KOMISIA EURÓPSKYCH SPOLOČENSTIEV

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OZNÁMENIE KOMISIE

„Ďalšie pokyny k plánom prideľovania kvót na obdobie obchodovania 2008 až 2012 systému obchodovania s emisnými kvótami EÚ“

OZNÁMENIE KOMISIE

„Ďalšie pokyny k plánom prideľovania kvót na obdobie obchodovania 2008 až 2012 systému obchodovania s emisnými kvótami EÚ“

(Text s významom pre EHP)

1. ÚVOD

1. Toto oznámenie obsahuje pokyny pre členské štáty na vypracovanie vnútroštátnych plánov prideľovania kvót na druhé obdobie obchodovania (2008 až 2012). Toto oznámenie nie je súčasťou prebiehajúceho preskúmania smernice o obchodovaní s emisnými kvótami[1] (ďalej len „smernica“), v rámci ktorého Komisia vypracuje v júni 2006 správu pre Európsky parlament a Radu vrátane, podľa potreby, návrhov na zlepšenie fungovania systému obchodovania s emisnými kvótami EÚ (ďalej len „EÚ ETS“). Pri príprave tohto preskúmania Komisia ocení údaje získané od zainteresovaných strán k širokej škále otázok týkajúcich sa fungovania a vplyvu EÚ ETS.

2. Tieto pokyny dopĺňajú pokyny Komisie zo 7. januára 2004[2] na vykonávanie kritérií uvedených v prílohe III k smernici. Predchádzajúce pokyny obsahujú najmä technickú analýzu interpretácie a vzájomné pôsobenie rôznych kritérií prílohy III a vysvetľujú ich úlohu pri hodnotení plánov prideľovania kvót Komisiou. Hlavné myšlienky prvého dokumentu s pokynmi sú zhrnuté v prílohe 3.

3. Komisia považuje za nevyhnutné poskytnúť dodatočné pokyny na dôsledné zapracovanie poznatkov získaných z prvej fázy prideľovania kvót. Upozorňuje, že všeobecná povaha kritérií uvedených v prílohe III k smernici ponecháva priestor na ich vykonávanie a stotožňuje sa s názorom členských štátov a mnohých zainteresovaných strán, že na zabezpečenie súdržnejších plánov prideľovania kvót pre druhé obdobie obchodovania sú potrebné ďalšie pokyny[3].

4. Členské štáty a zainteresované subjekty tiež zdôrazňujú udelenie priority pre väčšiu harmonizáciu pravidiel prideľovania kvót. Komisia považuje za nutné dosiahnuť v druhom období obchodovania vyššiu súdržnosť, ak to dovolí rozdielny vývoj v členských štátoch pri dosahovaní ich individuálnych cieľov v zmysle Kjótskeho protokolu. Okrem toho je ďalšia harmonizácia žiaduca po roku 2012. Komisia bude

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[1] Smernica Európskeho parlamentu a Rady 2003/87/ES z 13. októbra 2003 o vytvorení systému obchodovania s emisnými kvótami skleníkových plynov v Spoločenstve, a ktorou sa mení a dopĺňa smernica Rady 96/61/ES, Ú. v. EÚ L 275, 25.10.2003 s. 32 – 46, zmenená a doplnená smernicou Európskeho parlamentu a Rady 2004/101/ES z 27. októbra 2004, ktorou sa mení a dopĺňa smernica 2003/87/ES o vytvorení systému obchodovania s kvótami emisií skleníkových plynov v rámci Spoločenstva s ohľadom na projektové mechanizmy Kjótskeho protokolu, Ú. v. EÚ L 338/18, 13.11.2004, s. 18.

[2] KOM(2003) 830,konečné znenie.

[3] Rada vyzvala 1. decembra 2005 Komisiu, aby vyvinula maximálnu snahu na dostatočne skoré zabezpečenie pokynov pre prípravu na druhé vnútroštátne plány prideľovania kvót.

skúmať tieto záležitosti v súvislosti so strategickým preskúmaním EÚ ETS. Na základe tohto preskúmania príde podľa potreby s návrhmi na zlepšenie fungovania systému a súčasne bude chrániť stabilitu regulácie.

