EUROOPA ÜHENDUSTE KOMISJON

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KOMISJONI TEATIS

Täiendavad juhised saastekvootide eraldamise kavade kohta ELi heitkogustega kauplemise süsteemi kauplemisperioodiks 2008–2012

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(EMPs kohaldatav tekst)

1. SISSEJUHATUS

1. Käesoleva teatisega antakse liikmesriikidele juhised saastekvootide eraldamise riiklike kavade väljatöötamiseks teiseks kauplemisperioodiks (2008–2012). Käesolev teatis ei ole osa saastekvootidega kauplemise direktiivi[1] (edaspidi „direktiiv") jätkuvast läbivaatamisest, mille kohaselt komisjon koostab juunis 2006 Euroopa Parlamendile ja nõukogule aruande, sealhulgas vajaduse korral ettepanekud ELi heitkogustega kauplemise süsteemi toimimise parandamise kohta. Seda läbivaatamist ette valmistades tunnustab komisjon huvirühmade tagasisidet ELi heitkogustega kauplemise süsteemi toimimist ja mõju käsitlevate mitmesuguste küsimuste suhtes.

2. Käesolevad juhised täiendavad komisjoni 7. jaanuari 2004. aasta juhiseid[2] direktiivi III lisas loetletud kriteeriumide rakendamiseks. Eelmised tegevussuunad sisaldavad eelkõige III lisas esitatud erinevate kriteeriumide tõlgendamise ja koosmõju tehnilist analüüsi ning selgitavad nende rolli saastekvootide eraldamise kavade hindamisel komisjoni poolt. Esimeste tegevussuundade võtmesõnumid on kokku võetud 3. lisas.

3. Komisjon peab vajalikuks anda täiendavad juhised esimese jaotusperioodi jooksul omandatud õppetundide järjekindlaks arvessevõtmiseks. Komisjon märgib, et direktiivi III lisas loetletud kriteeriumide üldiseloom võimaldab neid rakendada, ning jagab liikmesriikide ja paljude huvirühmade arvamust, et vajatakse rohkem juhiseid,[3] et tagada teiseks kauplemisperioodiks sidusamad saastekvootide eraldamise kavad.

4. Üldiselt rõhutavad ka liikmesriigid ja huvirühmad oma pooldavat suhtumist jaotamiseeskirjade suuremale ühtlustamisele. Komisjon peab vajalikuks saavutada teisel kauplemisperioodil suurem sidusus määral, mida võimaldavad liikmesriikide erinevad edusammud individuaalsete Kyoto eesmärkide suunas. Peale selle on pärast 2012. aastat soovitav edasine ühtlustamine. Komisjon vaatab need küsimused läbi seoses ELi heitkogustega kauplemise süsteemi strateegilise läbivaatamisega. Komisjon esitab läbivaatamise põhjal vajaduse korral ettepanekud kava toimimise parandamiseks, tagades samal ajal õigusliku stabiilsuse.

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1 Euroopa Parlamendi ja nõukogu 13. oktoobri 2003. aasta direktiiv 2003/87/EÜ, millega luuakse ühenduses kasvuhoonegaaside saastekvootidega kauplemise süsteem ja muudetakse nõukogu direktiivi 96/61/EÜ, ELT L 275, 25.10.2003, lk 32–46, muudetud Euroopa Parlamendi ja nõukogu 27. oktoobri 2004. aasta direktiiviga 2004/101/EÜ, millega muudetakse direktiivi 2003/87/EÜ, millega luuakse ühenduses kasvuhoonegaaside saastekvootidega kauplemise süsteem, võttes arvesse Kyoto protokolli projektimehhanisme, ELT L 338, 13.11.2004, lk 18.

2 KOM(2003) 830 (lõplik).

3 1. detsembril 2005 kutsus nõukogu komisjoni üles piisavalt vara tegema kõik vajalik juhiste andmiseks saastekvootide eraldamise teise etapi riiklike kavade ettevalmistamiseks.

5. Komisjon soovitab liikmesriikidel töötada selles suunas, et teise kauplemisperioodi kavad oleksid lihtsamad. Lihtsamad saastekvootide eraldamise kavad parandavad arusaamist huvirühmadevahelisest süsteemist ning suurendavad läbipaistvust ja prognoositavust. Liikmesriigid peaksid tegema oma parima, et teised riiklikud saastekvootide eraldamise kavad oleksid võimalikult lihtsad eelkõige jaotusmeetodite ning uute osalejate ja saastekvootide sulgemise suhtes kehtivate eeskirjade poolest. Liikmesriigid peaksid kriitiliselt hindama esimese etapi riiklikes saastekvootide eraldamise kavades sisalduvate eeskirjade vajalikkust ja tõhusust ning säilitama üksnes need, mida peetakse hädavajalikuks.

6. Kavade läbipaistvuse edasiseks parandamiseks on komisjon välja töötanud ja lisanud tabelid,[4] milles standarditud kujul võetakse kokku mõned riiklikus saastekvootide eraldamise kavas sisalduvad alusandmed. Komisjon käsitab neid tabeleid riiklike saastakvootide eraldamise teise etapi kavade lahutamatu osana ja ootab liikmesriikidelt nende kasutamist. Lisaks soovitab komisjon liikmesriikidel jätkuvalt kasutada saastekvootide eraldamise esimeste kavade jaoks väljatöötatud ühist mudelit[5] ning, nagu ka esimesel etapil, tagab kõikide kavade järjepideva hindamise.

2. KOKKUVÕTE SAASTEKVOOTIDE ERALDAMISE ESIMESE ETAPI KAVADE (2005–2007) KOGEMUSTEST JA ÜLDISTEST ÕPPETUNDEST TEISEKS ETAPIKS (2008–2012)

7. Saastekvootide eraldamise esimene etapp kestis umbes 15 kuud alates teatamise tähtajast 31. märtsil 2004 kuni komisjoni viimase otsuseni 20. juunil 2005. See oli palju kauem kui direktiiviga oli ette nähtud. Heakskiitmismenetlus jätkus veel esimese kauplemisperioodi jooksul, mis algas 1. jaanuaril 2005. Mõnede kavade hilinenud teatamine, heakskiitmine ja lõpuleviimine riigi tasandil ei tekitanud määratlematust mitte üksnes vastavate riigiasutuste ja ettevõtete jaoks, vaid ka saastekvootide turu osaliste jaoks kogu Euroopas. See rõhutab teiseks saastekvootide eraldamise perioodiks õigeaegse teatamise tähtsust täielikest riiklikest saastekvootide eraldamise kavadest. Komisjon leiab, et artikli 9 lõikes 3 sätestatud kolmekuuline periood saab alata üksnes pärast seda, kui on esitatud täielik riiklik saastekvootide eraldamise kava. Seepärast tuletab komisjon liikmesriikidele meelde nende kohustust pidada kinni tähtajast 30. juunil 2006, et oleks võimalik lõpule viia teine saastekvootide eraldamise menetlus, sealhulgas sellele järgnev lõpliku riikliku saastekvootide eraldamise otsuse tegemine aegsasti enne teise kauplemisperioodi algust 1. jaanuaril 2008. Komisjon ei aktsepteeri saastekvootide eraldamise riiklike kavade muudatusi, millest teatatakse pärast direktiivi artikli 11 lõikes 2 määratletud tähtaega, s.o 31.detsembrit 2006, välja arvatud muudatused, mida nõuab vastav komisjoni otsus riikliku saastekvootide eraldamise kava kohta.

8. Tunnistades, et esimene etapp oli õppimisperiood, hindas komisjon saastekvootide eraldamise esimese etapi kavasid pragmaatiliselt. Esimesest saastekvootide eraldamise protsessist ilmnesid mõned allpool kokku võetud olulised omadused, mis tingisid otsuste ja lähenemisviiside ühtlustamise liikmesriikides (üksikasjade kohta vt 4. lisa):

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[4] Vt 10. lisa.

[5] KOM(2003) 830 (lõplik), lk 25–29.

– Kyoto eesmärkide tulemuslikuks saavutamiseks on vaja rohkem ära kasutada saastekvootidega kauplemist.

– Üldiselt on saastekvootide eraldamisel teistest kavaga hõlmatud sektoritest rohkem seatud kitsendusi jõujaamadele.

– Liikmesriigid, kes on täheldanud tegelike heitetasemete olulist ületamist võrreldes Kyoto eesmärkidega, kavatsevad osta märkimisväärse koguse Kyoto ühikuid.

– Hilisemate muudatuste mitteaktsepteerimine on saastekvootide turu arengu seisukohalt hädavajalik.

– Mõned saastekvootide eraldamise kavad on vajalikust keerukamad ega ole piisavalt läbipaistvad.

