

Ms Caroline F. Jackson  
Chairman of the Committee on the Environment,  
Public Health and Consumer Policy –  
European Parliament  
rue Wiertz, 60  
B - 1047 Bruxelles

2 June 2003

THE SECRETARY GENERAL

Dear President,

### **EU Emissions Trading Scheme – 2<sup>nd</sup> Reading**

UNICE supports the concept of emissions trading as one of the means to assist the European Union in meeting its commitments agreed to under the Kyoto Protocol. A well thought out, functioning and liquid emissions market has the potential to provide cost-effective opportunities for reductions in emissions of greenhouse gases, thereby reducing the cost burden on EU industry and reducing impacts on international competitiveness.

The current amendments contained in the rapporteur's recommendation and subsequent amendments provide opportunities to improve the functioning of the proposed Directive but also a number of amendments have the potential to reduce the flexibility of the Directive and to increase costs for European business, thereby impacting on international competitiveness.

Attached to this letter is a voting list for the current amendments that have been proposed which contains a brief commentary on the impact of the individual amendments. There are a number of issues to which I would like to draw your particular attention.

#### **Article 10 - Method of allocating allowances**

The business case against auctioning can be made simply and clearly:

- It diverts money from investment needed to reduce emissions and improve efficiency.
- Through uncertainty, it further hinders investment.
- Revenue neutrality is a sovereign discretion. Therefore if industry is obliged to buy allowances to operate on the market, this could be considered indirect taxation and trigger a debate on the legal basis of the directive and a move away from co-decision.
- Hybrid proposals would be unfair to entrants.
- For low added value/high energy cost products, such as cement, there is a worry about competing in an auction with the power utilities or oil industry.
- Even a small amount of auctioning could harm the competitiveness of those companies that compete in price sensitive international markets.
- And finally, an auction would act as tax to accessing the market and could reduce EU industry's competitiveness.

We urge you to oppose any allocation system based on auctioning/payment and, to avoid disparities, support the Council's proposal for free of charge initial allocation. **We ask you, therefore, to reject Amendment 4.**

**Article 9, proposed paragraph 1a - Mandatory Caps on allocation**

UNICE opposes the inclusion of a mandatory cap on the total number of allowances to be allocated to each Member State. We believe that the Commission veto on the National Allocation Plan, as agreed by the Council, is sufficient to address fears of the over-allocation of allowances. A ceiling on allowances allocated to those installations covered by the Emissions Trading Scheme will reduce Member State flexibility to choose the most cost-effective path for achieving its Kyoto targets. It is important to note that the emissions trading scheme is only one of a number of measures in the climate change programme and that it is essential that the sectors covered by the scheme are not subject to more restrictive caps than those sectors subject to other measures. **We would ask you, therefore, to reject Amendments 3, 24 and 25.**

**Article 24, paragraph 1 - Scope to include all Greenhouse Gases**

It is important to be able to include all six greenhouse gases covered by the Kyoto Protocol gases, as soon as measuring and monitoring is sound. For certain processes such systems are already operating. In addition to creating a wider opportunity for cost-effective emissions reductions, the inclusion of all gases is vital to lead to improved systems of measurement, thereby ensuring readiness for 2008. UNICE believes that there is little reason why the scheme should be limited to CO<sub>2</sub> gases if other gases can be adequately measured and monitored. We, therefore, support the European Parliament's proposal to extend the scope of the directive to all greenhouse gases from 2005 (provided that data for measuring and monitoring reductions is satisfactory). **We, therefore, ask you to accept Amendments 2, 6 and 7.**

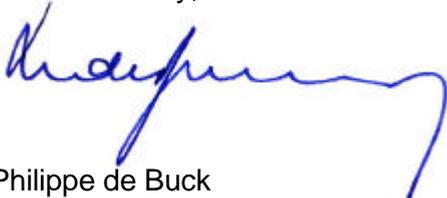
**Recital 18 - Inclusion of Project Mechanisms**

UNICE urges MEPs to support the Council proposal to integrate credits from project mechanisms, agreed at Kyoto, into the Emissions Trading Scheme from 2005. Whilst we appreciate concerns of domestic action being supplemented by non-domestic action, these mechanisms are essential not only for meeting promises made to developing countries, but also in offering scope to the Accession countries to meet their targets. It is vital that we approach this issue holistically and consider the longer-term implications of the EU position for post-Kyoto discussions. Exclusion of CDM and JI, currently the principal mechanisms for bringing non-Annex I countries into the Kyoto framework, may prejudice future efforts to encourage all countries to take on commitments. **We, therefore, ask you to reject Amendment 1.**