5. Komisia nalieha na členské štáty, aby sa snažili vypracovať jednoduchšie plány pre druhé obdobie obchodovania. Jednoduché plány prideľovania kvót podporujú lepšie chápanie nástroja zainteresovanými subjektmi a zvyšujú aj transparentnosť a predvídateľnosť. Členské štáty by sa mali usilovať, aby druhé vnútroštátne plány prideľovania kvót boli čo najjednoduchšie, najmä v súvislosti s metódami prideľovania kvót a pravidlami pre nových účastníkov na trhu a pre odstávky zariadení. Členské štáty by mali kriticky hodnotiť nutnosť a efektívnosť pravidiel uplatňovaných v prvom kole vnútroštátnych plánov prideľovania kvót a ponechať len tie, ktoré sa považujú za absolútne podstatné.

6. Na ďalšie zlepšenie transparentnosti plánov Komisia vypracovala a pripojila súbor tabuliek[4], v ktorých sú štandardizovane zhrnuté niektoré základné informácie nachádzajúce sa v vnútroštátnom pláne prideľovania kvót. Komisia považuje tieto tabuľky za neoddeliteľnú súčasť druhého kola vnútroštátnych plánov prideľovania kvót a očakáva, že členské štáty ich budú využívať. Ďalej nalieha, aby členské štáty pokračovali vo využívaní spoločného formátu[5] vypracovaného pre prvé plány prideľovania kvót, a tak ako v prvej fáze, bude zabezpečovať úplne jednotné hodnotenie všetkých plánov.

2. SÚHRN SKÚSENOSTÍ ZÍSKANÝCH Z PLÁNOV PRIDEĽOVANIA KVÓT PRE PRVÚ FÁZU (2005 - 2007) A VŠEOBECNÝCH POZNATKOV PRE DRUHÚ FÁZU (2008 - 2012)

7. Prvá fáza procesu prideľovania kvót trvala približne 15 mesiacov, od konečného termínu pre oznámenie dňa 31. marca 2004 po posledné rozhodnutie Komisie dňa 20. júna 2005, čo bolo omnoho dlhšie ako sa stanovilo v smernici. Proces schvaľovania zasahoval výrazne do prvého obdobia obchodovania, ktoré začalo 1. januára 2005. Neskoré oznamovanie, schvaľovanie a finalizácia niektorých plánov na vnútroštátnej úrovni vniesli neistotu nielen pre príslušné vnútroštátne orgány a podnikateľskú sféru, ale aj pre aktérov na trhu s kvótami v Európe. To vyzdvihuje dôležitosť včasného oznámenia úplných vnútroštátnych plánov prideľovania kvót pre druhú fázu prideľovania kvót. Komisia sa domnieva, že trojmesačné obdobie stanovené v článku 9 ods. 3 môže začať, až keď sa predloží úplný vnútroštátny plán prideľovania kvót. Preto pripomína členským štátom ich povinnosť dodržať konečný termín 30. jún 2006, aby mohla dokončiť druhý proces prideľovania kvót vrátane následného konečného rozhodnutia o vnútroštátnom pláne prideľovania kvót dostatočne skoro pred začiatkom druhého obdobia obchodovania dňa 1. januára 2008. Komisia nebude akceptovať zmeny a doplnenia vnútroštátnych plánov prideľovania kvót oznámené po konečnom termíne 31. december 2006 stanovenom v článku 11 ods. 2 smernice, iné ako zmeny a doplnenia vyžadované príslušným rozhodnutím Komisie o vnútroštátnom pláne prideľovania kvót.

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4 Pozri prílohu 10.

5 KOM(2003) 830, konečné znenie, s. 25 - 29.

8. Komisia, ktorá prvú fázu považuje za obdobie učenia sa, vyhodnotila plány prideľovania kvót prvého obdobia pragmaticky. Z prvého procesu prideľovania kvót vyplynuli niektoré dôležité znaky zhrnuté nižšie, ktoré viedli k zbližovaniu rozhodnutí a prístupov v členských štátoch (podrobnejšie údaje pozri v prílohe 4):

– Na efektívne splnenie kjótskych cieľov z hľadiska nákladov je potrebné intenzívnejšie využívanie obchodovania s emisnými kvótami.