3. TÄIENDAVAD JUHISED SAASTEKVOOTIDE ERALDAMISE RIIKLIKE KAVADE TEIST PERIOODI KÄSITLEVATE VALIKKÜSIMUSTE KOHTA

3.1. Edusammud Kyoto eesmärkide saavutamisel

9. 2005. aasta arenguaruandes[6] hindas komisjon liikmesriikide edusamme Kyoto eesmärkide saavutamisel. Võrreldes 2003. aasta tegelikku heidet ajavahemikul 2008–2012 lubatud heitega on paljudel liikmesriikidel vaja ära teha suur töö. Praegu on ilmne, et eelkõige Austria, Belgia, Taani, Soome, Saksamaa, Iirimaa, Itaalia, Luksemburg, Madalmaad, Portugal, Sloveenia ja Hispaania ei ole Kyoto eesmärkide saavutamisel piisavalt edukad. Nendes liikmesriikides tuleks teisel kauplemisperioodil pöörata suuremat tähelepanu Kyoto eesmärkide saavutamisele, mis ei tähenda, et ülejäänud liikmesriikidel ei ole vaja võtta täiendavaid meetmeid. Kuna on ebatõenäoline, et mahajäämust on võimalik kõrvaldada *üksnes* nõudmisega vähendada heitkoguseid mittekaubandussektoris või toetudes Kyoto ühikute ostmisele, tuleb ELi heitkogustega kauplemise süsteemi puhul täielikumalt ära kasutada saastekvootidega kauplemise potentsiaali.

3.2. Riiklike piirmäärade kindlaksmääramine

10. Vastavalt III lisa 3. kriteeriumile (direktiivi III lisa kriteeriumide kohta vt käesoleva dokumendi 2. lisa) peab eraldatavate kvootide kogus olema kooskõlas süsteemis käsitletud tegevusalade potentsiaaliga, sealhulgas tehnoloogilise potentsiaaliga, et vähendada heidet. See tähendab, et vastav majanduslik ja tehnoloogiline heite vähendamise potentsiaal seab kõrgeima piirmäära riigi tasandil.

11. Kaks kõige olulisemat tegurit heitega seotud suundumuste kujundamisel on majanduskasv (SKT; majanduskasvu suurenemine viib heite suurenemisele) ning süsinikuheite määr (heide SKT ühiku kohta, kus süsinikuheite määra vähenemine vähendab heidet). Põhimõtteliselt, mida kiirem on majanduskasv, seda kiiremini võetakse kasutusele uued tehnoloogiad ja seda kiiremini uuendatakse põhivara, parandades sellega tootlikkust ja süsinikuheite määra. Euroopa majanduses toimuv

[6] Komisjon 15. detsembri 2005. aasta aruanne edusammude kohta ühenduse Kyoto eesmärkide saavutamisel, KOM(2005) 655.

kolmanda sektori osatähtsuse kasv ja samaaegne teise sektori osatähtsuse vähenemine aitavad samuti sellele mõjule kaasa. Lisaks stimuleerivad süsinikuheite määra edasist vähenemist ELi heitkogustega kauplemise süsteemi ja kogu Euroopa Liidus kehtiva süsinikuhinna kasutuselevõtt.

12. Varem (ajavahemikul 1990–2000) on süsinikuheite määra vähenemine majanduskasvu tasakaalustanud või koguni üles kaalunud, mis tähendab, et kasvuhoonegaaside heide jäi stabiilseks või koguni vähenes. Järgmine tabel näitab, et selline suundumus peaks püsima käesoleva aastakümne jooksul (2000–2010). Tuleb rõhutada, et oletustes ajavahemikuks 2000–2010 ei võeta arvesse ELi heitkogustega kauplemise süsteemi esimeses etapis loodud stiimuleid ning seepärast on tõenäoline, et nendes alahinnatakse süsinikuheite määra tegelikku vähenemist kõnealusel ajavahemikul.

Tabel A. Varasemad ja eeldatavad SKT kasvumäärad ja süsinikuheite määra suundumused.[7]

	SKT aastane muutumine %des	Aastane süsiniku osatähtsuse* paranemine %des	**Kombineeritud netomõju aastasele heitega seotud suundumusele %des**
Tegelik areng ajavahemikul 1990–2000			
EL-25	2,0	2,3	**-0,3**
EL-15	2,0	1,9	**0,1**
Uued liikmesriigid	1,7	3,9	**-2,2**
Eeldatav areng ajavahemikul 2000–2010			
EL-25	*2,5*	*2,2*	***0,3***
EL-15	*2,4*	*2,1*	***0,3***
Uued liikmesriigid	*3,8*	*3,6*	***0,2***

Märkus: * Süsinikuheite määr väljendab süsinikdioksiidi heite suhet SKTsse.

13. Heite vähendamise majanduslikku ja tehnoloogilist potentsiaali analüüsides võtab komisjon arvesse aastast SKT kasvu ja süsinikuheite määra vähenemise määrasid. Nende kahe teguri kombineeritud mõju annab heite vähendamise aastase potentsiaali määra. Võttes lähtepunktiks vastava aasta (nt 2003) tegeliku heite, eeldades kaubandussektori püsivat osakaalu heites ning samalaadset potentsiaali heite vähendamiseks, nagu see on kogu majandussüsteemil, võib tuletada soovitusliku piirmäära, mis on kooskõlas III lisa 3. kriteeriumiga.

[7] Allikas: Euroopa Komisjoni energia ja transpordi peadirektoraat. Euroopa energia- ja transpordisuundumused kuni aastani 2030, lisa 2, jaanuar 2003, vt kodulehekülg: http://europa.eu.int/comm/dgs/energy_transport/figures/trends_2030/index_en.htm

14. Seepärast on esimeseks etapiks seatud piirmäär lähtepunktiks teise etapi üldkoguse määramisel ja hindamisel nii ELi kui ka liikmesriikide tasandil. 1. kriteeriumi tõttu peavad mõned liikmesriigid Kyoto eesmärgi järgimiseks alandama esimese perioodi piirmäärasid. Teised liikmesriigid peavad oma esimese etapi piirmäärad säilitama, et viia kava vastavusse heite vähendamise potentsiaaliga (3. kriteerium). Vastavalt sellele peaks teises etapis aastane keskmine kogu ELi hõlmav heitkogustega kauplemise süsteemi piirmäär olema madalam kui see oli esimeses etapis.

15. Paljud liikmesriigid peavad likvideerima erinevuse 2003. aasta tegeliku heite ja Kyoto eesmärgi kohaselt lubatud heite vahel. Selle erinevuse kogumaht nende liikmesriikide puhul on 296,5 miljonit tonni süsinikdioksiidi ekvivalentkogust. Seepärast väljendab see arv ülemääraseid koguseid, mida liikmesriigid endiselt peavad endi käsutuses olenevaid vahendeid kasutades vähendama, et tagada vastavus Kyoto eesmärkidega.

16. Liikmesriigid, kellel on selline erinevus Kyoto eesmärgist, peaksid seadma eesmärgiks kombineerida järgmist: i) eraldatud saastekvootide vähendamine teiseks etapiks ning ii) lisameetmete rakendamine mittekaubandussektoris, mida võiks toetada iii) Kyoto ühikukrediitide ostmine valitsuse poolt. Tasakaalustatud kombinatsioon muudab vähendamise teostatavamaks ja majanduslikult tõhusamaks.

17. 1. lisa tabelis on loetletud saastekvootidega kaupleva sektori osatähtsus väljendatuna esimese etapi saastekvootide eraldamiste võrdlusena 2003. aasta tegeliku heitega. ELi tasandil on see osatähtsus umbes 45%. Kui saastekvootidega kauplev sektor peaks andma proportsionaalse osa vähendamisest liikmesriikides, mis peavad likvideerima erinevuse, oleks EL-25s teise perioodi kogueraldus umbes 6% võrra väiksem esimese perioodi eraldusest, moodustades aasta keskmise saastekvootide eralduse 2,063 miljardit. Kui kogueraldus on väiksem kui 6%, peab saastekvootidega mittekauplev sektor tegema suuremaid jõupingutusi Kyoto eesmärkide saavutamiseks.

3.3. Põhjendus valitsuse kavale osta Kyoto ühikuid

18. Pidades silmas turusuundumuste olukorda ja piiranguid Kyoto ühikute pakkumisele, seisavad liikmesriigid silmitsi raske ülesandega osta kavatsetud mahud. Liikmesriigi otsus osta riiklike vahendite eest Kyoto ühikuid (nagu ka ostmine ettevõtete poolt sidusdirektiivi tingimuste kohaselt) vähendab omamaise heite vähendamise vajadust.

19. Eespool toodud põhjustel on riikliku saastekvootide eraldamise kava kooskõlla viimiseks III lisa 1. kriteeriumiga hädavajalik põhjendada valitsuse kava osta Kyoto ühikuid. Seepärast oli see juba esimese perioodi kavade hindamise oluline element. Mitmed liikmesriigid ei esitanud oma saastekvootide eraldamise esimese etapi kavades kavatsetava ostu täielikku põhjendust ning vastavalt sellele alandati mõningaid piirmäärasid. Kõik liikmesriigid, kes toetuvad Kyoto ühikute ostmisele valitsuse poolt, isegi kui see on juba märgitud saastekvootide eraldamise esimese etapi kavas, peavad seetõttu oma kavatsusi põhjalikumalt põhjendama ning tõestama oma edusamme nende ostude tegemisel. Komisjon toetub oma hinnangutes 5. lisas esitatud kumulatiivsetele kriteeriumidele ning hindab neid aspekte rangelt. Kui liikmesriik kõiki kriteeriume rahuldavalt ei täida, nõuab komisjon väljapakutud piirmäära võrdelist vähendamist.