A number of other amendments contain important changes that are described in the voting list. Many of these promote flexibility: to allow banking (Amendments 34, 38 and 39); to allow operators to 'pool' across activities (Amendment 49 as priority); to opt-in sectors, activities and installations (Amendment 10). UNICE supports these amendments as they improve the flexibility of the Directive. Other amendments such as 64 and 69 are strongly supported in particular by energy intensive industries, as the amendments will provide flexibility for these industries and help to protect their international competitiveness.

I appreciate your consideration of these comments. The Emissions Trading Directive will have a major impact on EU industry and employment within the EU. It is essential that it becomes a flexible instrument that will assist the EU in meeting its Kyoto commitments in as cost-effective manner as possible.

Yours sincerely,



Philippe de Buck

**COMMUNITY SCHEME FOR GREENHOUSE GAS EMISSION ALLOWANCE TRADING**

**DRAFT EP RECOMMENDATION FOR SECOND READING**

UNICE COMMENTS ON THE AMENDMENTS TABLED BY SELECTED MEP'S  
REGARDING THE COUNCIL COMMON POSITION (DOCUMENT PE.328.778)

ARTICLE	AMENDMENT	UNICE RECOMMENDATION	COMMENTS
Article 2 paragraph 1 a	2	Support	All six greenhouse gases are covered by the Kyoto Protocol and should be included for consistency
Article 4 Paragraph 1	18	Support	Member States to take into account carbon value savings from CHP and use of waste fuels.
	19		Identical
	20		Identical
	21		Same
Article 7	22	Neutral	Permits should be updated in consultation with the operator.
Article 9 paragraph 1	23	Support	1st national allocation plan by 31/03/2005
Article 9 paragraph 1 a	3	Reject	Member States already have to take into account the burden-sharing agreements in their national allocation plan and the Commission has scrutiny over these.
	24	Reject	Same as amendment 3 only tries to take into account voluntary agreements when basing the trend line on 1990.
	25	Reject	Same as amendment 3 but simplifies the wording
Article 9 Paragraph 1 a new	26	Reject	Put forward in the first reading seeks to introduce a mandatory cap based on share of the emissions of that sector minus the burden sharing agreement.
Article 10	4	Reject	The methodology for allocation must be free of charge. Otherwise investment will be directed from technology to reduce emissions into the payment of allowances to operate.
	27	Support	Member States to allocate free of charge in first period and 95% free instead of 90% free as in the common position.
	28	Support	Keeps common position but adds that Member States should avoid any increase in financial burden for operators
Article 11 paragraph 1 Article 11 paragraph 1 a new	29	Support	Member States to decide 6 not 3 months in advance on national allocation
	30, 31	Neutral	New entrants to be treated under the same conditions as existing participants. Harmonises procedures.
	32	Support	Important for operators internal functioning that allowances allocated an installation in one Member State can be transferred without restriction within the company
	33	Same as 32	

Article 12 Paragraph 4 new	34	Support	Important that operators have the flexibility to bank allowances for later periods.
	35	Neutral	Transparency in ownership of allowances
	36	Reject	Removes allowances on closure
Article 12 a new	37	Neutral	Companies which close installations should be allowed to use allowances for new installations
Article 13 Paragraph 2	38	Support	Important that allowances can be banked to ensure that operators can plan their investment cycles.
	39	Support	Same only allows banking to apply to the first period
Article 13 Paragraph 3	40/ 41	Support	Same Allows banking on year by year basis
Article 16 Paragraph 1	42	Support	Dates for national allocation plan
Article 16 Paragraph 3 and 4	43	Neutral	Calls for penalties to be fixed to market % instead of a fixed price which would become a default price. Leads to price uncertainty
Article 16 Paragraph 4	44	Support	Reduces penalty from 40 to 20 euros in 1 <sup>st</sup> period
Article 18	45	Support	Operators should have the possibility of legal review of decisions
Article 22	5	Neutral	Deletes Commission ability to change Annex III for 2008-12
Article 24	46	Support	Opt-in to apply from 2005 for new sectors and gases based on the operators request.
Article 24 paragraph 1	6	Support	Important to introduce flexibility to the scheme and allow an opt in for sectors, activities and installations
Article 24 paragraph 3	7	Support	Reflects the required amendments for the inclusion of all 6 gases.
Article 27	8	Neutral	The amendment proposes the removal of the term <i>activities</i> , introduced by Council. This reflects the rapporteur's concern that entire sectors should not be able to opt-out from the EU scheme. It is unclear what the implications of this would be as the Directive requires that even if sectors are opted out it would be done so on the basis of an aggregation of installations.
Article 28 Paragraph 1 and 2	47, 48	Support	Allows operators involved in several activities to pool their allowances
	49	Support - Priority over 47 and 48	Same – also allows multi-nationals to pool across the Community.
	50	Support	Same – allows pooling on same site of different activities.
Article 28 paragraph 5	51	Support	Pooling – consequential to Amendment 50
Article 29	9	Reject	Rejects article which allows Member states to issue additional allowances in the case of force majeure in 1st period.
	52/ 53	Neutral	Commission to produce guidance on force majeure
Article 30 paragraph 1	10	Support	Important to introduce flexibility to the scheme and allow an opt in for sectors, activities and installations. Consistent with 2008 opt in
Article 30 paragraph 1	54	Support	Important to introduce flexibility to the scheme and allow an opt in for sectors, activities and installations. Mandates Commission report on opt-in but still consistent with 2008 opt in