– Prideľovanie kvót bolo vo všeobecnosti reštriktívnejšie pre výrobcov energie ako pre ostatné sektory patriace do systému.

– Členské štáty, ktoré dosahujú výrazný prebytok skutočných emisií vo vzťahu k ich kjótskym cieľom, zamýšľajú nakúpiť významné množstvo kjótskych jednotiek.

– Pre rozvoj trhu s kvótami je dôležité neakceptovať zmeny ex post.

– Niektoré plány prideľovania kvót sú zložitejšie ako je nutné a nie sú dostatočne transparentné.

3. ĎALŠIE POKYNY K VYBRANÝM PROBLÉMOM PRE VNÚTROŠTÁTNE PLÁNY PRIDEĽOVANIA KVÓT DRUHÉHO OBDOBIA

3.1. Pokrok pri dosahovaní kjótskych cieľov

9. Komisia v správe o pokroku z roku 2005[6] zhodnotila pokrok členských štátov pri dosahovaní kjótskych cieľov. Pri porovnaní skutočných emisií v roku 2003 s povolenými emisiami v období 2008 až 2012 má významné množstvo členských štátov deficity, ktoré je potrebné odstrániť, niektoré výrazne veľké. V súčasnosti sa zdá, že najmä Rakúsko, Belgicko, Dánsko, Fínsko, Nemecko, Írsko, Taliansko, Luxembursko, Holandsko, Portugalsko, Slovinsko a Španielsko nie sú na najlepšej ceste k splneniu svojich kjótskych cieľov. Tieto členské štáty musia počas druhého obdobia obchodovania vykonať viac pre dodržanie kjótskych cieľov, čo však neznamená, že ďalšie opatrenia nie sú potrebné rovnako v ostatných členských štátoch. Keďže deficity pravdepodobne nemožno vyrovnať *len* požadovaním znížení emisií v sektore neobchodujúcom s emisnými kvótami alebo spoliehaním sa na nákup kjótskych jednotiek, je potrebné intenzívnejšie využívať EÚ ETS, aby sa plnšie využil potenciál obchodovania s emisnými kvótami.

3.2. Určovanie vnútroštátnych stropov

10. Podľa kritéria 3 prílohy III (pre kritériá prílohy III k smernici pozri prílohu 2 pripojenú k tomuto dokumentu) množstvo kvót musí byť v súlade s potenciálom, vrátane technického potenciálu, činností, na ktoré sa vzťahuje systém na znižovanie emisií. To znamená, že súhrn príslušného ekonomického a technického potenciálu znižovania emisií určuje horný limit stropu na vnútroštátnej úrovni.

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[6] Správa Komisie o pokroku pri dosahovaní kjótskeho cieľa pre Spoločenstvo z 15. decembra 2005, KOM(2005) 655.

11. Dvoma najdôležitejšími faktormi, ktoré ovplyvňujú trendy emisií, sú hospodársky rast (rast HDP) (vyšší rast vedie k vyšším emisiám) a intenzita oxidov uhlíka (emisie na jednotku HDP, keďže zníženie intenzity oxidov uhlíka znižuje emisie). V zásade čím rýchlejšie hospodárstvo rastie, tým rýchlejšie sa zavádzajú nové technológie a rýchlejšie sa obnovuje základné imanie, v dôsledku čoho sa zlepšuje produktivita a intenzita oxidov uhlíka. K tomuto efektu ďalej prispelo zvýšenie podielu terciárneho sektora a súbežný pokles sekundárneho sektora zaznamenaný v európskych hospodárstvach. Zavedenie EÚ ETS a celoeurópskej ceny oxidov uhlíka v sektore obchodovania s emisnými kvótami bude stimulovať ďalšie zníženia intenzity oxidov uhlíka.