3.4. Muu poliitika ja meetmete põhjendamine

20. Riikliku saastekvootide eraldamise kava ja direktiivi III lisa 1. kriteeriumi vahelise kooskõla seisukohalt on oluline, et liikmesriigid põhjendavad rakendatud ja täiendavate poliitika ja meetmete mõju. Esimese etapi riiklikes saastekvootide eraldamise kavades loetlesid liikmesriigid mitmeid olemasolevaid ning täiendavaid poliitikat ja meetmeid. Kõik liikmesriigid, kes toetuvad rakendatud ja täiendavale poliitikale ning meetmetele, isegi kui need on juba esimese etapi riiklikes saastekvootide eraldamise kavades näidatud, peavad nende mõjusid põhjendama ning näitama nende rakendamisel või kasutuselevõtmisel tehtud edusamme.[8] Komisjon toetub oma hinnangutes 6. lisas esitatud kumulatiivsetele kriteeriumidele ning hindab neid aspekte rangelt. Kui liikmesriik kõiki kriteeriume rahuldavalt ei täida, nõuab komisjon väljapakutud piirmäära võrdelist vähendamist.

3.5. Juhend 12. kriteeriumi kohta -- ühisrakenduse ja puhta arengu mehhanismi nõuetele vastav kasutamine käitajate poolt

21. Direktiivi III lisa 12. kriteerium, mida on muudetud sidusdirektiiviga,[9] sedastab: „Kavas täpsustatakse THVde ja HVÜde maksimumkogus, mida käitajad võivad ühenduse süsteemis kasutada, igale käitisele eraldatud saastekvootide protsendimäärana. Kõnealune protsendimäär on kooskõlas liikmesriigi Kyoto protokolli ja ÜRO kliimamuutuste raamkonventsiooni või Kyoto protokolli põhjal vastu võetud otsuste kohaste täiendavate kohustustega."

22. 12. kriteerium on kohustuslik selles tähenduses, et riiklikus saastekvootide eraldamise kavas peab olema täpsustatud THVde ja HVÜde maksimumkogus, mida käitajad võivad ELi heitkogustega kauplemise süsteemis nõuetele vastavuse tagamiseks kasutada.

23. 12. kriteerium sedastab, et kehtestatud protsendimäär peab olema kooskõlas liikmesriigis Kyoto protokolli ja ÜRO kliimamuutuste raamkonventsiooni või Kyoto protokolli põhjal vastuvõetud otsuste kohaste täiendavate kohustustega. Marrakeshi lepingud sedastavad, et „kõnealuste mehhanismide kasutamine peab täiendama riiklikke meetmeid".[10] Täiendavate kohustuste kohta ei ole koguselist määratlust ei Kyoto protokollis, ÜRO kliimamuutuste raamkonventsioonis ega ka nende põhjal vastuvõetud otsustes.[11] Tuleb märkida, et Kyoto protokolli osaliste konverentside kohtumisel Montrealis tehti mitmeid olulisi otsuseid puhta arengu mehhanismide kasutamise soodustamiseks, millele võib kaasa aidata ELi heitkogustega kauplemine.

24. Täiendavat nõuet kohaldatakse kasvuhoonegaasi heite suhtes kogu liikmesriigis, mitte üksikute sektorite suhtes. Seepärast tuleb selle nõude täitmise hindamisel arvesse võtta ka valitsuse kava osta Kyoto ühikuid.

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8 Selles suhtes rõhutab komisjon saastekvootide eraldamise kavade kooskõla tähtsust liikmesriikide kohustustega vastavalt direktiivile 2001/77/EÜ taastuvatest energiaallikatest toodetud elektrienergia kasutamise edendamise kohta elektrienergia siseturul, EÜT L 283, 27.10.2001, lk 33.

9 Euroopa Parlamendi ja nõukogu 27. oktoobri 2004. aasta direktiiv 2004/101/EÜ, millega muudetakse direktiivi 2003/87/EÜ, millega loodi ühenduses kasvuhoonegaaside saastekvootidega kauplemise süsteem, võttes arvesse Kyoto protokolli projektimehhanisme, ELT L 338, 13.11.2004, lk 18..

10 Otsuse 15/CP 7 artikkel 1.

11 Koguseline määratlus esitati komisjoni ettepanekus sidusdirektiivi kohta (KOM(2003) 403).

25. Komisjon leiab, et liikmesriigid võivad vabalt otsustada, kas kohaldada piirmäära iga käitise suhtes eraldi või kõigi käitiste suhtes ühiselt. Suurema paindlikkuse huvides soovitatakse liikmesriikidel kohaldada piirmäära kogu kauplemisperioodiks ja kõigi käitiste suhtes ühiselt.

3.6. Uute osalejate ja saastekvootide sulgemisega seotud küsimused

26. Komisjon leiab, et on ennatlik teha järeldusi ja määrata kindlaks parimad tavad seoses uute osalejate ja saastekvootide sulgemisega. Täiendavad üksikasjad on esitatud 7. lisas.

3.7. Täiendavad juhised saastekvootide eraldamise kohta sektori ja käitise tasandil

27. Määrates kindlaks saastekvootide eraldamise käitise tasandil, peab komisjon vajalikuks, et liikmesriigid ei toetuks esimese perioodi heitele ega muudele esimese perioodi andmetele. Vastasel juhul satuvad käitised, kes on esimese kauplemisperioodi jooksul heidet tunduvalt vähendanud, põhjendamatult halvemasse olukorda, ja saavad teises etapis väiksema osa saastekvoote kui käitised, kes esimese perioodi jooksul heidet vähendanud ei ole.

28. Mitte toetudes esimese etapi heitele ega muudele esimese etapi andmetele, tunnustatakse piisavalt varajasi meetmeid, mis asendavad seega varajaste meetmete reservi loomist või teisi varajaste meetmete arvessevõtmise vahendeid.

29. Keerukuse ja haldusprobleemide vähendamiseks peab komisjon ebasobivaks säilitada protsessi käigus tekkivaid heiteid käsitlevaid erisätteid käitise tasandil.

30. Nagu juba eespool sedastatud, ei ole võimalik üle tähtsustada saastekvootide eraldamise teise etapi riiklike kavade lihtsama mudeli saavutamist võrreldes esimese etapiga. Lihtsamad saastekvootide eraldamise eeskirjad sektori ja käitise tasandil suurendavad saastekvootide eraldamise menetluse läbipaistvust ja alandavad eelkõige kavaga hõlmatud väikeste ja keskmise suurusega ettevõtete kulusid.

3.8. Täiendavad juhised saastekvootide eraldamise aspektide kohta

31. Kogu ELi hõlmav võrdlev uurimine ei ole teises etapis kasutamiseks piisavalt küps saastekvootide eraldamise meetod. Liikmesriigid võivad siiski pidada vajalikuks kasutada võrdlevat uurimist riiklike saastekvootide eraldamiseks teatavates sektorites käitise tasandil ning uute osalejate suhtes, nt elektrisektoris. Komisjon uurib selliselt saadud kogemusi läbivaatamise jooksul. Komisjoni huvitab, kas täiendavate andmete nõuet võrdleva uurimise jaoks saab kohaldada ning kas liikmesriigid leiavad, et see kaalub üles lisanduvad haldusprobleemid.

32. Komisjon rõhutab, et liikmesriigid võivad teisel kauplemisperioodil kasutada enampakkumist direktiivi artikliga 10 lubatud 10% piires. Enampakkumise laialdasem kasutamine võimaldaks liikmesriikidel ja komisjonil omandada rohkem kogemusi selle saastekvootide eraldamise meetodi kohaldamise alal ning lisada strateegilisele läbivaatamisele teavet praktiliste kogemuste alalt. Komisjon tuletab liikmesriikidele meelde, et enampakkumise tulu võib muu hulgas kasutada kava halduskulude katteks ning Kyoto ühikute ostuks valitsuse poolt. Kui liikmesriigid otsustavad saastekvoote enampakkumisel müüa, julgustab komisjon neid aegsasti

täpsustama enampakkumisprotsessi üksikasju eelkõige seoses ajastamise ja kogustega, eelistatavalt riiklikus saastekvootide eraldamise kavas.

33. Direktiivi artikli 9 lõikes 1, artikli 11 lõikes 2 ja III lisa 9. kriteeriumis sätestatud avaliku arutelu suhtes ootab komisjon, et liikmesriigid näeksid ette sobivad ajakavad, et tagada tulemuslikuma avaliku arutelu saastekvootide eraldamise teise etapi riiklike kavade kehtestamise kohta. Liikmesriigid peaksid püüdma lõpetada artikli 11 lõike 2 ja III lisa 9. kriteeriumi kohase avaliku arutelu õigeaegselt, et pidada kinni tähtajast, milleks on 31. detsember 2006. Kuna teise kauplemisperioodi ettevalmistamisel peaks ajakava olema vähem pingeline kui esimeses etapis, on komisjon kindel, et liikmesriigid järgivad seda nõuet omal vastutusel ja äranägemisel.

4. DIREKTIIVI I LISA REGULEERIMISALA TÕLGENDAMINE

4.1. Põletuskäitised

34. Seoses direktiivi I lisas käsitletud põletuskäitise tõlgendamisega märgib komisjon, et mõned liikmesriigid tuginesid saastekvootide eraldamise esimese etapi riiklike kavade puhul tõlgendusele, mis hõlmas kõiki teatud võimsusele vastavaid põletusprotsesse, sõltumata sellest, kas põletusprotsess toodab energiat iseseisvalt või mõne muu tootmisprotsessi lahutamatu osana. Teised liikmesriigid kohaldasid kitsamaid tõlgendusi, jättes välja mõned või kõik mõne teise tootmisprotsessi lahutamatu osana toimuvad põletusprotsessid.

