

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 13 November 2006

on avoiding double counting of greenhouse gas emission reductions under the Community emissions trading scheme for project activities under the Kyoto Protocol pursuant to Directive 2003/87/EC of the European Parliament and of the Council

(notified under document number C(2006) 5362)

(Text with EEA relevance)

(2006/780/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC⁽¹⁾, and in particular Article 11b(7) thereof,

Whereas:

(1) In order to ensure the environmental integrity of the Community emissions trading scheme, Directive 2003/87/EC requires the Member States to ensure that when hosting project activities as established under the flexible mechanisms of the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC), no emission reduction units (ERUs) or certified emission reductions (CERs) are issued for reductions or limitations of greenhouse gas emissions that take place in installations that participate in the Community emissions trading scheme, as this would result in a double counting of emission reductions or limitations.

(2) Such reductions or limitations could in particular occur if: a project activity for fuel switching occurs in an installation falling under the Community emissions trading scheme, if a project activity in the municipal heat generation sector results in a lower production in another installation under the Community emissions trading scheme; or, if a project activity for a wind- or hydropower plant feeds electricity into the electricity grid, thereby replacing fossil fuel-based electricity generation.

(3) Recognising that Member States might have committed themselves before the adoption of Article 11b(2) of Directive 2003/87/EC to issuing ERUs or CERs that result in double counting, Article 11b(3) and (4) allow ERUs and CERs to be issued until 31 December 2012, even if the reductions or limitations of the project activities indirectly or directly reduce or limit the emissions of installations that fall under the Community emissions trading scheme, provided that an equal number of allowances is cancelled.

(4) Article 11b(3) and (4) of Directive 2003/87/EC differentiates between instances where it is possible to determine the extent of reductions or limitations in each installation under the Community emissions trading scheme that is affected by the project activity (direct reductions or limitations) and instances where the extent of reductions or limitations can only be determined for a group of installations under the scope of the Community emissions trading scheme (indirect reductions or limitations).

⁽¹⁾ OJ L 275, 25.10.2003, p. 32. Directive as amended by Directive 2004/101/EC (OJ L 338, 13.11.2004, p. 18).

- (5) For direct reductions or limitations, the operator of the installation where the reduction or limitation occurs is responsible for the cancellation of allowances corresponding to the quantity of ERUs and CERs issued for such reductions or limitations. For indirect reductions or limitations, the national authorities are responsible for cancelling these allowances in the national registry of the Member State that issues the ERUs and CERs.
- (6) The most appropriate way to account for reductions or limitations in an installation falling under the Community emissions trading scheme that result from a particular project activity is to calculate the share of such reductions or limitations within the total planned emission reductions or limitations of this project activity, as established by its approved baseline. If, in the case of indirect reductions or limitations, the quantity of reductions in individual installations falling under the Community emissions trading scheme cannot be identified exactly, the quantity of reductions or limitations within the total reductions or limitations of the project activity that would cause double counting should be estimated.
- (7) The Community emissions trading scheme requires Member States to notify to the Commission the total quantity of allowances intended to be allocated for the 2008-2012 period in their national allocation plans 18 months in advance of the start of the period. The precise amount of emission reductions or limitations generated by a particular project activity is, however, established annually after these have taken place.
- (8) A set-aside should be established in the national allocation plan for the period 2008 to 2012 of each Member State hosting activities under the project-based mechanisms of the Kyoto Protocol which could cause double-counting, listing each approved project activity and its anticipated reductions or limitations of emissions that take place in installations that participate in the Community emissions trading scheme and for which ERUs or CERs should be issued by the Member State ('trading sector project-reductions'). In addition, the set-aside table should contain all explanatory information needed to establish the extent of 'trading sector project-reductions' anticipated for each project activity being hosted by the Member State.
- (9) Another set-aside should be established in the national allocation plan for the period 2008 to 2012 of each Member State intending to host activities under the project-based mechanisms of the Kyoto Protocol which could cause double-counting, listing planned project activities and its anticipated reductions or limitations of emissions that take place in installations that participate in the Community emissions trading scheme and for which ERUs or CERs should be issued by the Member State ('trading sector project-reductions'). In addition, the set-aside table should contain all explanatory information needed to establish the extent of 'trading sector project-reductions' anticipated for planned project activities to be hosted by the Member State.
- (10) ERUs or CERs that represent 'trading sector project-reductions' may be issued up until 31 December 2012. Each such issuance should be notified to the Commission.
- (11) In their national allocation plans, Member States hosting, or intending to host, activities under the project-based mechanisms of the Kyoto Protocol which could cause double-counting should indicate the projected emissions for activities falling under the scope of Directive 2003/87/EC both with and without the effects of the anticipated trading sector project-reductions.
- (12) Member States should take into consideration any anticipated reductions or limitations caused by project activities that affect an installation or activity and would cause double counting when establishing their national allocation plan methodology for determining the allocation of individual installations.
- (13) The measures provided for in this Decision are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS DECISION:

Article 1

This Decision lays down provisions for the implementation of Article 11b(3) and (4) of Directive 2003/87/EC.