12. V minulosti (v období 1990 až 2000) boli zníženia intenzity oxidov uhlíka v rovnováhe s hospodárskym rastom alebo dokonca ešte vyššie, čo znamená, že emisie skleníkových plynov zostali stabilné alebo klesli. Z nasledujúcej tabuľky vyplýva, že tento trend by mal zostať stabilný počas tohto desaťročia (2000 až 2010). Je potrebné zdôrazniť, že odhady na obdobie 2000 až 2010 nezohľadňujú stimuly vytvorené prvou fázou EÚ ETS a možno ich preto s veľkou pravdepodobnosťou považovať za podhodnocujúce skutočné zníženie intenzity oxidov uhlíka počas tohto obdobia.

Tabuľka A: Minulé a odhadované miery rastu HDP a trendy intenzity oxidov uhlíka[7]:

	Ročný rast HDP v %	Ročné zlepšenie intenzity oxidov uhlíka* v %	**Súhrnný čistý vplyv na ročný trend emisií v %**
Skutočný vývoj v rokoch 1990 až 2000			
EÚ25	2,0	2,3	**-0,3**
EÚ15	2,0	1,9	**0,1**
Nové členské štáty	1,7	3,9	**-2,2**
Odhadovaný vývoj v rokoch 2000 až 2010			
EÚ25	*2,5*	*2,2*	***0,3***
EÚ15	*2,4*	*2,1*	***0,3***
Nové členské štáty	*3,8*	*3,6*	***0,2***

Poznámka: * Intenzita oxidov uhlíka vyjadruje vzťah medzi emisiou CO_2 a HDP.

13. Komisia pri analýze hospodárskeho a technického potenciálu znižovať emisie skúma tempo rastu HDP za rok a mieru zníženia intenzity oxidov uhlíka. Spojením vplyvu týchto dvoch faktorov sa získa miera ročného potenciálu znižovať emisie. Ak začneme skutočnými emisiami v príslušnom roku (napr. v roku 2003), pri

[7] Zdroj: Európska komisia, Generálne riaditeľstvo pre energetiku a dopravu, Trendy európskej energetiky a dopravy do roku 2030, dodatok 2, január 2003, pozri internetovú stránku: http://europa.eu.int/comm/dgs/energy_transport/figures/trends_2030/index_en.htm

predpoklade, že obchodný sektor má stály podiel na emisiách a podobný potenciál znižovať emisie ako celé hospodárstvo, možno odvodiť orientačný strop, ktorý je v súlade s kritériom 3 prílohy III.

14. Strop pre prvú fázu je preto východiskovým bodom pri určovaní a hodnotení celkového množstva pre druhú fázu na úrovni EÚ, ako aj na úrovni členského štátu. V dôsledku kritéria 1 musia niektoré členské štáty znížiť strop prvého obdobia, aby splnili kjótsky cieľ. Ostatné členské štáty musia dodržať svoje stropy prvej fázy, aby zosúladili plán s potenciálom zníženia emisií (kritérium 3). V súlade s tým by priemerný ročný strop systému obchodovania s emisnými kvótami pre celú EÚ mal byť nižší ako strop prvej fázy.

15. Mnoho členských štátov má deficit medzi svojimi skutočnými emisiami za rok 2003 a povolenými emisiami podľa kjótskeho cieľa, ktorý musí odstrániť. Celkový deficit týchto členských štátov je 296,5 miliónov ton emisií ekvivalentných CO_2. Toto číslo preto predstavuje prebytočné emisie, ktoré tieto členské štáty ešte potrebujú znížiť použitím nástrojov, ktoré majú k dispozícii na zabezpečenie súladu s kjótskymi cieľmi.

16. Členské štáty s deficitom voči dosiahnutiu kjótskeho cieľa by sa mali usilovať o vyvážené zloženie (i) znižovania prideľovania kvót pre druhú fázu a (ii) realizácie dodatočných opatrení v neobchodujúcom sektore, prípadne doplnených (iii) nákupom kjótskych jednotkových kreditov vládou. Vyváženým zložením sa dosiahne vyššia praktická realizovateľnosť a ekonomická efektívnosť znížení.

