

Application of the emissions trading directive by EU Member States

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Executive summary

Member States shall report annually on the application of the Emissions Trading Directive, according to Article 21 of the Directive. The reporting obligation will allow the Commission to continuously follow the implementation of the Directive and provide information for the Commission's review report (under Article 30 of the Directive). This is particularly important for the first set of reports.

A questionnaire was developed and provided to the Member States in 2005. Responses were sent to the European Commission and copies forwarded to the EEA. The EEA and its European Topic Centre on Air and Climate Change (ETC/ACC) assessed the responses and this assessment is presented in the report.

The first reports were due by 30 June 2005 and should cover the period up to 30 April 2005. This report includes the replies to the questionnaire from 24 Member States (Note: Cyprus has not submitted any report). Where Member States delivered their reports late, the situation described in the report is assumed to reflect only the period up to 30 April 2005. For the sake of clarity, all reports from Member States are assumed to refer to this period irrespective of whether they cover a somewhat longer period or not. In any case, it should be borne in mind that the situation in Member States may have changed since the reports were submitted.

The assessment of this first set of Article 21 reports gives an initial comprehensive overview of how Member States have implemented the Emissions Trading Directive. It also covers their approaches to the different administrative procedures which are necessary for running the Emissions Trading Scheme. Both similarities and differences in implementation are identified. This report may therefore support Member States in improving their future application of the Emissions Trading Directive by making them aware of the approaches chosen by other Member States. The main findings which can be derived from the assessment of the reports are summarised below.

Competent authority

In most Member States more than one competent authority is involved in the national implementation of the Emissions Trading Scheme. Issuance of greenhouse gas permits and monitoring of emissions

are in some countries carried out by regional or local authorities. The choice may depend on the size and the general institutional structure of the Member States. Since there are links between the different procedures, it is important to ensure avoidance of inconsistencies at national implementation level. Several Member States report measures to avoid such problems, for example through working groups with regular meetings, the development of specific guidance notes and the establishment of an 'interpretation group' or training courses for employees of the competent authorities.

Coverage of activities and installations

The number of installations and the amount of emissions covered under the Emissions Trading Directive will change continuously during a trading period due to new entrants or closures of installations. The size of the entire Emissions Trading Scheme (EU ETS) will therefore vary, albeit only slightly. A total of 10 078 installations have been reported by 23 Member States. Installations in Poland, with more than 1 000 installations, are not included. One-third of the combustion installations covered by the scheme have a rated thermal input between 20 and 50 Megawatt (MW). These installations are covered by the EU ETS but only partly by the IPPC Directive. They account for 2 % of the overall emissions reported so far. Installations with emissions of more than 500 000 tonnes of CO₂ per year account for 7 % of the total number of installations, but are responsible for more than three quarters of total emissions. Small installations with 10 000 tonnes of CO₂ emissions or less per year account for more than one-third of the installations, but for less than 1 % of the total emissions. Only 21 applications to form a pool have been received from operators in six Member States, indicating that this provision has not been widely used so far.

Permits for installations

Member States apply different measures to ensure operator compliance with the requirements of their permits. Some Member States report that random spot checks will take place at the installations. In the Netherlands, the competent authority will visit one-third of the installations on a regular basis for each year of the trading period. In several Member States more than one competent authority is involved in

issuing permits of installations. This may cause inconsistencies in the national implementation if the individual competent authorities interpret the national legislation differently. Several Member States report measures to avoid such problems, for example through working groups with regular meetings, the development of specific guidance notes, the establishment of an 'interpretation group' or training courses for employees of the competent authorities. With regard to changes in the installations, the Netherlands has developed seven categories for different types of changes. The United Kingdom has established a similar categorisation which, however, has not been applied by all their competent authorities. The use of different criteria for categorising changes may confuse operators with installations in several Member States.