35. Komisjon peab sellist olukorda äärmiselt ebarahuldavaks. Siseturu seisukohast tuleb vältida olukorda, kui sama tüüpi käitis on mõnes liikmesriigis hõlmatud, kuid teistes, sama direktiivi kohaldavates liikmesriikides mitte. Põletuskäitiste kooskõlastatud tõlgendamine ja reguleerimisala liikmesriikides teisel kauplemisperioodil on elulise tähtsusega, et vältida konkurentsi kahjustamist siseturul.

36. Komisjon leiab, et 8. lisas põletuskäitise kohta esitatud tõlgendus on asjakohane. Ta saab aru, et mõned liikmesriigid peaksid lisama mitmed täiendavad käitised, sealhulgas märkimisväärsete heitkogustega suurkäitised ja mõned kõige vähem saastavad käitised. Järgmist peatükki silmas pidades tunnistab komisjon siiski, et direktiivi reguleerimisalasse ei ole mõistlik lisada väikeste käitiste põletusprotsesse. Vastuolude kõrvaldamiseks teisel kauplemisperioodil peaksid kõik liikmesriigid lisama igal juhul põletusprotsessid, mis on seotud krakkimisseadmete, tahma, põletamise,[12] põletusahjude[13] ja terasekombinaatidega[14] ning mida kasutavad märkimisväärseid heitkoguseid põhjustavad suuremad käitised. Komisjon jätab endale õiguse võtta kõik vajalikud meetmed, et vältida märkimisväärseid konkurentsimoonutusi. Üksikasjad seoses komisjoni tõlgendusega põletuskäitise kohta on esitatud 8. lisas.

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12 Sealhulgas avamerel.
13 Sealhulgas mineraalne silikaatvatt.
14 Sealhulgas valtspingid, eelsoojendid, lõõmutusahjud ja dekapeerimine.

4.2. Väikseimad käitised

37. Liikmesriigid ja huvirühmad on väljendanud teatavat muret seoses väikseimate käitiste kuulumisega direktiivi reguleerimisalasse, väites eelkõige, et väikseimate käitiste jaoks ületavad osalemiskulud soodustused, mis kavaga hõlmatusega kaasnevad. Komisjon tunnistab, et teatavate väikeste käitiste osalemisega seotud tulud ja kulud väärivad täiendavat arutelu ELi heitkogustega kauplemise süsteemi läbivaatamisel vastavalt direktiivi artiklile 30.

38. Komisjon rõhutab, et mõned väikeste käitiste kantavad osalemiskulud on esimese kauplemisperioodi käivitamisega seotud ühekordsed kulud ning tulevikus neid ette ei tule. Korduvkulude puhul, mis on üldiselt seotud heite iga-aastaste järelevalve-, aruandlus- ja kontrollikuludega, pöörab komisjon järelvalve- ja aruandlusjuhiste jätkuvas läbivaatamises erilist tähelepanu väikseimate käitiste kulude võimalikule kokkuhoiule. Komisjon püüab jõustada läbivaadatud juhised 1. jaanuaril 2008, mis langeb kokku teise kauplemisperioodi algusega.

39. Samuti kordab komisjon saastekvootide eraldamise lihtsamate eeskirjade kasutamise tähtsust teisel kauplemisperioodil, et tuua kasu väikseimatele käitistele ning lisaks järelevalvele ja saastekvootide eraldamisele uurida samuti teisi aspekte, et leevendada osalemiskulusid nende käitiste jaoks. Komisjon on kindel, et see parandab veelgi ELi heitkogustega kauplemise süsteemis osalemise tulude ja kulude suhet selliste käitiste jaoks.

40. Komisjon kutsub liikmesriike üles saastekvootide eraldamise teise etapi riiklike kavade kehtestamisel uurima 9. lisas kindlaksmääratud soodustussätteid. Ta kavatseb läbivaatamise käigus põhjalikumalt käsitleda direktiivi reguleerimisala seoses väikseimate käitistega, sealhulgas võimalust teha direktiivi muutmise ettepanek, et teisel kauplemisperioodil oleks võimalik kõrvaldada mõned väikesed käitised ELi heitkogustega kauplemise süsteemist. Selles suhtes kaalub komisjon võimalust, mille kohaselt alla teatava võimsuse jäävat põletustegevust, nagu 3 MW, ei tuleks nn kokkuarvutamiseeskirja kohaldamisel arvesse võtta. Samuti uurib komisjon võimalust kokkuarvutamiseeskirja selle osa väljajätmiseks, mis näeb ette sama käitaja samas tegevuskohas toimuva tegevuse võimsuste liitmise.

ANNEX

Annex 1: Background data

Member State	2003 national greenhouse gas emissions	Allowed emissions annual average 2008-12 under Kyoto Protocol	ETS share[15]	First phase cap annual average 2005-07 according to Commission decisions[16]
Austria	91.6	68.3	36.0%	33.0
Belgium	147.7	135.8	42.6%	62.9
Cyprus	9.2	n.a.	62.0%	5.7
Czech Republic	145.4	176.8	67.1%	97.6
Denmark	74.0	55.0	45.3%	33.5
Estonia	21.4	40.0	88.6%	19.0
Finland	85.5	70.4	53.2%	45.5
France	557.2	568.0	28.1%	156.5
Germany	1017.5	986.1	49.0%	499.0
Greece	137.6	139.6	54.1%	74.4
Hungary	83.2	114.3	37.6%	31.3
Ireland	67.6	61.0	33.0%	22.3
Italy	569.8	477.2	40.8%	232.5
Latvia	10.5	23.3	43.4%	4.6
Lithuania	17.2	46.9	71.2%	12.3
Luxembourg	11.3	9.2	29.8%	3.4
Malta	2.9	n.a.	n.a.	2.9
Netherlands	214.8	200.3	44.4%	95.3
Poland	384.0	531.3	62.3%	239.1
Portugal	81.2	75.4	47.0%	38.2
Slovakia	51.7	66.0	59.0%	30.5
Slovenia	19.8	18.8	44.3%	8.8
Spain	402.3	329.0	43.4%	174.4
Sweden	70.6	75.2	32.5%	22.9
UK	651.1	657.4	37.7%	245.3
Total				**2190.8**

Note: All emission figures are in million tonnes CO_2 equivalent.

15 The ETS share is calculated as the first period cap divided by 2003 national greenhouse gas emissions.

16 These figures do not account for changes to the number of installations subsequent to the respective Commission decision (e.g. opt-ins or opt-outs of installations).

Annex 2: Criteria for national allocation plans referred to in Articles 9, 22 and 30 of Annex III of the Directive

1. The total quantity of allowances to be allocated for the relevant period shall be consistent with the Member State's obligation to limit its emissions pursuant to Decision 2002/358/EC and the Kyoto Protocol, taking into account, on the one hand, the proportion of overall emissions that these allowances represent in comparison with emissions from sources not covered by this Directive and, on the other hand, national energy policies, and should be consistent with the national climate change programme. The total quantity of allowances to be allocated shall not be more than is likely to be needed for the strict application of the criteria of this Annex. Prior to 2008, the quantity shall be consistent with a path towards achieving or over-achieving each Member State's target under Decision 2002/358/EC and the Kyoto Protocol.
2. The total quantity of allowances to be allocated shall be consistent with assessments of actual and projected progress towards fulfilling the Member States' contributions to the Community's commitments made pursuant to Decision 93/389/EEC.
3. Quantities of allowances to be allocated shall be consistent with the potential, including the technological potential, of activities covered by this scheme to reduce emissions. Member States may base their distribution of allowances on average emissions of greenhouse gases by product in each activity and achievable progress in each activity.
4. The plan shall be consistent with other Community legislative and policy instruments. Account should be taken of unavoidable increases in emissions resulting from new legislative requirements.
5. The plan shall not discriminate between companies or sectors in such a way as to unduly favour certain undertakings or activities in accordance with the requirements of the Treaty, in particular Articles 87 and 88 thereof.
6. The plan shall contain information on the manner in which new entrants will be able to begin participating in the Community scheme in the Member State concerned.
7. The plan may accommodate early action and shall contain information on the manner in which early action is taken into account. Benchmarks derived from reference documents concerning the best available technologies may be employed by Member States in developing their National Allocation Plans, and these benchmarks can incorporate an element of accommodating early action.
8. The plan shall contain information on the manner in which clean technology, including energy efficient technologies, are taken into account.
9. The plan shall include provisions for comments to be expressed by the public, and contain information on the arrangements by which due account will be taken of these comments before a decision on the allocation of allowances is taken.

10. The plan shall contain a list of the installations covered by this Directive with the quantities of allowances intended to be allocated to each.
11. The plan may contain information on the manner in which the existence of competition from countries or entities outside the Union will be taken into account.
12. The plan shall specify the maximum amount of CERs and ERUs which may be used by operators in the Community scheme as a percentage of the allocation of the allowances to each installation. The percentage shall be consistent with the Member State's supplementarity obligations under the Kyoto Protocol and decisions adopted pursuant to the UNFCCC or the Kyoto Protocol.

Annex 3: Key messages from the first allocation guidance document

In January 2004, the Commission provided guidance to assist Member States in the preparation of the national allocation plans[17]. The guidance contained in that document on the implementation of the then eleven[18] criteria in Annex III to the Directive remainsrelevant for the second trading period 2008-2012. The Commission therefore wishes to reiterate the main elements.

