable from 2008.
- Article 11 should specifically provide for a company 'bubble' of allowances.
- Article 13.2 effectively introduces uncertainty into banking between the two periods. It would be better to have a specific limit to banking between periods, rather than introduce an uncertainty that would damage company strategies.
- Annex III (3) should be deleted, since the purpose of this directive proposal, and Community strategy, should be to encourage innovation and investment in lower emissions technologies. Also, the proposal should be consistent with the Commission's 'new approach' of not limiting choices of technology solutions.
- Annex III (4) should only be the statement that requires consistency with other EC legislative & policy instruments, and without targeting technology options.

**11. Single Market Constraints, and Consistency Between Member States:**

- UNICE recognises that consistency between Member State in treatment of an industry sector will depend essentially on how single market rules are applied. This is an inevitable consequence of the strains that EU burden sharing places on how a Member State allocates greenhouse gas emission targets to sectors.
- One aspect that it will be important to harmonise is the application of penalty rules. Otherwise there will be great danger of compromising the single market.

**12. Measuring, Monitoring and Verification Requirements:**

- Please find attached a proposal from the German BDI federation of how MMV requirements might be outlined to build on existing patterns in Member States.