GREENHOUSE GAS EMISSIONS TRADING SCHEME (AMENDMENT)
AND NATIONAL EMISSIONS INVENTORY REGULATIONS 2005

Introduction


These Regulations transpose the Linking Directive\(^1\) into UK law. The Regulations provide the necessary legal framework and detailed rules for the purpose of implementing the Linking Directive in the UK. Accordingly, the Regulations transpose the mandatory requirements in the EU Directive.


More detailed guidance explaining how the EU ETS operates and how it has been implemented in the UK is available on the following websites:

- Scottish Executive: http://www.scotland.gov.uk/Topics/Environment/Climate-Change/16327/10713
- The websites of the four regulators who are responsible for permitting installations, registry administration and compliance.

Key features of the Linking Directive and explanatory guidance

The EU Linking Directive amends the Emissions Trading Directive and provides for the use of credits from the Kyoto Protocol's project mechanisms in the EU Emissions Trading Scheme (EU ETS).

The EU ETS has been introduced across Europe to tackle greenhouse gas emissions and combat the serious threat of climate change, and is one of the key policies the UK is using to achieve its national target of a 20% cut in emissions by 2010 on 1990 levels. The objective of the Scheme is to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner.

The first phase of the Scheme runs from 2005-2007 and the second phase will run from 2008-2012 to coincide with the first Kyoto Protocol Commitment Period. Further 5-year phases will follow.

The EU Linking Directive was adopted on 13 November 2004. Its provisions can be divided into two main categories:

- Provisions of the Directive providing for the possibility of allowing operators to use credits from the project-based mechanisms (CERs and ERUs) to comply with their obligations under the EU ETS; and
- Provisions of the Directive specifying additional criteria to be applied when approving and authorising participation in the project mechanisms under the Kyoto Protocol.

The Linking Directive Regulations transpose the requirements of the EU Linking Directive into UK law, alongside additional provisions relating to the establishment of a national emissions inventory in accordance with the UK’s Kyoto Protocol obligations. The key features of the Regulations consist of provisions relating to:

- Amendments to the 2005 Regulations;
- Project approval and authorisation to participate in the mechanisms;
- National Emissions Inventory.

Explanatory guidance on each of these is provided below. In addition, previously published guides on various aspects of the Kyoto Project
mechanisms and the Linking Directive are available from the Climate Change Project Office (CCPO)\textsuperscript{2} website. Please see: http://www.dti.gov.uk/ccpo/business.htm

**Amendments to the 2005 Regulations**

The key amendment to the 2005 ETS Regulations relates to the use of credits from the Kyoto project mechanisms for compliance purposes in the EU ETS. The mechanisms provide for projects to be carried out in other countries and to receive credits for emissions reductions or limitations:

- **Clean Development Mechanism** (CDM): This allows a country with a Kyoto commitment (Annex 1 countries) to carry out projects to reduce emissions in developing countries without a Kyoto target. Credits (known as “certified emissions reductions” or CERs) issued for the reductions achieved can be used by Annex 1 countries to meet their Kyoto obligations. The Linking Directive allows for the use of CERs in Phase I (2005-7) of the EU ETS.

- **Joint Implementation** (JI): This allows a country with a Kyoto commitment to carry out projects to reduce emissions in another country with a Kyoto commitment. Credits (known as “emission reduction units” or ERUs) are transferred from the host country to the sponsoring country. ERUs cannot be used in the EU ETS until Phase II (2008-12).

In implementing the Linking Directive the Government is allowing UK operators unlimited use of credits generated by the Kyoto project mechanisms in order to meet their commitments in Phase I (2005-7) of the EU ETS. UK operators subject to the EU ETS can now make emissions reductions in as cost-effective and flexible way as possible.

**The Regulations relating to use of project credits only apply to Phase I (2005-7) of the EU ETS.** The Directive requires that mandatory limits be applied to use of project credits in Phase II and subsequent scheme phases, in accordance with the principle of supplementarity\textsuperscript{3}, and this limit will be specified in the Phase II National Allocation Plan (NAP) which is to be submitted to the European Commission by June 2006.

The regulations also provide for the Secretary of State to request information from operators not currently subject to the EU ETS for the purpose of expanding or seeking to expand the scope of the Scheme, and gives the Environment Agency and other regulators the power to collect all information.