Application of 'Monitoring and Reporting Guidelines'

Only limited information was available on the application of the Monitoring and Reporting Guidelines during this first reporting period. However, it is already clear that there are differences in the application of the guidelines. Several Member States have included provisions for lower tiers in their national law for certain activities. In other cases minimum tiers are not (yet) technically feasible. Data was provided by ten Member States on monitoring methods of installations with annual emissions over 500 000 tonnes. These data indicate that in around 20 % of installations the activity data, the emission factor or the net calorific value is not determined in accordance with the minimum tier requirements for at least one fuel. The data submitted do not include the quantity of the affected fuel flows and at this stage no conclusions can be drawn on the impact of these deviations from the guidelines on the overall quality of the emission data. The absence of a strict application of the 'Monitoring and Reporting Guidelines' might lead to unequal treatment of installations across the European Union.

Arrangements for verification

At the time of reporting, preparations for verification were in their preliminary stages in many Member States. General aspects such as the possibility for accreditation of independent verifiers, according to national rules, are treated similarly in almost all countries. However, there are issues reported by some Member States which could be considered by the other Member States

as well. In two countries verifiers have to provide recommendations for improving the monitoring plan of an installation as part of the verification procedure. In eight Member States verified emission reports may be subject to additional checks by the competent authorities in order to ensure the quality of the verification process. The treatment of verifiers already accredited in another Member State varies considerably. This might reduce the pool of accredited verifiers available to operators.

Operation of registries

The operation of registries during the reporting period focused on the setting-up of the national registries and the connection to the CITL⁽¹⁾. Unscheduled downtime varied between 0 and 20 % but it can be expected that software and equipment failures will become less frequent as more experience is acquired. This assumption is supported by the development of unscheduled downtime in a few Member States. Fees for opening and maintaining holding accounts vary between the Member States. While fees for operators cannot be evaded by acquiring an account in another registry, individuals and traders might prefer to obtain an account in a Member State which does not charge user fees.

Allocation, new entrants and closures

Several Member States report issues that have caused problems during the allocation process, namely the restricted time-frame to implement the Directive, the availability of adequate emission data or the lack of reliable projection data. A number of Member States would welcome harmonisation of issues such as the treatment of new entrants, closures or installations with low emissions, and above all harmonisation of the definition of a combustion installation. Other Member States highlight the need to improve the allocation process through a more stringent National Allocation Plan (NAP) template in order to increase the transparency of the NAPs. Several Member States also want a more transparent assessment of the NAPs, based on clear criteria and methodologies, from the Commission. Only four Member States (Denmark, Hungary, Lithuania and Ireland) intend to auction allowances. However, none of them had carried out an auction so far. Rules for auctioning are still under development.

⁽¹⁾ 'Community independent transaction log' (CITL) is the independent transaction log provided for in Article 20(1) of Directive 2003/87/EC for the purpose of recording the issue, transfer and cancellation of allowances, and established, operated and maintained in accordance with Article 5 of the Commission Regulation (EC) No 2216/2004.

Use of ERUs and CERs in the Community scheme

Credits from JI (ERUs) or CDM (CERs) projects were not available during the reporting period. At the time of reporting only seven Member States had passed provisions to ensure compliance to the criteria and guidelines contained in the World Commission on Dams in its Final Report for the approval of hydro electric JI or CDM projects from the year 2000. Member States are by Directive 2004/101/EC (Linking Directive) required to ensure compliance with these guidelines during project approval.

Compliance and enforcement

According to Article 16 of the Directive, Member States should implement effective penalties in cases of a breach of emissions trading legislation. Only a few Member States provided detailed information on penalties which are to be imposed. However, from these few examples it is obvious that the maximum fines deviate substantially between Member States (EUR 15 million versus EUR 3 000). France and Hungary use approaches which might also be considered in other Member States: in France the competent authority will apply rather conservative emission estimates if an emission report is not submitted in due time. The operators should be encouraged to avoid these estimates by submitting their reports in time. In Hungary, an amount equivalent to the excess emissions will be deducted automatically from the next issuance of the allocated allowances.

Legal nature of allowances and fiscal treatment

The legal nature of allowances is not identical in all Member States. Some Member States consider allowances to be financial instruments whose trading is supervised by the financial service authority (FSA). Other Member States consider them to be normal commodities. In the latter case, only the derivatives of these allowances are viewed as financial instruments. Several Member States explain that

allowances are regarded as intangible assets. In Italy and the United Kingdom emissions are regarded as liabilities. Member States have expressed the need for an alignment of the legal nature and financial treatment of allowances amongst them.