Article 2

For the purposes of this Decision, and in addition to the definitions laid down in Article 2 of Commission Regulation (EC) No 2216/2004 ⁽¹⁾, the following definitions shall apply:

1. 'direct emission reduction or limitation' means a reduction or limitation of emissions occurring due to a project activity which causes reductions or limitations of emissions in installations that are individually identified in the project activity's baseline established pursuant to Article 1 of Appendix B to Decision 16/CP.7 of the United Nations Framework Conference on Climate Change (UNFCCC), or pursuant to Article 44 of the Annex to Decision 17/CP.7 of the UNFCCC;

⁽¹⁾ OJ L 386, 29.12.2004, p. 1.

2. 'indirect emission reduction or limitation' means any reductions or limitations of emissions in installations falling under the scope of Directive 2003/87/EC that is not a direct emission reduction or limitation;
3. 'trading sector project-reduction' means a reduction or limitation in emissions of installations falling under the scope of Directive 2003/87/EC due to project activities for which a Member State hosting the project activity issues emission reduction units (ERUs) or certified emission reductions CERs;
4. 'letter of approval' means, in the case of project activities that generate ERUs, a binding obligation undertaken in a written form by the Member State hosting the project activity to issue ERUs in accordance with the Member State's national guidelines and procedures for approving project activities as referred to in Article 20 (a) of the Annex to Decision 16/CP.7 of the UNFCCC; and in the case of project activities that generate CERs, a written approval of voluntary participation from the designated national authority of the Member State hosting the project activity as referred to in Article 40(a) of the Annex to Decision 17/CP.7 of the UNFCCC;
5. 'letter of endorsement' means an official communication in a written form by the Member State to host the project activity that it considers the project as one with a potential to gain eventual approval as a project activity.

Article 3

1. In its national allocation plan for the period 2008 to 2012, a Member State shall include in the total quantity of allowances a set-aside of allowances drawn up for each project activity in the format set out in the table in Annex I to this Decision if, prior to the deadline for the notification of its national allocation plan set out in Article 9(1) of Directive 2003/87/EC, the Member State has issued letters of approval as a host country, pledging to issue ERUs or CERs for project activities which result in emission reductions or limitations in installations falling under the scope of Directive 2003/87/EC.
2. In its national allocation plan for the period 2008 to 2012, a Member State may also include in the total quantity of allowances an additional set-aside of allowances drawn up in the format set out in the Annex II to this Decision if after the decision pursuant to Article 11(2) of Directive 2003/87/EC it

intends to issue letters of approval as a host country that pledge to issue ERUs or CERs before 31 December 2012 for project activities which result in emission reductions or limitations in installations falling under the scope of Directive 2003/87/EC. Planned project activities using the same methodology to reduce emissions for which no letter of endorsement has been issued yet may be grouped together under one column in the set-aside table drawn up according to Annex II.

3. Until a decision pursuant to Article 11(2) of Directive 2003/87/EC has been taken by the Member State, but at the latest until the deadline for that decision in Article 11(2) of Directive 2003/87/EC, further allowances may be transferred from the set-aside established pursuant to Article 3(2) to the set-aside established pursuant to Article 3(1) that cover the trading sector project-reductions of projects for which the letter of approval has been issued after the deadline for the notification of its national allocation plan set out in Article 9(1) of Directive 2003/87/EC.

Article 4

The set-aside table shall be made available on the publicly accessible website of a Member State's registry.

Article 5

1. ERUs and CERs that represent trading sector project-reductions may be issued up until 31 December 2012, provided that each such issuance is preceded by the conversion of an equivalent amount of allowances from one of the set-asides into assigned amount units and the Commission is informed thereof.
2. The quantity of allowances in the set-aside established pursuant to Article 3(1) that is not converted into assigned amount units in accordance with Article 5(1) until 31 December 2012 may be sold as 2008-2012 period allowances. If the project activity causes direct emission reductions and limitations, this quantity may be issued as 2008-2012 period allowances to the installations identified in rows VII/a-VII/b of the table in Annex I.
3. Any allowances in the set-aside established pursuant to Article 3(2) that are not converted into assigned amount units in accordance with Article 5(1) until 31 December 2012 shall be cancelled.

Article 6

1. A Member State wishing to approve project activities as a host country after the deadline for the submission of the national allocation plan shall inform the Commission thereof, prior to the issuance of the letter of approval. This information shall be accompanied by a report of an independent verifier which verifies that any ERUs or CERs to be issued do not result in double counting, in doing so providing all necessary information ensuring that the project activities submitted for approval are in compliance with Article 11b of Directive 2003/87/EC.

2. Letters of approval issued in accordance with Article 3(2) and letters of endorsement issued after the deadline for the notification of the national allocation plan set out in Article 9(1) of Directive 2003/87/EC for project activities that will result in trading sector project-reductions shall assign the allowances that are to be converted into assigned amount

units from the set-aside established pursuant to Article 3(2) in the event of the issuance of ERUs or CERs. If an allowance was already assigned by a letter of approval to a particular project activity for future conversion, it cannot be reassigned to another project afterwards.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 13 November 2006.

