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## **UNICE POSITION ON THE 2006 REVIEW OF THE EU EMISSION TRADING SCHEME (DIRECTIVE 2003/87/EC)**

The first phase of the EU Emissions Trading Scheme (ETS) has been described by the Commission as a “learning by doing” phase. It is therefore vital that the lessons learned are taken into account for the second phase (2008-12) as well as for future periods. The 2006 Review must build steadily on the 1<sup>st</sup> phase and deal with issues that require changing before the start of the 2<sup>nd</sup> period. The changes must maintain continuity, not be abrupt or ill-conceived and must maintain coherence with other policies.

It is vital for business and industry in Europe that the protection of the international competitiveness, in particular from the emerging increases in the price of energy, power and raw materials, including oil, which will result in severe impacts on energy-intensive industries and their supply chain, is taken into account. Only a well-functioning emission trading market, including unlimited access to Joint Implementation (JI) and Clean Development Mechanism (CDM) credits, and a solution to the impact of increasing energy prices, can ensure that the EU ETS meets its aims in promoting emissions reductions at a least cost for EU business.

The outcome of international negotiations for the period post-2012 is currently unclear. EU climate policy must reflect the outcome of these negotiations, particularly actions taken by other nations, in order not to place unreasonable unilateral burdens on EU Industry. A comprehensive global framework that includes all regions and countries is paramount to the efficient functioning of emissions trading and is also essential for environmental and economic efficiency.

In that context, European industry continues to strongly support the free allocation of emission allowances, since any form of auctioning could severely damage the competitiveness of EU industry compared to non-EU industry and result in relocation of some businesses outside of the EU. To promote a properly functioning market and equal competitive conditions also within the EU, it is crucial when allocating allowances to ensure that similar installations receive comparable amounts of allowances.

Furthermore, it is essential that the direct and indirect impacts and the functioning of the scheme, as detailed above, are assessed thoroughly and regularly by the Commission in close cooperation with the Member States. The outcome of such assessments should be published officially.

The recommendations listed below should be taken in conjunction with the objective that the review must:

- minimise the impact of the EU ETS, direct and indirect, on the competitiveness of European business;
- eliminate, as far as possible, inconsistencies, constraints and barriers, and bureaucracy in the ETS;
- not result in unfair increases in impact on those installations subject to the EU ETS phase I.

### RECOMMENDATIONS FOR SPECIFIC AREAS TO REVIEW UNDER THE ARTICLE 30 OF THE EMISSION TRADING DIRECTIVE

#### GENERAL ISSUES

##### a) Scope of the Review

It is recommended that the scope of the review under Article 30 of the ETS includes, within the proposal to be made by the Commission by 30<sup>th</sup> June 2006, a thorough evaluation of the impacts of the ETS, including indirect impacts such as those of increasing power prices and recommendations of measures to be taken, where appropriate, for their correction.

##### b) Transparency and timing

###### Comparison between NAPs – methodologies, common format

It is vital that stakeholders are able to compare NAPs both within Member States, within sectors and across Member States in order to be able to understand potential impacts on competitiveness. Methodologies adopted by Member States should be clearly defined and use consistent economic and industrial data (that is, EU and sector growth etc.) for a comparable period. Consideration should be given to the use of benchmarking or performance standard where appropriate and available, although it is accepted that this is probably only applicable to the period after 2012 for specific sectors. NAPs should be submitted in a common format to enable comparison.

###### Timing of submission of plans

In order to facilitate comparison, Member States must submit NAPs at the same time. To assist this process, a date could be agreed informally between Heads of State for the submission of a “draft” plan for pre-discussion, thereby demonstrating that the national processes are on track.

## SPECIFIC TOPICS

### a) Harmonisation

#### Definitions

Experiences from the current allocation period show that there are inconsistencies between Member States in the interpretation of the installations that are covered under the EU ETS Directive 2003/87/EC. The continuation of such inconsistencies could lead to serious competitive disadvantages for the affected installations within the EU. Industry would therefore require that the scope of the EU ETS Directive and the interpretation of definitions such as that of “combustion installations” should be made consistent and harmonised throughout the EU. As far as possible, this process should be finalised before Member States start developing the second round of National Allocation Plans (NAPs) and it should also be consistent with point (e) with respect to the exclusion of smaller installations.