Access to information

Pursuant to Article 17 of the Emissions Trading Directive, decisions related to allocation of allowances and reports of emissions shall be made available to the public. Most Member States publish their NAP, allocation rules and installation allocation on the internet. Access to monitoring reports is granted upon request in seven Member States. In Belgium (Flanders) and Latvia monitoring reports are published on the internet.

General observations

Member States provided suggestions for reducing the administrative burden imposed by the Emissions Trading Directive, for increasing harmonisation and for criteria for the second NAP. These suggestions aim to streamline the second period of the trading scheme, and could be used as an input into the review of the monitoring and reporting guidelines and the Emission Trading Directive.

This report illustrates the variety of aspects which the Member States had to address in their transposition and implementation of the Emissions Trading Directive. Its coverage is limited to the first four months of the trading scheme's operation. Accordingly, some of the necessary tasks and administrative processes needed to run the trading scheme were not yet fully established and required further development. The report, nevertheless, provides a first comprehensive picture of the implementation in the Member States. It identifies several common patterns and differences. Thus, it may encourage the adaptation of administrative processes and initiate processes of learning from best practices in other Member States.

1 Introduction

Article 21 of the Emissions Trading Directive 2003/87/EC ⁽²⁾ obliges Member States to report annually on the application of this Directive on the basis of a questionnaire. This report shall pay particular attention to the arrangements for the allocation of allowances, the operation of registries, the application of monitoring and reporting guidelines, verification, and issues relating to compliance with the Directive and the fiscal treatment of allowances. Within three months of receiving the reports from the Member States the Commission shall publish a report on the application of the emissions trading Directive in the European Union (EU).

The EEA received copies of the replies submitted by Member States to the Commission. The EEA assisted the Commission in assessing the responses received and the results are presented in this report (Note: No reply was received from Cyprus).

Intention of the reporting

The overall intention of annual reporting is to give an overview of how Member States have addressed the different procedures involved in implementing and running the European Union Emissions Trading Scheme (EU ETS). Learning from procedures used in other Member States may facilitate future harmonisation and improvements in the running of the EU ETS. In addition, it could help to improve the quality of monitoring data through application of common rules, which would facilitate Member States' emission reports and also improve the quality of data reported to the European Pollutant Emission Register ⁽³⁾⁽⁴⁾. It might also help to improve the quality of future 'top-down' reports of the inventories, according to the greenhouse gas monitoring mechanism ⁽⁵⁾.

Apart from compiling the answers given by Member States, the purpose of this first assessment report is to evaluate the suitability of the questionnaire. The answers from this first reporting period are especially important as they provide input to the review report (according to Article 30 of the Directive) which the Commission will present to the European Parliament and the Council by 30 June 2006.

Reporting process

The current questionnaire was developed under strong time constraints and a possible need for revision was anticipated. This report is based on the replies to the questionnaire received by 21 December 2005 and the supplementary comments received from Member States in the review process. It summarises the answers and tries to identify common patterns and differences in the implementation of the Directive across Member States.

The first reports of the Member States were due by 30 June 2005, covering the period up to 30 April 2005. Many Member States submitted their replies after this deadline and reply from Cyprus is still outstanding. For the sake of clarity, the assumption is made that all reports from Member States refer to the period up to the end of April, irrespective of whether they cover a longer period or not. Note: No reports from industry were due during the reporting period. The first set of these reports are to be delivered by the end of March 2006.

The questionnaire used rather open questions which resulted in a wide variety of answers. It is therefore often rather difficult to summarise and to identify common patterns or similarities. To the greatest

⁽²⁾ 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) OJ L 275/32 EN, 25.10.2003, pp. 32–46.

⁽³⁾ Commission Decision of 17 July 2000 on the implementation of a European pollutant emission register (EPER) according to Article 15 of Council Directive 96/91/EC concerning integrated pollution prevention and control (IPPC) O.J. L192/36 dated 28.07.2000.

⁽⁴⁾ COM(2001)581, Proposal for a Directive of the European Parliament and of the Council establishing a framework for greenhouse gas emissions trading within the European Community and amending Council Directive 96/61/EC, p. 15.

