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UNICE COMMENTS ON THE PROPOSAL FOR A FRAMEWORK FOR EU EMISSIONS TRADING

COMMISSION PROPOSAL COM (2001) 581 OF 23 OCTOBER 2001

1. Explanatory Comments

UNICE has supported greenhouse gas emissions trading and long term agreements as both offering important elements of flexibility for business & industry to meet greenhouse gas emissions targets. An important aspect of both approaches, used separately, or combined together, is that of motivating industry to meet agreed targets.

European industry is engaged in initiatives, agreements and commitments, at EU and Member State levels, that are already delivering major emissions reductions. Only industry and power production have reduced emissions since the Kyoto Protocol 1990/ 1995 base years, while the emissions from houses, offices and transport have increased.

Targets need to be set that are appropriate to the characteristics of each sector, and should also recognise where early action to reduce emissions is already delivering them. For these reasons, targets appropriate for industry sectors need to be set by informed and engaged agreement between the relevant authority and industry sectors concerned.

Similarly, there are different trading approaches that can be used to reduce emissions, including 'cap and trade', baseline and credit trading, and trading related to performance standards. The latter two approaches would more readily allow use of targets per unit of production, which, for example, take account of improvements in energy efficiency.

Emissions trading can then help in finding the most cost-effective greenhouse gas emissions reductions, and provide flexibility to companies in making investments.

So, emissions trading should become an enabling and motivating mechanism that encourages prompt and early action rather than essentially a permitting procedure. But, it must also be a 'learning-by-doing' process, especially in the preliminary phase before 2008, when Kyoto Protocol commitments start, with the lessons learned needing to be reflected in changes, including those to be proposed by the Commission by June 2006.

Essential to maintaining motivation and retaining global competitiveness of European industry will be to ensure the free allocation of allowances, so that major shocks to the market are avoided; auctioning of allowances would be equivalent to an uncertain energy tax up front, and so very damaging to European industry in a globally competitive world.

Emissions trading must work coherently within the EU single market. Similarly, UNICE believes that the way emissions trading is implemented in the EU will be of crucial importance for both industrial competitiveness, and the effectiveness of meeting EU greenhouse gas emissions reduction targets through the single market.

2. Key Issues

- **Compatible with implementing the Kyoto Protocol:**

The stated purpose of the emissions trading proposal is to enable the EU to deliver its Kyoto commitments. These commitments extend both globally, and internally within the European single market through EU burden sharing, so this framework for emissions trading needs to be consistent with, and be ready to be part of, the global emissions trading framework that has been agreed at UNFCCC level.

  - Include as soon as possible all the basket of greenhouse gases in the protocol.
  - Include and give credit to emissions reductions from the project mechanisms.
  - Recognise trading in an initial phase of 2005 -2007 as pre-first Kyoto commitment period trading that can be part of a more flexible 'learning by doing' process.
  - Avoid penalising early action to reduce emissions since Kyoto 1990/1995 base years.

- **Coherent EU policies & measures:**

Policies and measures at Member State and EU level need to work together in meeting the challenge of climate change targets, with emissions trading working coherently within the single market.

  - Implementation of EU emissions trading should strengthen the single market.
  - Emissions trading focuses on energy and energy-intensive industry sectors that have already made major contributions to reducing greenhouse gas emissions.
  - To be coherent EU and Member State strategies must also focus on growing contributions to greenhouse gas emissions from transport, offices and houses.
  - National strategies and policies and measures must engage the end consumer.
  - Energy intensive industry provides products that help other sectors and the end consumer to make their own contributions to achieving emissions reductions. This needs to be recognised and taken fully into account in allocation plans.
  - For trading to be viable, control of greenhouse gas emissions must be detached from the IPPC permitting approach, including energy efficiency obligations in the directive.
  - To enable it to make its full potential contribution, emissions trading should not be superimposed on existing and incompatible policies and measures.
  - Regulatory certainty and consistency will be needed to provide the stable basis for planning the long-term investments that European companies will need to make.

- **Adding value to Member State strategies:**

  The framework for emissions trading must reinforce -rather than conflict with- policies and measures already achieving Member State emissions reductions, thereby helping to underpin achieving the EU target.

  - Provide a flexible framework in which Member States, sectors and companies have the confidence to agree and meet ambitious emissions reduction targets.
  - Encourage banking from pre-2008 to 2008-12 Kyoto period, to stimulate early action.
  - Encourage Member States to make long-term commitments, so offering to its industry certainty needed to encourage investments that will reduce emissions.
  - Encourage Member States to avoid penalising early action to reduce emissions
  - Encourage Member States to set targets appropriate to the sectors concerned.
  - Encourage early emissions trading initiatives that offer 'learning by doing', to help to achieve the ambitious national greenhouse gas emissions reduction targets.
  - Encourage early use of the project mechanisms by facilitating operational start of the Clean Development Mechanism under UNFCCC, and seek an early start for Joint Implementation, before 2008, to facilitate investment in clean technology projects, especially between the EU Member States and the Accession Countries.

3. Amendments

UNICE is proposing specific amendments to this proposal, needed to help address these issues that will have major implications for European business and industry.