17. V tabuľke v prílohe I sa uvádza podiel sektora obchodujúceho s emisnými kvótami vyjadrený ako kvóta pridelená pre prvú fázu v porovnaní so skutočnými emisiami v roku 2003. Tento podiel dosahuje na úrovni EÚ približne 45 %. Ak by mal sektor obchodujúci s emisnými kvótami prispieť pomerným dielom k zníženiu v členských štátoch, ktoré musia vyrovnať deficit, celková kvóta pridelená pre druhé obdobie v EÚ-25 by bola o 6 % nižšia ako kvóta prvého obdobia, čo by znamenalo priemerný ročný prídel 2 063 miliard kvót. Na dosiahnutie kjótskych cieľov by zníženie o menej ako 6 % znamenalo väčšie úsilie v sektore neobchodujúcom s emisnými kvótami.

3.3. Zdôvodnenie plánovaného nákupu kjótskych jednotiek vládou

18. Členské štáty stoja vzhľadom na stav rozvoja trhu a obmedzenia ponuky kjótskych jednotiek pred náročnou úlohou realizovať objem plánovaných nákupov. Rozhodnutie členského štátu nakúpiť kjótske jednotky z verejných zdrojov uľahčuje (tak ako nákup spoločnosťami v súlade s podmienkami spojovacej smernice) potrebu znížení vnútroštátnych emisií.

19. Z uvedených dôvodov je zdôvodnenie plánovaného nákupu kjótskych jednotiek vládou rozhodujúce pre dosiahnutie súladu vnútroštátneho plánu prideľovania kvót s kritériom 1 prílohy III. Toto bol preto dôležitý prvok už pri hodnotení plánov prvého obdobia. Viaceré členské štáty nezdôvodnili v plnej miere plánovaný nákup vo vnútroštátnych plánoch prideľovania kót prvého obdobia a niektoré stropy boli podľa toho znížené. Každý členský štát, ktorý uplatňuje nákup kjótskych jednotiek vládou, preto potrebuje dôkladnejšie zdôvodniť zámery a preukázať pokrok pri realizácii týchto nákupov, aj keď to už bolo uvedené vo vnútroštátnom pláne prideľovania kvót

prvého kola. Komisia bude zakladať svoje hodnotenie na kumulatívnych kritériách uvedených v prílohe 5 a bude hodnotiť tieto aspekty prísnejšie. Ak členský štát nesplní úspešne úplný súbor kritérií, Komisia bude vyžadovať pomerné zníženie navrhovaného stropu.

3.4. Zdôvodnenie ostatných politík a opatrení

20. Zdôvodnenie vplyvu zavedených a dodatočných politík a opatrení členskými štátmi je rozhodujúce z hľadiska dosiahnutia súladu vnútroštátneho plánu prideľovania kvót s kritériom 1 prílohy III k smernici. Vo vnútroštátnych plánoch prideľovania kvót prvého obdobia členské štáty uviedli mnoho súčasných a dodatočných politík a opatrení. Každý členský štát, ktorý uplatňuje zavedené a dodatočné politiky a opatrenia, a to aj tie, ktoré už boli označené vo vnútroštátnom pláne prideľovania kvót prvého kola, musí zdôvodniť ich vplyv a dokázať pokrok pri ich realizácii alebo prijímaní.[8] Komisia bude zakladať svoje hodnotenie na súhrnných kritériách uvedených v prílohe 6 a bude prísne hodnotiť tieto aspekty. Ak členský štát nesplní úspešne úplný súbor kritérií, Komisia bude vyžadovať pomerné zníženie navrhovaného stropu.

3.5. Pokyny ku kritériu 12 – limit pre využívanie dosahovania súladu so SR a MČR prevádzkovateľmi

21. Kritérium 12 prílohy III k smernici v znení zmien a doplnení spojovacej smernice[9] stanovuje: „Plán upresní maximálne množstvo CER a ERU, ktoré môžu prevádzkovatelia používať v systéme Spoločenstva, v percentuálnom vyjadrení pridelenia kvót pre každé zariadenie. Toto percento je v súlade so záväzkami členských štátov týkajúcimi sa doplnkovosti vyplývajúcimi z Kjótskeho protokolu a rozhodnutí prijatých na základe UNFCCC alebo Kjótskeho protokolu."

22. Kritérium 12 je záväzné v zmysle, že vnútroštátny plán prideľovania kvót musí stanoviť maximálny počet CER a ERU, ktorý môžu prevádzkovatelia v EÚ ETS použiť na účely dosiahnutia súladu.