For the Commission

Stavros DIMAS

Member of the Commission

ANNEX I

		Project activity X	Project activity Y	...	Total quantity of allowances in set-aside
I/a	Title of project activity ⁽¹⁾				
I/b	Project identification code of project activity ⁽²⁾				
I/c	Date of letter of approval for the project activity				
II	Total quantity of GHG to be reduced or limited (in tons for 2008-2012)				
III	% of total reductions that the government issues as ERUs or CERs				
IV	Description of baseline ⁽³⁾				
V	% of emissions of installations covered by Directive 2003/87/EC in the total emissions included in the baseline (in case of indirect reductions or limitations, an estimate is to be provided) ⁽⁴⁾				
VI	Planned trading sector project-reduction quantity (II*III*V)				(Σ VI) = (Σ VIII/a-VIII/e)
VII/a	For direct reductions and limitations, the name of the installation where the trading sector project-reduction will occur ⁽⁵⁾				
VII/b	For direct reductions and limitations, the installation ID of the installation where the trading sector project-reduction will occur ⁽⁵⁾				
VIII/a	Quantity of ERUs or CERs that represent trading sector project-reductions issued for 2008				
VIII/b	Quantity of ERUs or CERs that represent trading sector project-reductions issued for 2009				
VIII/c	Quantity of ERUs or CERs that represent trading sector project-reductions issued for 2010				
VIII/d	Quantity of ERUs or CERs that represent trading sector project-reductions issued for 2011				
VIII/e	Quantity of ERUs or CERs that represent trading sector project-reductions issued for 2012				

⁽¹⁾ List all project activities approved by the Member State.

⁽²⁾ Use the code assigned according to Annex VI, point 19 of Regulation (EC) No 2216/2004.

⁽³⁾ Give the total annual emissions that are expected to occur in the absence of the project activity, and the group of installations where these emissions are expected to occur. Attach a short description of the baseline applied. If more than one baseline is applied in the project activity, each baseline (with the corresponding total annual emissions expected in the absence of that part of the project activity) needs to be entered on a separate line in the set-aside table.

⁽⁴⁾ Provide a brief description of the method and data used for the estimate.

⁽⁵⁾ If more than one installation is to be listed in rows VII/a and VII/b, use separate rows. The share of each installation in the allowances in the set-aside is to be calculated separately.

ANNEX II

		Planned project activity X	Planned project activity Y	...	Total quantity of allowances in set-aside
I/a	Title of planned project activity ⁽¹⁾				
I/b	Project identification code of planned project activity ⁽¹⁾ ⁽²⁾				
I/c	Date or projected date of letter of endorsement for the planned project activity				
I/d	Projected date of letter of approval for the planned project activity				
II	Planned total quantity of GHG to be reduced or limited (in tons for 2008-2012) by the planned project activity				
III	% of total reductions that the government issues as ERUs or CERs for the planned project activity				
IV	Description of baseline ⁽¹⁾ ⁽³⁾				
V	Estimate of the % of emissions of installations covered by Directive 2003/87/EC within the total emissions included in the baseline ⁽⁴⁾				
VI	Planned trading sector project-reduction quantity (II*III*V)				(Σ VI)
VII/a	For direct reductions and limitations, the name of the installation(s) where the planned trading sector project-reduction is to occur ⁽⁵⁾				
VII/b	For direct reductions and limitations, the installation ID of the installation(s) where the planned trading sector project-reduction is to occur ⁽⁵⁾				
VII/c	For indirect reductions and limitations, the activity category where the planned trading sector project-reduction is to occur ⁽⁶⁾				
VIII	The quantity of allowances deducted from the allocation of the installations/activity category indicated under rows VII/a-VII/c to fill the set-aside ⁽⁵⁾ ⁽⁶⁾				

⁽¹⁾ This information only needs to be provided if already available by the time of the submission of the national allocation plan. If no letter of endorsement was issued yet for a project activity, more project activities using the same methodology to reduce emissions may be grouped together under one column.

⁽²⁾ Use the code assigned according to Annex VI, point 19 of Regulation (EC) No 2216/2004.

⁽³⁾ Give the total annual emissions that are expected to occur in the absence of the project activity, and the group of installations where these emissions are expected to occur. Attach a short description of the baseline applied. If more than one baseline is applied in the project activity, each baseline (with the corresponding total annual emissions expected in the absence of that part of the project activity) needs to be entered on a separate line in the set-aside table.

⁽⁴⁾ Provide a brief description of the method and data used for the estimate.

⁽⁵⁾ If more than one item is to be listed in rows VII/a, VII/b and VIII, use separate rows. The share of the allowances provided by each installation for the set-aside is to be indicated separately.

⁽⁶⁾ Use the categories of activities defined in Annex I of Directive 2003/87/EC.