Criterion (1) – Kyoto commitments The Commission understands "likely to be needed" as forward-looking and linked to the projected emissions of covered installations as a whole, given that this criterion refers to the total quantity of allowances to be allocated. The Commission understands the reference to the "strict application of the criteria in this annex" to comprise the criteria with a mandatory character or containing mandatory elements - i.e. criteria 1, 2, 3, 4 and 5. In order to satisfy this requirement and fulfil all mandatory criteria and elements, a Member State should not allocate more than is needed, or warranted, by the most constraining of these criteria. It follows that any application of the optional elements of Annex III may not lead to an increase in the total quantity of allowances.
Criterion (2) – Assessments of emissions developments Pursuant to Decision 280/2004/EC concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol , the Commission undertakes an annual assessment of each Member State's actual emissions and projected emissions for the period 2008-2012, in total and by sector and by gas. Criterion 2 requires the total quantity of allowances to be allocated to be consistent with these assessments. Consistency will be deemed as ensured, if the total quantity of allowances to be allocated to covered installations is not more than would be necessary taking into account actual emissions and projected emissions contained in those assessments.
Criterion (3) – Potential to reduce emissions A Member State should determine the total quantity of allowances resulting from the application of criterion 3 by comparing the potential of activities covered by the scheme to reduce emissions with the potential of activities not covered. The criterion will be deemed as fulfilled if the allocation reflects the relative differences in the potential between the total covered and non-covered activities.

[17] Commission Communication COM (2003) 830 final, 7.1.2004.

[18] Directive 2004/156/EC ("the Linking Directive") added a criterion 12 to Annex III to Directive 2003/87/EC.

Criterion (4) – Consistency with other legislation Criterion 4 concerns the relationship between allocations under Directive 2003/87/EC and other Community legislative and policy instruments. Consistency between allowance allocations and other legislation is introduced as a requirement in order to ensure that the allocation does not contravene the provisions of other legislation. In principle, no allowances should be allocated in cases where other legislation implies that covered emissions had or will have to be reduced even without the introduction of the emissions trading scheme. Similarly, consistency implies that if other legislation results in increased emissions or limits the scope for decreasing emissions covered by the Directive account should be taken of this increase.
Criterion (6) – New entrants Under criterion 6, the national allocation plan should contain information on the manner in which new entrants will be able to begin participating in the emissions trading scheme in a Member State. The guidance proposes three ways in which new entrants can begin participating in the emissions trading scheme: by buying allowances in the market, by buying them in an auction, or by receiving them for free from a reserve set aside by the Member State. Having new entrants buy allowances in the market or in an auction is in accordance with the principle of equal treatment.
Criterion (10) – List of installations This criterion will be deemed as fulfilled, if a Member State has respected its obligation to list all the installations covered by the Directive. A Member State has to indicate the total quantity of allowances intended to be allocated to each installation.

Annex 4: Summary of experience gained from allocation plans for the first phase (2005-2007) and general lessons for the second phase (2008-2012)

1. **More use of emissions trading is necessary to meet the Kyoto targets cost-effectively.** Some Member States rely to a large degree on reductions in the non-trading sectors or on government purchase of Kyoto unit credits in the pursuit of their Kyoto targets. The intended government purchase of Kyoto units and the foreseen reduction efforts in the non-trading sectors have served in the first allocation phase as buffers resulting in moderate use of emission trading. In some Member States too much of the reduction effort may have been shifted to the non-trading sectors. Maintaining this imbalance would make Kyoto compliance more costly than necessary. Given that emissions trading is the most cost-effective instrument at hand, it should be used more in the second allocation round and beyond.

2. **Allocations have in general been more restrictive for power generators than other sectors covered by the scheme.** In most Member States, the allocation to the power generating sector, in relation to projected needs, has been more restrictive, i.e. more environmentally ambitious, than the allocations to the other sectors covered by the scheme.

3. **Member States experiencing considerable excess in actual emissions with respect to their Kyoto targets intend to purchase a substantial amount of Kyoto units.** Eight Member States announced in the first phase national allocation plans their intention to purchase with government funds in total some 500 to 600 million Kyoto units. Given the general outlook for Joint Implementation (JI) and Clean Development Mechanism (CDM), the envisaged volume will be very challenging to realise. Furthermore, the Linking Directive will add private-sector demand to government demand for such credits. The Commission considers it as a matter of priority to improve the functioning of these mechanisms.

4. **The non-acceptance of ex-post adjustments is essential for the allowance market development.** The Commission did not approve the so-called ex-post adjustments envisaged by a number of Member States for the first trading period. This plays a vital role in the development of an efficient and liquid allowance market. The good functioning of the allowance market depends crucially on a stable and predictable allocation for the entire trading period in order to create stable incentives for installations to reduce emissions. For compliance purposes, companies can use the full flexibility of the scheme, be it via the allowance market or via company-internal transfers across borders.

5. **Some allocation plans are more complex than necessary and not sufficiently transparent.** In the first national allocation plans, some Member States created a complex set of special allocation rules: all Member States provided for a new entrants reserve and most also for some kind of administrative provision in the case of closure of an installation (i.e. no further allocation of allowances for the remainder of the ongoing trading period once an installation is closed). The design of new entrants and closure rules differs in detail. This contributes to a high degree of complexity and intransparency in the internal market and may result in unnecessary distortions of competition. Member States should consider simplifying all rules which they have added themselves and which are not essential for the functioning of the scheme. Simpler rules will help make national allocations plans more transparent.

Annex 5: Information requested to assess substantiation of intended government purchase of Kyoto units

Member States must substantiate the intended government purchase of Kyoto units and are requested to provide the following information in the national allocation plan:

(1) indicate the amount of Kyoto units planned to be purchased for compliance with the Kyoto target and any changes in this amount compared to the first national allocation plan;

(2) indicate the type of Kyoto units planned to be purchased, along with their respective projected or contracted purchase price;

(3) demonstrate the existence of relevant national legislation and budget allocations;

(4) provide information on the progress to date in realising the planned purchases, in particular the quantity of Kyoto units for which emission reduction purchase contracts have been signed at the time of notification of the second national allocation plan;

(5) indicate the envisaged time schedule of still to be effected purchases;

(6) outline the administrative arrangements put in place for realising the planned purchases, such as national programmes or purchase tenders for purchasing Kyoto units;

(7) indicate details about the contributions of multilateral or private carbon purchase funds and the expected delivery of credits;

(8) demonstrate the existence of contingency measures applicable in the event that planned purchases and signed purchase agreements result in the delivery of a lower than expected amount of Kyoto units.

Annex 6: Information requested to assess substantiation of other policies and measures

Member States must substantiate the effects of implemented and additional policies and measures and are requested to provide the following information in the national allocation plan:

(1) indicate the implemented policies and measures it considers as significant in sectors not covered by the EU ETS. For sectoral framework policies implemented (e.g. rural development plan, waste management plan) the plan has to provide the individual measures included that are considered to lead to greenhouse gas emission reductions. For cross-sectoral policies and measures, the plan has to indicate in which way those measures affect emissions in the trading and non-trading sectors. The information provided has to include the year in which the implementation showed full effect;

(2) indicate additional policies and measures not yet implemented at the time of notification which the Member State considers as significant. The plan has to present information on the status of planning or adoption of relevant legislation, agreements, incentive programmes, etc. and has to address the period for which full additional reduction effects are expected;

(3) indicate the approximate level of current greenhouse gas emissions represented by the activity targeted by each policy or measure and include quantified annual emissions reductions for the period 2008 to 2012 for the policies and measures indicated under the two preceding bullets. If no quantitative estimation of effects is available, the plan should explain why this information could not be provided and should include additional information why the policy or measure is considered to provide significant emission reduction effects;

(4) provide assumptions and methodologies used for the quantification of the effects of indicated policies and measures and provide references to sources for this information;

(5) present quantitative indicators to demonstrate the effectiveness of the policy or measure under the first requirement;

(6) indicate how policies and measures presented under the first two requirements are reflected in the greenhouse gas emissions projections presented in the plan;

(7) indicate any developments and trends of the activities targeted by the policies and measures provided under the first two requirements that could potentially counteract the reduction effects, e.g. increased production capacities or growing trends in consumption patterns;

(8) indicate any overlapping effects among important measures (e.g. effects of cross-sectoral measures and sectoral measures on the same activity) and how such double-counting effects have been eliminated in the estimation of quantitative reduction effects.

Annex 7: Issues related to new entrants and closures

1. The Commission notes that in the first trading period all Member States have set aside allowances for new entrants in a reserve and most adopted some form of closure provisions. The Commission did not raise objections to these administrative provisions and rules to the extent that they were not tantamount to ex-post adjustments.

2. The Commission notes further a multitude of detailed provisions governing new entrants reserves and closures, including transfer rule arrangements, adopted by Member States in the first allocation phase. This contributes to a high degree of complexity and intransparency in the internal market and may result in distortions of competition. At this stage, there is however insufficient practical experience with regard to the practical application of these rules.

3. For this reason, the Commission considers it premature to draw conclusions and identify best practice. In the case of new entrants' reserves and closure and transfer provisions being maintained in the second trading period, the Commission recommends Member States ensure in particular that the new entrants reserve not be replenished upon exhaustion, that allowances not allocated to closed installations be cancelled or auctioned, and that there be no allocation at projected needs to new installations.