<b>Article 30 paragraph 3</b>	11	Reject	Fixes quantity of JI/CDM credits to be permitted in ETD. The EU Directive must ensure consistency with the Kyoto Protocol so as not to jeopardise future negotiations.
	55	Reject	Removes possibility to allow credits from JI and CDM projects from CO <sub>2</sub> sinks or nuclear energy. ETD must be consistent with Kyoto with respect to JI/CDM.
	56	Support	Commission to recognise JI and CDM credits
<b>Article 31</b>	57	Support	Delays by 1 year Member State transposition of Directive until 31/12/04
<b>Annex 1 table column 2</b>	14	Support	All 6 greenhouse gases should be covered.
<b>Annex 1 table, item</b>	12	Support (only if 14 passes)	Allows inclusion of aluminium industry for installations of >50,000 tonnes CO <sub>2</sub> eqv.
<b>Annex 1 table, item 3 a new</b>	13	Neutral	Allows inclusion of chemical industry for installations of >50,000 tonnes CO <sub>2</sub> eqv.
<b>Annex 1 table column 3</b>	58	Neutral	Inclusion of nitrous oxide
<b>Annex III Point 1(a) new</b>	59	Support	Important that operators are not doubly targeted by the emissions trading scheme and taxes.
<b>Annex III Point 2</b>	60	Support	Member States must allocate in a manner consistent to their burden sharing agreements. This will be more effective than a trend line or cap proposed by amendment 3.
<b>Annex III Point 3</b>	61/62	Reject	Benchmarking for allocation of allowances to ensure comparable efforts based on BAT in all sectors
	63	Support	Allows allocation based on market average of GHG emissions as well as average activity emissions
<b>Annex III Point 3 new</b>	64	Support	Calls for member States to base their allocation on overall potential to change processes where operating in one or more activities
	65	Neutral	Calls for BAT to be applied when allocating allowances
<b>Annex III Point 5</b>	66	Neutral	Calls for Member States not to over-allocate unless it is recognition of early action- could help the trend line debate. Fairly meaningless.
<b>Annex III Point 7</b>	67	Neutral	Encapsulates early action from 1990-2004 period
<b>Annex III Point 11 a (new)</b>	68	Support	Possibility of correcting allocation based on real output after allowances are allocated on a forecast mode.
<b>Annex IV Part B</b>	69	Support	Is it easy to differentiate between reducible and non-reducible emissions- how do we define this? Is this in any way helpful?
<b>Recital 10</b>	15	Support	Consider CHP in National Allocation Plan
<b>Recital 15 a</b>	16	Support	Consider only F-gases from industrial processes.
<b>Recital 18</b>	1	Reject	Stresses priority for domestic action and does not note importance of JI/CDM linkage. The Kyoto Protocol allows for credits earned from the project mechanisms JI/CDM to count as credits for installations. To not allow these credits to be traded in the European scheme is an incorrect application of Kyoto and not a useful learning experience. These should be included from 2005 in accordance with the Kyoto Protocol and the Marrakech Accords. On balance – stay with Common Position
<b>Recital 23</b>	17	Support	P&Ms should be across all sectors not just industry and energy.