⁽⁵⁾ Decision No 280/2004/EC of the European Parliament and of the Council of 11 February 2004 concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol.

extent possible the answers have been systematised and categorised according to patterns most commonly reported.

The open style of the questionnaire means that the interpretation must take into account the following issue: If a Member State did not report the occurrence or relevance of a certain category it does not necessarily mean that this category is inapplicable to this Member State. It might only mean that the person who has filled in the questionnaire has not specifically elaborated on this aspect. For assessment purposes only, those Member States were summarised under a certain answer category which explicitly mentioned the category

in their answer. For many questions the assessment therefore resulted in a wide variety of categories which often apply to just a few Member States.

All 23 Article 21 reports submitted by 21 December 2005 have been assessed thoroughly and analysed in detail. However, several Member States do not provide answers to all questions. Therefore, the numbers of answers do not add up to 23 for all questions. In such cases, either some Member States have provided no answer to a question or the answer categories are non-exclusive and overlap. However, this does not mean that the answers of certain Member States have been neglected or omitted.

2 Competent authorities

- *In all but three Member States more than one competent authority are responsible for administrative tasks of the Emissions Trading Scheme.*
- *Some Member States also involve regional or local authorities in the administration for granting permission of installations and/or for monitoring, reporting and verification issues.*

The administration of the Emissions Trading Directive is subject to subsidiarity and is therefore implemented differently in each Member State. As a result, it is not always clear to other Member States or the Commission which authority is responsible for which administrative task. Hence, Member States were requested to provide an overview of the entities and their responsibilities for the different administrative operations foreseen under the Emissions Trading Directive.

Typical tasks that are carried out by the competent authorities are allocation, issuance of permits, issuance of allowances, monitoring and emission reports, registries, accreditation of verifiers, compliance and enforcement, use of Certified Emission Reductions (CER) and Emission Reduction Units (ERU), administration of the new entrants reserve (NER) and information to the public. Table 1 gives an overview of the competent authorities in each Member State responsible for these tasks.

In all Member States except Greece, Italy and Portugal, more than one competent authority is involved in the administration of the EU ETS. Apart from the environment ministries which often are responsible for tasks such as allocation, accreditation of verifiers and administration of the NER, one or several subordinated authorities are involved. The second column of Table 1 gives an overview of the competent authorities of each Member State. In six Member States (Belgium, Germany, France, Latvia, Austria and Poland) regional or local authorities are often responsible for the issuance of emission permits and/or for monitoring, reporting and verification (MRV) of emissions.

For most Member States Table 1 does not indicate the responsibility for all these tasks. However, this does not mean that the tasks are not covered by one of the competent authorities, but merely that the answer to this question did not mention this particular task. Registries, for example, have to be established in all Member States. It can therefore be assumed that a competent authority which is responsible for the registry exists in each Member State, even if the responsibility is not stated in the reply to the Article 21 questionnaire.

Further tasks, which have to be carried out by one or the other competent authority but have not been mentioned by any Member State, are auctioning (if applicable), administration of opt-outs or opt-ins and administration of pooling.