23. Kritérium 12 stanovuje, že určené percento musí byť v súlade so záväzkami doplnkovosti členského štátu podľa Kjótskeho protokolu a rozhodnutí prijatých na základe UNFCCC alebo Kjótskeho protokolu. Marakéšskymi dohodami sa stanovuje, že *„použitie mechanizmov musí byť doplnkové k vnútroštátnym opatreniam"*[10]. V Kjótskom protokole, v UNFCCC ani v rozhodnutiach prijatých na ich základe sa nenachádza kvantitatívna definícia záväzkov doplnkovosti[11]. Malo by sa tiež poznamenať, že zmluvné strany Kjótskeho protokolu v rámci stretnutí na

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8 Komisia v tomto ohľade zdôrazňuje dôležitosť, aby plány prideľovania kvót boli v úplnom súlade s povinnosťami členských štátov podľa smernice 2001/77/ES o podpore elektrickej energie vyrábanej z obnoviteľných zdrojov energie na vnútornom trhu s elektrickou energiou, Ú. v. ES L 283, 27.10.2001, s. 33.

9 Smernica Európskeho parlamentu a Rady 2004/101/ES z 27. októbra 2004, ktorou sa mení a dopĺňa smernica 2003/87/ES o vytvorení systému obchodovania s kvótami emisií skleníkových plynov v rámci Spoločenstva s ohľadom na projektové mechanizmy Kjótskeho protokolu (Ú. v. EÚ L 338, 13.11.2004, s. 18).

10 Rozhodnutie 15/CP.7, článok 1.

11 Návrh Komisie týkajúci sa spojovacej smernice ustanovujúcej takúto kvantitatívnu definíciu, KOM(2003) 403.

konferenciách v Montreale prijali viaceré dôležité rozhodnutia s cieľom podporiť využívanie mechanizmov čistého rozvoja (CDM), k čomu môže prispieť obchodovanie EÚ s emisnými kvótami.

24. Požiadavka doplnkovosti sa uplatňuje na celkové emisie skleníkových plynov členského štátu, nie osobitne na jednotlivé sektory. Pri hodnotení plnenia tejto požiadavky je preto potrebné vziať do úvahy aj plánovaný nákup kjótskych jednotiek vládou.

25. Komisia zastáva názor, že členské štáty sa môžu voľne rozhodnúť, či budú uplatňovať tento limit individuálne vo vzťahu ku každému zariadeniu, alebo súhrnne na všetky zariadenia. Na účel vyššej pružnosti sa odporúča, aby členské štáty uplatňovali tento limit na celé obdobie obchodovania a súhrnne na všetky zariadenia.

3.6. Problémy súvisiace s novými účastníkmi na trhu a s odstávkami zariadení

26. Komisia zastáva názor, že je predčasné vyvodzovať závery a určovať osvedčené postupy v súvislosti s novými účastníkmi na trhu a odstávkami zariadení. Podrobnejšie údaje sa uvádzajú v prílohe 7.

3.7. Ďalšie pokyny o prideľovaní kvót na úrovni sektora a na úrovni zariadení

27. Pri určovaní prídelov na úrovni zariadení v druhej fáze Komisia považuje za potrebné, aby sa členské štáty neopierali o emisie prvej fázy ani o ďalšie údaje prvej fázy. Inak budú zariadenia, ktoré aktívne znižovali emisie v prvom období obchodovania, nesprávne znevýhodnené tým, že by v druhej fáze dostali menší podiel kvót ako zariadenia, ktoré neznižovali emisie počas prvého obdobia.

28. Ak sa nebudú využívať emisie prvej fázy ani iné údaje prvej fázy, primerane sa identifikujú včasné opatrenia, ktoré tak nahradia zriadenie rezervy pre včasné opatrenia alebo iné prostriedky zabezpečenia včasných opatrení.

29. S cieľom znížiť zložitosť a administratívnu záťaž považuje Komisia za nevhodné mať zvláštne ustanovenia o emisiách z procesov na úrovni zariadení.