4. In the review report in June 2006[19], the Commission will consider alternative options (including the set-up of an EU-level new entrant reserve accompanied by EU-wide administrative rules on closure and cross-border transfer) to achieve further harmonisation with respect to new entrants and closure provisions.

[19] As provided for by Article 30(2) of the Directive

Annex 8: Definition of combustion installation

1. The Commission considers the interpretation including all combustion processes, i.e oxidation of fuels, fulfilling the specified capacity to be the correct interpretation of Annex I of the Directive, for the following notable reasons:

2. Firstly, the term "combustion" is used in a wide range of Community legislation including not only the Emissions Trading Directive and the IPPC-Directive, but also the LCP-Directive20 and the Sulphur in Liquid Fuels-Directive21. The meaning of combustion in the context of the Emissions Trading Directive has to be interpreted within the framework of other Community legislation where definitions are included.

3. The Sulphur in Liquid Fuels-Directive in its Article 2(5) and the LCP-Directive in its Article 2(7) define 'combustion plant' as "any technical apparatus in which fuels are oxidised in order to use the heat thus generated". The LCP-Directive lists in the same Article a range of combustion plants which are specifically excluded from the scope of the LCP-Directive. The Emissions Trading Directive does not provide for such exclusion.22

4. Given that the Emissions Trading Directive makes no similar specific exclusions, the types of combustion installations excluded by Article 2(7) of the LCP-Directive are included within the scope of the Emissions Trading Directive where the threshold is met or exceeded.

5. Further guidance in support of this conclusion comes from Annex I of the Emissions Trading Directive itself. Annex I specifically excludes municipal and hazardous waste incineration facilities from the scope of the scheme. The combustion of e.g. hazardous waste is clearly an integrated part of the normal process undertaken by hazardous waste incinerators. If, in the absence of this specific exclusion, the Directive were to be interpreted as not applying to such installations where combustion takes place as an integrated part of the installation's processes, municipal and hazardous waste installations would not need to have been specifically excluded as they would in any case have fallen outside its scope. Their specific exclusion is further confirmation that it is the presence of a combustion process with a rated thermal input exceeding 20MW that determines the Directive's coverage of stationary combustion installations.

6. It is also commonly accepted that the term "combustion installation" for the purposes of the IPPC-Directive covers not just the power generation industry but also other industries where fuels are burned. Thus the heading "Energy industries" in the context of the IPPC Directive does not imply a narrow restriction of coverage of the

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20 Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants, OJ L 309, 27.11.2001, p. 1.

21 Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels, OJ L 121, 11.05.1999, p. 13.

22 Certain activities that are specifically excluded by the LCP-Directive are also excluded from the Emissions Trading Directive, such as "(h) any technical apparatus used in the propulsion of a vehicle, ship or aircraft" because the Emissions Trading Directive only applies to stationary technical units (Article 3(e)). The Emissions Trading Directive therefore covers neither transportation in general nor greenhouse gas emissions arising from traffic on the site of an installation.

term “combustion installations” to combustion processes that produce energy independently, but rather also includes combustion processes taking place as an integrated part of another production process. The heading “Energy activities” used in the Emissions Trading Directive, if anything, would be broader, so at least the same conclusion would apply. This therefore provides additional support for the argument that “combustion installations” in the Emissions Trading Directive not only covers combustion installations that are part of the energy industry, but also combustion installations in other industry sectors, including sectors that are not explicitly listed in its Annex I.

7. It is well-established that industries can fall under more than one activity category of the IPPC-Directive. Integrated steel works for example carry out several Annex I activities, and refineries include combustion installations of more than 50MW. Considering the similarities between the IPPC-Directive and the Emissions Trading Directive, there is no reason to take a different approach to the interpretation of the latter in this respect. In particular, a different approach cannot be justified by the separate listing of the steel and cement industries, given that both produce substantial CO2 emissions from (chemical) processes in addition to their emissions from combustion.

8. In the light of the above points, any installation, which includes one or more piece of stationary technical apparatus in which a combustion process takes place and that together on the same site and under the responsibility of the same operator has a rated thermal input exceeding 20MW, is therefore subject to the Emissions Trading Directive. This includes apparatus where the heat is used in another piece of apparatus, through a medium such as electricity or steam, and apparatus where the heat resulting from combustion is used directly within that apparatus, for example, for melting, drying, flares or units providing heat input to chemical reactors. The purpose to which the product of an activity is put should not be a determining characteristic as to whether or not an installation is subject to the Directive, as this would introduce subjectivity into its scope. Energy produced by combustion may be in the form of electricity, heat, hot water or steam, and the distance between the production of energy and its eventual use is not relevant for competent authorities to decide whether or not an installation is subject to the Emissions Trading Directive.

Annex 9: Interpretation issues related to the smallest installations

1. The Commission draws Member States' attention to the fact that the so-called aggregation clause[23] contained in the second paragraph of Annex I of the Directive should be interpreted carefully so as to not cover certain small installations, without prejudice to the interpretation of such or similar wording in other Community legislation. In particular, the wording "under the same subheading" contained in this clause should be understood in the sense that a single activity falling simultaneously under several subheadings, e.g. both under "energy activities" and under a specific sectoral activity covered by Annex I of the Directive, such as "mineral industry", is considered under the more specific sectoral subheading. Multiple activities of the same type should then be aggregated on the basis of that specific sectoral subheading, and not on the basis of all of the different possible activity descriptions that could apply. There is no basis for aggregating activities that fall under a different subheading, even though they may be part of the same installation.

2. Furthermore, flexibility at the discretion of Member States comes also from the wording "and/or" in the provision governing the manufacture of ceramic products in Annex I of the Directive. If Member States want to use this flexibility the Commission notes that this provision can be interpreted in a restrictive way so as to require the simultaneous presence of all mentioned sub-elements for the second trading period, again without prejudice to the interpretation of such or similar wording in other Community legislation. In this context, the Commission draws the attention of Member States to the Declaration of the Council and the Commission of 4 September 1996[24] supporting an interpretation of the same wording contained in Annex I of the IPPC-Directive, that it is up to Member States to decide as to whether one of the two criteria or both criteria need to be fulfilled at the same time.

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23 "2. The threshold values given below generally refer to production capacities or outputs. Where one operator carries out several activities falling under the same subheading in the same installation or on the same site, the capacities of such activities are added together."

24 Council Declaration of 4 September 1996 on Directive 96/61/EC of the Council on Integrated Pollution Prevention and Control, 9388/96, Interinstitutional dossier No. 00/0526 (SYN)

Annex 10: Set of NAP common format summary tables

I. NAP summary table – target calculation
(Grey fields are filled out automatically)

Row	Data table no.		Emissions (Mt CO2eq)
A		Target under Kyoto Protocol or Burden Sharing Agreement (avg. annual GHG emissions 2008-12)	
B	**III**	*Total GHG emissions 2003 (excluding LULUCF emissions and removals)*	
C		**Difference +/-** (row A - row B) (negative means need to reduce)	0
D	**III**	*Av. annual projected total GHG emissions 2008-2012 ('with measures' projection)*	
E		**Difference +/-** (row A - row D) (negative means need to reduce)	0
Reduction measures *(where relevant)*			
F	**V**	EU emissions trading scheme	
G	**VI**	Additional policies and measures (other than emissions trading), including LULUCF	
H	**VII**	Government purchase of Kyoto mechanisms	
I		**Total reduction measures** (row F + row G + row H)	0

IIa NAP Summary table – Basic data

(Grey fields are filled out automatically)

			1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
A	**Real GDP**[1] (in billion €2000)	Absolute												
		Trend index 2003=100												
B	**Emissions**[1] (Mt of CO2)	Absolute												
		Trend index 2003=100												
C	**Carbon intensity**[1] (million tonnes CO2 / billion €)	Absolute												
		Trend index 2003=100												

	Year		2002	2003	2004	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	*2011*	*2012*	*Annual average 2008-2012*
A	**Real GDP**[1] (in billion €'2000)	Absolute												
		Trend index 2003=100												
B	**Emissions**[1] (Mt of CO2)	Absolute												
		Trend index 2003=100												
C	**Carbon intensity**[1] (million tonnes CO2 / billion €)	Absolute												
		Trend index 2003=100												

[1] Indicate source(s), separately per year where relevant.

IIb. NAP Summary table – Basic data on electricity sector[1]

(Grey fields are filled out automatically)

	Year	2000	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Average 2008-2012
A	**Total domestic electricity production** (TWh)												
B	**Imports (TWh)**												
	Country 1												
	Country n												
	Other countries												
	Total Imports												
C	**Exports (Twh)**												
	Country 1												
	Country n												
	Other countries												
	Total Exports												
D	**Electricity trade balance** (TWh, total row B - total row C)												
E	**Share of gas in total domestic electricity production** (%)												
F	**Share of oil in total domestic electricity production** (%)												
G	**Share of coal in total domestic electricity production** (%)												
H	**Share of nuclear energy in total domestic electricity production** (%)												
I	**Share of renewable energy, including biomass, in total domestic electricity production** (%)									[2]			

[1] Indicate source(s), separately per year where relevant.

[2] This cell should also include (in parentheses) the target pursuant to Directive 2001/77/EC.