#### New Entrants and Closures

Harmonised rules and guidelines for New Entrants and Closures should be applied. A New Entrant should be defined consistently as either a new installation or an existing installation that has become covered by the ETS Directive due to changes in its production or production process. New Entrants should receive all the allowances needed if their emissions are at a level of those of best available technology, while facilities of a comparable standard in existing installations across Europe should be treated similarly. If the reserve of allowances is not large enough, Member States shall use Kyoto mechanisms to fill the gap.

The closure of an installation should be defined in the same way across European countries. At least the allowances, which are already transferred into the installation’s accounts (in the registry) should be entitled to the installation and should not immediately have to be returned after closure. The transfer of allowances during the rationalisation of production facilities, by closing inefficient plants and transferring production to a second facility either within the same, or different, Member State must be addressed.

#### Accounting and tax treatment

The treatment of emission allowances for tax purposes (especially value added tax) and within company accounts are not only subject to inconsistent interpretations, they could also result in significant volatility in companies’ balance sheets/profit and loss accounts. This is a particular issue for multi-national companies and should be addressed to ensure a more business-friendly approach, applied consistently across the EU.

### b) Extension of scope

#### Use of opt-in of installations

Use of the opt-in within the ETS must not lead to a competitive advantage for companies within a specific sector.

#### Other gases

The scope of the ETS should be broadened to be consistent with the Kyoto Protocol for the period 2008-12, where monitoring techniques permit sufficient accuracy of measurement and where protocols exist. This should be consistent with point (e) below with respect to the exclusion of smaller installations. The linkage between the inclusion of sectors and gases should be recognised and taken into account. An inclusion of additional greenhouse gases probably implies a concomitant inclusion of additional sectors, since the new gases are likely to be emitted from installations that are currently not covered under the scope of the ETS Directive.

#### Other sectors

Consideration should be given to the inclusion of other sectors in the Directive for the period post-2012. Any discussion must consider potential impacts of inclusion (and its timing) on those companies that are already within the ETS, in particular on the price of allowances and the impacts on the international competitiveness. This should also be consistent with point (e) with respect to the exclusion of smaller installations.

#### c) Use and availability of credits from Kyoto Mechanisms

##### Full access to JI and CDM credits

It is vital that EU Business has full and flexible access to the credits generated from the Kyoto mechanisms. The setting of restrictive “caps” on the use of such credits from JI and CDM will undermine the potential cost-efficiencies of the ETS and will act to reduce the number of possible projects proposed by business, thereby reducing technology transfer.

#### d) Business planning

##### Longer time horizons to facilitate investment

Many businesses have investment cycles that are considerably longer than the 5 year allocation period within the ETS. It is recommended that there is an assessment of the possibility and impacts of a longer period of allocation. Such long allocation periods may facilitate business planning and optimise the cost-effectiveness of the system if it is not interrupted by sudden changes during the allocation period.

#### e) Use of opt-out of smaller installations

##### Opt-out for smaller installations

The inclusion of many small and medium sized companies within the EU ETS places on them unnecessary reporting and administration burdens whilst their GHG emissions are negligible. It is recommended that an emission threshold be set (for example, at least 25,000 tonnes CO<sub>2</sub> eq. This corresponds to 55 percent of the installations included today, but only 2.5 percent of the total EU CO<sub>2</sub>-emission (CEPS Task Force report, July 2005)). Below this threshold a company would be opted-out from the EU ETS unless it chooses to be voluntarily included. In any period, once this threshold is exceeded in any single year, the company remains within the ETS for that period.

It is vital that such an opt-out is in place (either formally or informally) for the period 2008-12.

Member States shall maintain a register of those companies “opted-out” and require a specified level of emissions monitoring and reporting. To avoid disproportionate burdens on small installations or governments, there should be a possibility for a voluntary opt-out, provided that installations are subject to equivalent action.

f) Other issues

Pooling

In order to improve the flexibility of the EU ETS, it should be possible to create “pools” of installations between activities and across national borders, without facing transfer pricing rules.

Process Emissions

Special consideration should be given to the impacts of the EU ETS on those industries that have process emissions that cannot be reduced through means other than a reduction in production.

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