30. Ako sa už uviedlo, nemožno dostatočne zdôrazniť dôležitosť dosiahnutia jednoduchšej formy vnútroštátnych plánov prideľovania kvót druhej fázy v porovnaní s prvou fázou. Jednoduchšie pravidlá prideľovania kvót na úrovni sektora a na úrovni zariadení zvyšujú transparentnosť procesu prideľovania kvót a znižujú náklady najmä v prípade malých a stredných podnikov patriacich do systému.

3.8. Ďalšie pokyny o ostatných aspektoch prideľovania kvót

31. Benchmarking na európskej úrovni nie je dostatočne vyzretá metóda prideľovania kvót pre použitie v druhej fáze. Pre členské štáty však môže byť vhodné používať benchmarking na vnútroštátnej úrovni na prideľovanie kvót na úrovni zariadení v niektorých sektoroch a pre nových účastníkov na trhu, napr. v sektore výroby elektrickej energie. Komisia preštuduje skúsenosti z takéhoto použitia v súvislosti s preskúmaním. Komisia sa zaujíma, či požiadavky na dodatočné údaje pre benchmarking možno vylepšiť a či členské štáty považujú dodatočnú administratívnu záťaž za rentabilnú.

32. Komisia zdôrazňuje, že členské štáty môžu v druhom období obchodovania využívať dražby do 10 % limitu povoleného podľa článku 10 smernice. Intenzívnejšie využívanie dražieb umožní členským štátom a Komisii získať viac skúseností s uplatňovaním tejto metódy prideľovania kvót a obohatiť strategické preskúmanie praktickými skúsenosťami. Pripomína členským štátom, že výnosy z dražieb sa môžu použiť okrem iného na úhradu administratívnych nákladov systému a na nákup kjótskych jednotiek vládou. Ak sa členské štáty rozhodnú dražiť kvóty, Komisia ich vyzýva, aby stanovili podrobnosti o postupe dražby v dostatočnom predstihu, najlepšie vo vnútroštátnom pláne prideľovania kvót, najmä čo sa týka časového plánu a dotknutých množstiev.

33. Pokiaľ ide o verejnú konzultáciu stanovenú v článku 9 ods. 1, článku 11 ods. 2 a v kritériu 9 prílohy III k smernici, Komisia očakáva, že členské štáty zabezpečia vhodnú harmonogram s cieľom zabezpečiť účinnejšiu verejnú konzultáciu v súvislosti s vypracovaním vnútroštátneho plánu prideľovania kvót druhej fázy. Členské štáty by sa mali snažiť včas zorganizovať verejnú konzultáciu podľa článku 11 ods. 2 a kritéria 9 prílohy III, aby sa dodržal konečný termín 31. december 2006. Keďže by pri príprave druhého obdobia obchodovania mala existovať menšia časová tieseň ako v prípade prvej fázy, Komisia je presvedčená, že členské štáty primerane dodržia túto požiadavku na základe vlastnej zodpovednosti a podľa vlastného uváženia.

4. INTERPRETÁCIA ROZSAHU PÔSOBNOSTI PRÍLOHY I K SMERNICI

4.1. Spaľovacie zariadenia

34. Pokiaľ ide o interpretáciu spaľovacích zariadení v prílohe I k smernici, Komisia pripomína, že niektoré členské štáty zakladali vnútroštátne plány prideľovania kvót prvej fázy na interpretácii, ktorá zahŕňala všetky spaľovacie procesy spĺňajúce uvedenú kapacitu bez ohľadu, či spaľovací proces produkuje energiu nezávisle alebo ako neoddeliteľnú súčasť iného výrobného procesu. Ostatné členské štáty uplatňovali varianty širšej interpretácie, bez niektorých alebo bez všetkých procesov predstavujúcich neoddeliteľnú súčasť iného výrobného procesu.

35. Komisia považuje túto situáciu za veľmi neuspokojivú. Z hľadiska vnútorného trhu je potrebné zabrániť, aby ten istý druh zariadenia bol v niektorých členských štátoch pri uplatňovaní tej istej smernice zahrnutý, kým v iných nie. Jednotná interpretácia a zahrnutie spaľovacích zariadení v členských štátoch v druhom období obchodovania sú rozhodujúce pre zabránenie výraznému narušeniu hospodárskej súťaže na vnútornom trhu.