III NAP Summary table – Recent and projected greenhouse gas emissions per common reporting format sector (without taking into account **additional** policies and measures in Table VI)

(Grey fields are filled out automatically)

in CO2eq

Row ref.	CRF subsector			2003	2004	2005	2008	2009	2010	2011	2012	Average annual projected emissions 2008-2012
A	1.A.1	**Energy generation**	GHG									
B			CO2 in ETS									
C	1.A.3	**Transport**	GHG									
D	1.A.4.a + b + c	**Commercial and institutional, Residential, and Agricultural energy use**	GHG									
E			CO2 in ETS									
F	2	**Industrial processes**	GHG									
G			CO2 in ETS									
I	4	**Agriculture**	GHG									
J	5	**Land-Use Change and Forestry**	GHG									
K	6	**Waste**	GHG									
L	1.A.2 + 1.A.4 + 1.A.5 + 1.B + 3 + 7	**All other sectors**	GHG									
M			CO2 in ETS									
N		**Total**	GHG									
O		**Total in ETS**	$ETSCO_2$	Rows B + E + G + M								

IV NAP Summary table – Recent and projected CO_2 emissions in sectors covered by the EU emissions trading scheme

(Grey fields are filled out automatically)

	Emissions in Mt CO_2eq	i	ii	iii	iv	v	vi	vii	viii	ix	x	xi
	Year	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**Average annual projected emissions 2008 – 2012***
A	**combustion installations total (excluding installations covered under rows B-J)**											
	main activity 1											
	main activity 2											
	flaring											
	integrated steelworks											
	crackers											
	furnaces											
	main activity n											
B	**mineral oil refineries**											
C	**coke ovens**											
D	**metal ore roasting, sintering, pig iron and steel producing installations**											
E	**cement producing installations**											
F	**lime producing installations**											
G	**glass and glass fibre producing installations**											
H	**ceramics producing installations**											
I	**pulp, paper and board producing installations**											
J	**Total**		Rows A to J									
K	**Share of EU ETS CO_2 in total GHG emissions** (%)		Row L / Row B in Table Iia									

* Numbers to be used in last two columns of Table V.

V NAP Summary table – Proposed allocation in relation to first period allocation (without additional policies and measures) in the sectors covered by the EU emissions trading scheme

(Grey fields are filled out automatically)

		i	ii	iii	iv	v
		2003 actual CO_2 emissions (Mt CO_2)[1]	**2004 actual CO_2 emissions** (Mt CO_2)	**Average annual allocation 2005 - 2007**	**Proposed average annual allocation in 2008-2012**	**Proposed ETS allocation as a percentage of first period ETS**
A	**combustion installations total (excluding installations covered under rows B-J)**					col iv / col iii
	main activity 1					
	main activity 2					
	flaring					
	integrated steelworks					
	crackers					
	furnaces					
	main activity n					
B	**mineral oil refineries**					
C	**coke ovens**					
D	**metal ore roasting, sintering, pig iron and steel producing installations**					
F	**cement producing installations**					
G	**lime producing installations**					
H	**glass and glass fibre producing installations**					
I	**ceramics producing installations**					
J	**pulp, paper and board producing installations**					
L	**Total**					

VI NAP Summary table – Reductions expected by policies and measures other than the EU emissions trading scheme and which have not been taken into account for the "with measures" projection presented in Table III (Mt CO_2eq)

		i	ii	iii	iv	v	vi	vii	viii	ix
	Measures	Under implementation (1)			Adopted (2)			Planned (3)		
		Expected average annual reduction (2008-12)		**Full effects expected as from year**	**Expected average annual reduction (2008-12)**		**Full effects expected as from year**	**Expected average annual reduction (2008-12)**		**Full effects expected as from year**
		In ETS sectors	**In non-ETS sectors**		**In ETS sectors**	**In non-ETS sectors**		**In ETS sectors**	**In non-ETS sectors**	
A										
B										
C										
D										
E										
F										
G										
H										
I										
…										
X	**Subtotal**									
	Total	equal to row G in Table I								

[1] where the full or a substantial part of the effects can be expected, not the first year of implementation.

[2] The measure has been adopted by the final instance at the relevant local, regional or national level, but it is not yet implemented

[3] The measure is at least mentioned in a formal government document

VII

NAP Summary table – Government's planned use of Kyoto units (Mt CO_2eq) and status of implementation

(Grey fields are filled out automatically)

			ERUs	CERs	AAUs and others	Total
A	**Planned purchase**	**Total 2008-2012**				
B		**Annual average**				Σ (equal to row H on table I)
C	**Quantity of units already paid for**					
D	**Quantity of units contracted, but yet unpaid (delivery pending start of UN ITL)** (1)					
E	**Neither bought nor contracted by date of notification (A - C - D)**					
F	**Full budget appropriated to first commitment period (2008-12)**	**Currently available for 2006**				
G		**Committed for the future**				
H	**Implied future price ((F+G)/A)**					

(1) Units partially paid for should be proportionally distributed between lines C and D

VIII

NAP Summary table – Details on new entrants, closures and auctioning

Issues with respect to new entrants	**Description of NAP provisions**
Does the plan contain a new entrants' reserve?	
What is its size in absolute terms and as a percentage of the total quantity of allowances for the period?	
What use is made of allowances left over in the reserve at the end of the trading period? (cancellation, sold)	
How will new entrants be treated in case the reserve runs out of allowances before the end of the trading period? (reserve replenished, further new entrants buy in the market)	
Does the allocation to the new entrant depend on the actual choice of fuel?	
Does the allocation to the new entrant depend on the actual choice of technology?	
Does the allocation to the new entrant depend on the estimated or actual number of operating hours or does the allocation use a standard number of operating hours?	
Auctioning	
Will any allowances be auctioned?	
What share of the total quantity of allowances will be auctioned?	
Who can participate in the auction?	
What auctioning method will be used?	
When/at what intervals will the auction(s) be held?	
What quantity of allowances will be auctioned each time?	
What use will be made of the revenues?	
Will the auctions be coordinated with any auctions in other Member States?	
Closures	
Do operators have to report to the competent authority when an installation closes, and on what conditions is an installation considered to be closed?	
Does the operator continue to be issued allowances for a closed installation in the remaining years of the trading period? If the reply depends on whether the operator sets up a new entrant installation replacing the closed installation, please briefly describe the provision.	
What happens to any allowances that were intended for an installation, which will not receive them after closure? (cancellation, fed into a new entrants' reserve, auctioning)	

IX

NAP Summary table – Further details on selected new entrants

	Power plant with a rated thermal input exceeding 20 MW	**Power plant with a rated thermal input exceeding 20 MW**
Maximum capacity of the actual installation	(At least 100 MW)	(At least 100 MW)
Fuel (s) used	Coal	Gas
Forecast number of operating hours/year in the period 2008 to 2012		
Annual allowance allocation in 2008 to 2012		

X

NAP Summary table - Important assumptions on annual averages

Year	EU Allo-wance price (in Euro)	Crude oil price (Brent) (1)	Natural gas price (1)	Coal price (1)	Exchange rate (2)	Other
2005						
2006						
2007						
2008						
2009						
2010						
2011						
2012						

(1) Use common market standard and specify, including the currency used; indicate in detail sources of data and methodologies
(2) For those Member States outside the Euro-zone

Explanatory comments on NAP Common Format summary tables

Note: Grey fields are filled in automatically when using the Excel spreadsheets.

Table I: NAP summary table – target calculation

General description:

The purpose of this table is to provide an overview of key data relevant for NAP assessment. The gap (row C) between the Kyoto target (row A) and actual greenhouse gas emissions in 2003 (row B) is presented with necessary corresponding reduction measures (quantified in the fourth column of rows F-H, and totalled in row I). The gap is also expressed as the difference between the Kyoto target (row A) and the projected annual average total greenhouse gas emissions from 2008-2012 (row D). This figure is indicated in row E.

Specific remarks:

The second column makes a cross-reference to other data tables.

The fourth column refers to emissions or effects on emissions from measures recorded in the third column.

All rows with the exception of rows B and C contain annual averages relating to the second trading period 2008 to 2012.

Table IIa: NAP Summary table – Basic data

General description:

Table IIa gives an overview of historic and expected trends in various factors crucial to the calculation of a Member State's potential to reduce emissions: namely, real GDP (row A), greenhouse gas emissions (row B) and carbon intensity (row C).

All three factors are expressed both in absolute numbers and in a trend index, with 2003 being the base year (2003=100).

Specific remarks:

In order to have a complete picture, the Commission invites Member States to provide annual data from 1990 to 2012. While re-stating some date in the public domain, Table IIa is of added value as an integral part of the NAP ensuring transparency and easy access to this information for stakeholders and other Member States.

Member States are required to indicate the sources of the information used, separately per year where relevant.

For the period 2008 to 2012, the Commission prefers annual data to better understand the development of these figures over time. In case a Member State can justify why such annual data are not available, the Commission would also accept the submission of only annual averages for the period 2008 to 2012, to be indicated in the respective column.

Table IIb: NAP Summary table – Basic data on electricity sector

General description:

Table IIb indicates the basic data for the electricity sector. The purpose is to obtain a comprehensive picture of total domestic electricity production (row A), imports (row B) and exports (row C), the electricity trade balance (row D, constituting the difference between rows B and C) as well as the shares of different fuels (gas, oil, coal, nuclear energy, and renewable energy) in total domestic electricity production (rows E-I).

Specific remarks:

Imports and exports (rows B and C) need to be disaggregated into the most important countries to/from which the export/import takes place, as well as a row with the remainder to other countries, and the total figure. These figures will allow the Commission to cross-check the plausibility of indications by individual Member States of their respective exports and imports, which would naturally need to be compatible with each other.