Table 1 Competent authorities and their tasks

	Competent authorities	Allocation	Issuance of permits	Issuance of allowances	Monitoring, emission reports	Registry	Accreditation/acceptance of verifiers	Compliance and enforcement	Use of CER and ERU	Administration of NER	Information to the public
BE	- Directorate General for Natural Resources and for Environment (ME); - (Region of Brussels-Capital, Walloon Region, Flemish Region)	Belgian regions	Belgian regions	Belgian regions		Belgian regions	Belgian regions		Belgian regions		
CZ	- Ministry of Environment (ME); - Czech Environmental Inspection (CEI)	ME	ME		CEI		ME	ME		ME	
DK	- Danish Energy Authority (DEA); - Danish Environmental Protection Agency (DEPA)	DEPA	DEA	DEA	DEA	DEPA	DEA	DEA	DEPA		DEA
DE	- Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (ME); - German Emissions Trading Authority (GETA); - Local authorities (LA)	ME	LA	GETA	LA	GETA					
EE	- Ministry for the Environment (ME); - Estonian Environment Information Centre (EEIC)	ME	ME	ME	ME	EEIC	ME	ME	ME		
EL	- Ministry of Environment, Physical Planning and Public Works, General Directorate of Environment, Directorate of Air Pollution and Noise Control (ME)										
ES	- General Administration of the State (GAS); - Local Administrations (LA); - Designated national authority for the flexible mechanisms of the Kyoto Protocol (DNA)	GAS	LA	GAS	LA	GAS	LA	GAS, LA	DNA	GAS	GAS, LA
FR	- Ministry for the Environment and Sustainable Development - Direction of the Prevention of Pollution and the Risks (ME); - Branch Office (CDC); - Local Authorities (LA)	ME	LA		LA	CDC					
IE	- Department of Environment, Heritage and Local Government (ME); - Environmental Protection Agency (EPA)	ME	EPA			EPA		EPA		EPA	
IT	- Department for environmental research and development (DG RAS)	DG RAS	DG RAS	DG RAS	DG RAS	DG RAS	DG RAS	DG RAS	DG RAS	DG RAS	DG RAS
CY											
LV	- Ministry of the Environment (ME); - Regional Environmental Boards of the State Environmental Service (SES); - Environment State Bureau (ESB); - The Latvian Environment, Geology and Meteorology Agency (LEGMA); - Latvian National Accreditation Bureau (LNAB)	ME	SES	ME	SES	LEGMA	LNAB	SES		ME	LEGMA
LT	- Ministry for the Environment (ME); - State Environmental Protection Inspectorate (SEPI); - Lithuanian Environmental Investment Fund (LEIF); - National Accreditation Office (NAO)			LEIF	SEPI	ME	NAO		LEIF		
LU	- Ministry for the Environment (ME); - Environment Administration (EA)	ME	ME, EA			EA					
HU	- Hungarian Ministry of Environment and Water (ME); - National Inspectorate for Environment, Nature and Water (NIENW)	ME	NIENW	ME	NIENW	NIENW	NIENW	NIENW	NIENW	NIENW	NIENW
MT	- Malta Environment and Planning Authority (MEPA); - Malta Standards Authority (MSA)	MEPA	MEPA	MEPA	MEPA	MEPA	MSA	MEPA	MEPA	MEPA	MEPA
NL	- Ministry of the Environment, Spatial Planning and Environment (ME); - Emission Authority (NEa)	ME	NEa			NEa		NEa			
AT	- Ministry for Agriculture, Forestry, Environment and Water (ME); - Local or regional authorities (LRA)	ME	LRA	ME	ME	ME	ME	ME			
PL	- Ministry for the Environment (ME); - National Administrator (NA); - Regional or local authority (RLA)	NA	RLA		NA	NA			NA		NA
PT	- Instituto do Ambiente (IA)	IA	IA	IA	IA	IA				IA	IA
SK	- Ministry for the Environment (ME); - District Environmental Authority (DEA); - Regional Environmental Authority (REA)	ME	DEA	DEA	DEA		ME	DEA		ME	
SI	- Ministry of the Environment, Spatial Planning and Energy (ME); - Environment Agency (EA)		EA		EA						
FI	- Ministry of Trade and Industry (MTI); - Energy Market Authority (EMA); - National Government of Åland (NGA); - Finnish Accreditation Service (FINAS)	MTI	EMA, NGA	EMA, NGA	EMA, NGA	EMA	FINAS, EMA	EMA, NGA			EMA, NGA
SE	- Ministry for Sustainable Development (MSD); - Swedish Environmental Protection Agency (SEPA); - Swedish Energy Agency (STEM); - Swedish Board for Accreditation and Conformity Assessment (SWEDAC); - Swedish Agency for Business Development (NUTEK); - County Administrative Boards (CAB)	SEPA	CAB		SEPA	STEM	SWEDAC	SEPA			SEPA, STEM
UK	- England and Wales: Environment Agency (EA); - Scotland: Scottish Environment Protection Agency (SEPA); - Northern Ireland: Chief Inspector (CI); - Offshore installations: Department of Trade and Industry (DTI)		EA, SEPA, CI, DTI		EA, SEPA, CI, DTI	EA		EA, SEPA, CI, DTI		EA, SEPA, CI, DTI	