- **New Recital 7: '**To fulfil their commitments under the Kyoto Protocol jointly, the Community and its Member States need to implement policies and measures, and especially the Kyoto mechanisms, in ways that are consistent with the Protocol.'
- **Recital 8/was 7:** delete 'without prejudice to any other requirements pursuant to Directive 96/61/EC': to remove energy efficiency obligation from IPPC directive.
- **New Recital 9:** 'Member State strategies are already making significant impacts on the levels of greenhouse gas emissions, so proposals for policies and measures at Community level need to operate coherently with those at Member State level, allowing for a transition to a more common strategy that preserves the integrity of the internal market and avoids distortions of competition': there is a need to add value to Member State strategies on which delivery of the Community commitment will depend.
- **Article 1:** insert at the end: 'and through application of all of the Kyoto Protocol mechanisms, including Joint Implementation and the Clean Development Mechanism': subject matter as well as scope should cover all Kyoto mechanisms.
- **Article 2:** delete 2.2: removing energy efficiency obligation from IPPC directive, to detach the framework for emissions trading from IPPC permitting constraints, since rigorous application of Best Available Techniques would remove any scope for trading.
- **Article 3(d):** insert 'all' before the 2nd reference to gases: cover all Annex II gases
- **Article 3(e):** installation means 'one or more technical units on a site': allows greenhouse gas emissions of related technical units to be reported together.
- **Article 6:** add to 2(e) after allowances: 'or credits generated by projects of Joint Implementation and/or the Clean Development Mechanism, as Emission Reduction Units and/or Certified Emission Reduction Units …': to include credits from all project mechanisms that are accepted within the scope of the Kyoto Protocol.
- **Article 9 and Annex III (3):** delete Annex III (3): allocations 'consistent with the technological potential of installations' remove any possibility of effective and efficient emissions trading.
- **Article 10:** insert after 2005, 'and for the five-year period beginning 1 January 2008': allowances should be allocated free of charge, as auctioning would be equivalent to an unpredictable energy tax, which would be very damaging to the competitiveness of industry, without adding anything to improve the environment.
- **Article 11(1):** replace 'at least three months' by 'at least six months before the beginning of the period': three months is far too short, even for a transition period.
- **Article 16(3) and (4):** delete 'or twice the average market price … is the higher': penalties are sufficient to ensure a high degree of compliance, and providing for a penalty twice an average market price, if higher, brings unnecessary uncertainty.

- **New Article 24:** insert the text below, to allow Member States to notify that they intend to add or exclude certain installations to or from the scope of this directive.

New Article 24

Adding and excluding certain installations

1. Member States may advise the Commission that they intend to add or exclude certain installations to or from the Community greenhouse gas emissions trading scheme. Any such installation and shall be listed and published.
2. After having considered any comments made by the public, the Commission will provide for the exclusion of the installations referred to in paragraph 1 from the Community greenhouse gas emissions trading scheme, if those installations will:
   (a) as a result of national policies, limit their emissions as much as would be the case if they were subject to the provisions of this Directive; and
   (b) be subject to monitoring, reporting and verification requirements which are equivalent to those provided for pursuant to Articles 14 and 15.

The Commission shall act in accordance with the procedure referred to in Article 23.

- **Article 26/was 25:** add at the end: 'In addition, where the greenhouse gas is CO_2, the permit shall include no reference to energy efficiency requirements': to detach the framework for emissions trading from IPPC permitting constraints.

- **Article 27/was 26:** start with: 'Based on experience in the three-year period beginning 1 January 2005': a first preliminary phase should be treated as a 'learning by doing' phase.

- **Article 27/was 26:** delete 'and emissions of other greenhouse gases listed in Annex II' within paragraph 1, since all greenhouse gases should be included from the beginning; add after 'other activities' 'and the Kyoto mechanisms Joint Implementation and the Clean Development Mechanism'; emission credits from projects should be allowed.

- **Annex I:** delete right hand side column headed 'Greenhouse gases': avoid limiting the scope of the directive to only carbon dioxide of the greenhouse gases.

- **Annex III (1):** add at the end: 'and how relative and absolute emissions target allowances have been allocated to sources that are covered by this Directive': specifically allow for Member States to be able to choose relative or absolute emissions targets for sectors and/or companies, according to the sector concerned.

- **Annex III (4):** change to: 'The plan shall be consistent with other EC legislative and policy instruments. Account should be taken of unavoidable increases in emissions resulting from new legislative requirements': delete 'In particular …in electricity production, and': renewable energy should be encouraged as a legitimate means for installations to reduce their greenhouse gas emissions.

- **Annex III (5):** delete 'nor shall any installation be allocated more allowances than it is likely to need': redundant in relation to criteria for national allocation plans.

- **Annex III (new 6):** 'The plan shall take into account potential impact on the global competitiveness of the companies and sectors concerned': since promoting global competitiveness, as well avoiding internal market distortions, is a Community objective.

- **Annex III (8)/was (7):** add at the end: 'so that emissions reductions already achieved are accounted for in the initial allocation': encouraging and crediting early action, consistent with reference baselines agreed for implementing the Kyoto Protocol.