Member States are required to indicate the sources of the information used (separately per year where relevant) and are encouraged to provide annual data also for the period 2008 to 2012.

If a Member State can justify why such annual data are not available, the Commission requires explanation and at least the submission of data for a recent year and annual averages for the period 2008 to 2012. Similarly, Member States should provide data on the fuel mix as accurately as possible.

Naturally, the future fuel mix will depend on estimates, amongst others, of the allowance price. Member States are requested to indicate their respective estimates in the explanations in the NAP and also in Table X.

Member States should introduce also the target pursuant to Directive 2001/77/EC in Table 2b for the year 2010.

Table III: NAP Summary table – Recent and projected greenhouse gas emissions per common reporting format sector (without taking into account additional policies and measures in Table VI)

General description:

Table III relates recent and projected greenhouse gas emissions per common reporting format sector, as further specified by the numbers for the respective sub-sectors in the second column. Where indicated, the emissions should be indicated for total greenhouse gases and CO_2 in the EU ETS.

The Commission recognises the technical difficulty to complete this table but stresses the importance of bringing together the categories in the UNFCCC-based common reporting format with the categories under EU ETS reporting.

Specific remarks:

The second column indicates the sub-sectoral reference under the Common Reporting Format (CRF).

The Commission recognises that some Member States may not have all the data available to complete Table III. If a Member State can justify why such annual or sectoral data is not available, the Commission requires at least the submission of data for a recent year and annual averages for the period 2008 to 2012 for as many sectors as possible, as well as aggregate figures (total and total in ETS).

CO_2 emissions in the ETS sector depend on estimates, amongst others, on the allowance price. Member States are requested to indicate their respective estimates in the explanations in the NAP and also in Table X.

Table IV: NAP Summary table – Recent and projected CO_2 emissions in sectors covered by the EU emissions trading scheme

General description:

Table IV looks more specifically at the recent and projected CO_2 emissions by installation or sector covered by the EU ETS, relating them to the activities mentioned in Annex I of the Directive. Certain activities have been aggregated where separate information is likely not to be available or necessary for the Commission's assessment.

Specific remarks:

Emissions from combustion installations shall be calculated without emissions from installations also covered under the specific sectors of Annex I of the Directive being indicated in rows B-J. As a matter of example, where a combustion installation is also covered by the category "installations for the production of cement clinker …" under the subheading "mineral industry" of Annex I of the Directive, emissions from that installation should fall under the entry "cement producing installations" in row E of Table IV, and should be omitted from row A "combustion installations". Moreover, emissions from these combustion installations shall be disaggregated into the most important activities to be identified by each Member State, including flaring, integrated steelworks, crackers and furnaces.

For the period 2008 to 2012, the Commission prefers annual data to better understand the development of all sectors. Where a Member State can justify the absence of such annual data for certain sectors, the Commission requires at least the submission of data for a recent year and annual averages for the period 2008 to 2012 in as many sectors as possible. If a Member State can show this to be appropriate, certain sectors may be (dis-)aggregated; in particular coke ovens (row C) with metal ore roasting, sintering, pig iron and steel producing installations (row D). Where such data are not available on an annual basis, the Commission requires a justification and at least the submission of data for a recent year as well as annual averages for the period 2008 to 2012 for as many sectors as possible, as well as aggregate figures (total and total in ETS).

The amount entered in row J, column XI correlates to Table III, row O, last column. The amount entered in row K, column XI correlates to Table III, row N, last column.

Table V: NAP Summary table – Proposed allocation in relation to first period allocation (without additional policies and measures) in the sectors covered by the EU emissions trading scheme

General description:

For installations or sectors covered by the EU ETS, Table V indicates 2003 and 2004 actual emissions (columns i and ii) as well as the proposed second period allocation in relation to first trading period allocation (columns iii and iv). Column v indicates the proposed second period allocation as a percentage of the first period allocation. The same sectoral specification is used as in Table IV.

Specific remarks:

Emissions from combustion installations shall be calculated without emissions from installations covered also under the specific sectors of Annex I of the Directive being indicated in rows B-J. As a matter of example, where a combustion installation is also covered by the category "installations for the production of cement clinker …" under the subheading "mineral industry" of Annex I of the Directive, emissions from that installation should fall under the entry "cement producing installations" in row E of Table IV, and should be omitted from row A "combustion installations". Moreover, emissions from these combustion installations shall be disaggregated into the most important activities to be identified by each Member State, including flaring, integrated steelworks, crackers and furnaces.

For the period 2008 to 2012, the Commission prefers annual data to better understand the development of all sectors. Where a Member State can justify why such annual data is not available for all sectors, the Commission requires at least the submission of data for a recent year and annual averages for the period 2008 to 2012 in as many sectors as possible, as well as aggregate figures (total and total in ETS). If a Member State can show it to be appropriate, certain sectors may be (dis-)aggregated; in particular coke ovens (row C) with metal ore roasting, sintering, pig iron and steel producing installations (row D).

Table VI: NAP Summary table – Reductions expected by policies and measures other than the EU emissions trading scheme and which have not been taken into account for the "with measures" projection presented in Table III (Mt CO_2eq)

General description:

Table VI gives account of greenhouse gas emissions reductions expected by policies and measures other than the EU ETS, which have not been taken into account for the "with measures" projection presented in Table III.

It classifies such measures into three categories: "under implementation" (columns i-iii), "adopted" (columns iv-vi), and "planned" (columns vii-ix).

"Under implementation" means that the implementation is ongoing, and that the measure is not taken into account for the "with measures" projections presented in Table III.

"Adopted" means that the measure has been adopted by the final instance at the relevant local, regional or national level, but it is not yet implemented.

"Planned" means that the measure is at least mentioned in a formal government document, but not adopted.

Each of these three categories is again subdivided into three columns: the expected average annual reduction (2008-12), on the one hand, in ETS sectors (columns i, iv and vii), and, on the other hand, in non-ETS sectors (columns ii, v and viii). The third sub-column (iii, vi and ix, respectively) indicates the year, in which the full or a substantial part of the effects of the respective measure can be expected (not necessarily the first year of implementation).

The rows shall contain the measures to be specified in the second column.

Specific remarks:

The Commission recognises that for some measures the disaggregation of the expected reductions into those occurring outside and inside the ETS presents a technical difficulty. It is however an important element for the Commission's assessment.

Table VII: NAP Summary table – Government's planned use of Kyoto units (Mt CO_2eq) and status of implementation

General description:

Table VII gives a detailed overview on the government's planned use of Kyoto units and the status of their implementation.

It subdivides the Kyoto units into ERUs from JI projects, CERs from CDM projects, and AAUs and other units from international emissions trading. The last column indicates the total of the three types combined.

The status of implementation is presented in the rows, as follows.

Rows A and B indicate the sum across the various degrees of implementation, with row A giving the total amount in the period 2008 to 2012 and row B the annual average in that period per type of Kyoto unit and as a total. The total annual average across all three forms of Kyoto units is equal to row H of Table I.

Row C indicates the most advanced degree of implementation, i.e. the quantity of units already paid for.

Row D gives a lesser degree of implementation, which is the quantity of units contracted, but yet unpaid (delivery pending start of UN ITL). Units partially paid for should be proportionally distributed between rows C and D.

Row E relates to the quantity with the lowest degree of implementation, i.e. the units neither bought nor contracted by the date of notification (Row E = Row A – Row C – Row D).

Rows F and G give additional information on the full budget appropriated to the first commitment period (2008-12), both the one currently available for 2006 (row F) and the one committed up to 2012 (row G).

Row H indicates the implied future price of Kyoto units, which is the sum of rows F and G, divided by the total planned purchase in row A.

Specific remarks:

The Commission prefers Member States to specify the breakdown into ERUs, CERs, and AAUs and others. In case a Member State can justify why such a breakdown is not feasible, the Commission requires at least the submission of separate figures for ERUs and CERs on the one hand and AAUs and others on the other hand.

Table VIII: NAP Summary table – Details on new entrants, closures and auctioning

Table VIII contains various questions relating to important information on new entrants, auctioning and closures. The questions should be self-explanatory.

Table IX: NAP Summary table – Further details on new entrants

Table IX asks for further details on a selected new entrant, e.g. a power plant with a rated thermal input of 100 MW.

In one scenario (second column) the fuel used is coal, while in the other (third column) it is gas.

Member States are then requested to fill in row 4 (forecast number of operating hours/year in the period 2008 to 2012), where such a forecast is relevant for the allocation under the new entrants rule of the Member State, and row 5 (annual allowance allocation in 2008 to 2012).

This information will allow the Commission to better assess the standards used in the allocation to new entrants and at the same time provide for more transparency.

Table X: NAP Summary table – Important assumptions on annual averages

In Table X, Member States are requested to quantify for the years 2005-12 their key assumptions on annual average figures underlying the establishment of the NAP, in particular for:

- the EU allowance price (in Euro);
- the price for crude oil (Brent);
- the price for natural gas;
- the coal price; and
- the exchange rate (for those Member States outside the Euro-zone).

Member States should use and specify common market standards for fuel prices, including the currency used. They should indicate in detail sources of data and methodologies. This information is necessary in order to ensure comparability of data and transparency.

Member States are invited to indicate further assumptions considered important and useful for the Commission's assessment.