\textsuperscript{2} The CCPO is jointly funded by Defra and the DTI to assist UK businesses who wish to pursue opportunities arising from the Kyoto Protocol. They provide advice and support for projects which reduce greenhouse gas emissions and which could be eligible for tradeable emission reduction credits. They also provide information to companies who are new to climate change projects and provide with specific project enquiries. Please see http://www.dti.gov.uk/ccpo/ for further details.

\textsuperscript{3} This is the requirement that the use of project mechanisms be supplemental to domestic action.
required for the development of a NAP for Phase II of the Scheme. This provision was not included in the draft Linking Directive Regulations that were consulted on this summer but have been raised with operators at sector meetings in the ongoing discussion on development of the Phase II NAP.

Further detail on the use of project credits to meet EU ETS obligations is available from:
This paper also includes a Q&A for operators outlining key aspects of how the Linking Directive affects the functioning of the EU ETS.

**Project approval and authorisation to participate**

The Linking Directive imposes additional requirements in relation to the approval and authorisation of CDM and JI project activities, including the requirements for participation, process for approval and authorisation, monitoring and verification procedure and the process for issuance of CERs and ERUs.

It should be noted that the International Transaction Log (ITL), which will administer the transfer of credits resulting from the project mechanisms to UK registry accounts, is currently under development. CERs cannot be forwarded to national registries or to the accounts of Annex I project participants or Parties involved in the UK registry until the ITL is connected to it. We expect this to occur early in 2007. In the meantime, Annex I project participants and Parties may receive temporary accounts in the CDM registry.

Explanatory guidance on the regulations relating to project approval and authorisation to participate in the mechanisms are available from:
- http://www.defra.gov.uk/environment/climatechange/trading/eu/kyoto/index.htm with regard to CDM projects

**National Emissions Inventory**

The EU Monitoring Mechanism (EUMM) decision⁴ requires the UK to have in place by 31 December 2005 a national emissions inventory in accordance with Kyoto Protocol guidelines. The Linking Directive regulations introduce new provisions to ensure this national emissions inventory is established, and that the UK’s main tool for monitoring progress towards its Kyoto Protocol target remains of the highest quality and accuracy.

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⁴ Article 4(4) of the EUMM (Council Decision 280/2004/EC for a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol
Explanatory guidance on the provisions relating to the national emissions inventory is available from:
This document also contains a Q&A section focusing on consultation responses received in relation to these provisions.

A quick guide to the 2005 Linking Directive Regulations

Part 1 – General
  • Regulation 1 – Title and commencement
  • Regulation 2 – Interpretation
  • Regulation 3 – Notices

Part 2 – Amendment of 2005 Regulations
  • Regulation 4 – Amendment to the 2005 Regulations

Part 3 – Project Approval and Authorisation to Participate
  • Regulation 5 – Approval of and authorisation of participation in project activities
  • Regulation 6 – Request for further information
  • Regulation 7 – Determination of application
  • Regulation 8 – Agreement with devolved administrations on project approval
  • Regulation 9 – Appeals

Part 4 – National Inventory
  • Regulation 10 – Information for the preparation of a national inventory
  • Regulation 11 – Powers of entry
  • Regulation 12 – Agreement with devolved administrations on national inventory

Part 5 – Offences
  • Regulation 13 – Offences
Analysis of consultation responses

A public consultation on draft Regulations for transposing the Linking Directive took place between 10 June – 19 August 2005. Stakeholder workshops were held in London and Edinburgh on 18 and 21 July respectively to explain in more detail the aims and scope of the consultation.

Forty-nine consultation responses were received, and Defra commissioned Future Energy Solutions (FES) to analyse these and produce a synopsis and analysis of written responses to the consultation. The findings of this report were fed into policy decisions on the Regulations. A copy of the report is available from:


Opportunity for comments on guidance

Following the public consultation this summer, the Regulations have now been laid in Parliament and are not open to further changes. However, we are providing an opportunity for feedback on the guidance published today. The deadline for comments is 31 January 2006. Comments will be considered and incorporated into the guidance notes as appropriate. This request for feedback on the guidance is in order to ensure it is of most value to stakeholders, and substantial changes are not envisaged at this stage.

Please send any feedback on the guidance to: eu.ets@defra.gsi.gov.uk with “Linking Directive Guidance” in the subject field.