36. Komisia považuje interpretáciu spaľovacích zariadení uvedenú v prílohe 8 za primeranú. Je si vedomá, že niektoré členské štáty budú musieť zahrnúť mnoho dodatočných zariadení vrátane veľkých zariadení s výraznými emisiami, ako aj niektorých najmenších zariadení produkujúcich emisie. Komisia však z hľadiska nasledujúcej kapitoly uznáva, že nie je užitočné zahrnúť dodatočné procesy spaľovania, ktoré sa zvyčajne realizujú v malých zariadeniach. S cieľom odstrániť v druhom období obchodovania rozpory by preto mali všetky členské štáty zahrnúť v

každom prípade aj procesy spaľovania týkajúce sa krakovacích jednotiek, uhlíkovej černe, spaľovania plynov[12], pecí[13] a hutných kombinátov[14], ktoré sa zvyčajne realizujú vo väčších zariadeniach spôsobujúcich výrazné emisie. Komisia si vyhradzuje právo prijať všetky potrebné opatrenia na zabránenie výrazným deformáciám. Podrobnosti o interpretácii spaľovacích zariadení Komisiou sa nachádzajú v prílohe 8.

4.2. Najmenšie zariadenia

37. Členské štáty a zainteresované subjekty vyjadrili určité obavy týkajúce sa zahrnutia najmenších zariadení do smernice, najmä že náklady na účasť najmenších zariadení prevážia výhody ich zahrnutia do systému. Komisia uznáva, že výhody a náklady určitých malých zariadení si zasluhujú ďalšie posúdenie pri preskúmaní EÚ ETS podľa článku 30 smernice.

38. Komisia zdôrazňuje, že časť nákladov na účasť malých zariadení predstavujú „jednorazové“ náklady na začiatku prvého obdobia obchodovania a nebudú sa vyskytovať v budúcnosti. Pokiaľ ide o opakujúce sa náklady, ktoré sa v prevažnej miere týkajú ročných nákladov na monitorovanie, nahlasovanie a overovanie emisií, Komisia venuje osobitnú pozornosť využitiu možností úspory nákladov na najmenšie zariadenia v prebiehajúcom preskúmaní usmernenia o monitorovaní a podávaní správ. Komisia plánuje, aby revidované usmernenie nadobudlo účinnosť do 1. januára 2008, súbežne so začiatkom druhého obdobia obchodovania.

39. Komisia ďalej zdôrazňuje dôležitosť používania jednoduchších pravidiel prideľovania kvót pre druhé obdobie obchodovania s cieľom pomôcť najmenším zariadeniam a preskúmať aj ďalšie aspekty – mimo monitorovania a prideľovania kvót – na zmiernenie nákladov na účasť týchto zariadení. Komisia je presvedčená, že to výraznejšie zlepší vzťah medzi výhodami účasti týchto zariadení v EÚ ETS a nákladmi na takúto ich účasť.

40. Komisia vyzýva členské štáty, aby pri vypracúvaní svojich vnútroštátnych plánov prideľovania kvót druhej fázy preskúmali možnosti voľby uvedené v prílohe 9. Plánuje pri preskúmaní komplexnejšie posúdiť rozsah pôsobnosti smernice v súvislosti so zahrnutím najmenších zariadení vrátane možnosti navrhnúť zmeny a doplnenia smernice, ktoré umožnia vylúčiť niektoré malé zariadenia z EÚ ETS počas druhého obdobia obchodovania. Komisia v spojitosti s tým zvažuje možnosť, aby sa činnosti spaľovania pod určitú hraničnú veľkosť, napríklad do 3 MW, nezapočítavali na účel takzvaného pravidla agregácie. Komisia tiež skúma možnosť odstrániť časť agregačného pravidla, ktorá umožňuje spočítanie kapacít činností, ktoré vykonáva ten istý prevádzkovateľ na tom istom mieste.

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12 Vrátane na mori.
13 Vrátane minerálnej vlny.
14 Vrátane valcovní, medziprehrievačov, žíhacích pecí a morenia.

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.