3 Coverage of activities and installations

- 10 078 installations are reported to be covered by the EU ETS in those 23 Member States which have submitted numbers. However, these figures deviate from the ones in the Community Independent Transaction Log (CITL). This is mainly due to the fact that not all Member States have accomplished their installation level allocation and some are pending appeals against allocation decisions or settlements of technical questions between operators and the competent authorities.
- Almost one third of the covered combustion installations have a rated thermal input between 20 and 50 MW; these installations are responsible for about 2 % of the overall emissions.
- Installations with emissions of more than 50 000 tonnes of Carbon dioxide (CO₂) per year account for 7 % of the total number of installation but are responsible for more than three quarters of the total emissions. Installations with 10 000 tonnes of CO₂ emissions or less per year account for more than one third of the installations but for less than 1 % of the total emissions.
- Only six changes in the list of installations compared to the national allocation plan (NAP) table were reported by the end of the reporting period (30 April 2005); several Member States, however, pointed out that their final NAP table had not yet been submitted to the Commission.
- In total, 21 applications to form a pool have been received in six Member States; 15 Member States did not receive any application and in two Member States the transposition of the Emissions Trading Directive does not provide for pooling.

The number of installations covered under the Emissions Trading Directive will change continuously due to new entrants and closures of installations. The size of the entire Emissions Trading Scheme will therefore vary, albeit only slightly. However, at the beginning of the scheme additional factors have to be taken into account: Not all Member States had yet accomplished their installation level NAPs. Furthermore, in some of the countries that had adopted their installation level, NAPs appeals against the allocation decisions were

pending. In other cases technical questions about the coverage of certain installations have to be settled between the competent authority and the operator. Correspondingly, not all allowances allocated in the installation level NAP were issued, even if the registry of the Member State was operating. Therefore, the number of installations which is accessible in the CITL is currently often smaller than the number submitted in Member States' annual reports ⁽⁶⁾. In addition one has to take into account that the Article 21 reports include some double counting since installations which fall under more than one Annex I activity are to be reported under each applicable Annex I activity. However, during the course of the trading period both figures should converge. Later, when all registries are running, the CITL will provide the most reliable and current figures on the size of the Emissions Trading Scheme. This section provides an overview of the status of issues related to the number of installations and the number of allowances allocated.

3.1 Number of installations per Annex I activity

21 Member States have provided a full breakdown of the number of installations by Annex I activity (Table 2). These 21 countries account for 8 939 installations. Almost three quarters of these installations are combustion installations.

Of these 21 countries, installations for the manufacture of ceramic products account on average for almost 10 % of the overall number of installations. Belgium and Spain have not provided numbers for all Annex I categories. However, they have provided numbers for aggregated categories or for the overall number of installations. Taking into account these figures the total number of installations rises to 10 078.

⁽⁶⁾ These differences can be traced back to two reasons: First, the Article 21 reports include some double counting. Installations which fall under more than one Annex I activity are to be reported under each Annex I category they fall under. Second, most Member States have not issued allowances to all installations due to pending appeals or due to technical questions about the coverage of certain installations. These issues have to be settled between the competent authority and the operator.

Table 2 Breakdown of the number of installations by Annex I activity (7)

	E	E1	E2	E3	F	F1	F2	M	M1	M2	M3	O	O1	O2	Total
BE	-	-	-	-	-	-	-	-	-	-	-	-	-	-	315
CZ	305	297	4	4	21	2	19	92	11	21	60	18	2	16	436
DK	354	352	2	0	1	0	1	31	2	2	27	4	2	2	390
DE	1 285	1 243	37	5	37	5	32	422	122	89	211	130	5	125	1 874
EE	41	40	0	1	0	0	0	5	1	2	2	3	1	2	49
EL	50	46	4	0	6	1	5	70	24	3	43	15	0	15	141
ES	263	245	18	0	28	-	-	420	59	59	302	113	-	-	824
FR	809	794	14	1	25	1	24	156	51	50	55	121	5	116	1 111
IE	97	96	1	0	0	0	0	13	8	2	3	1	0	1	111
IT	594	570	20	4	47	2	45	178	86	55	37	164	-	-	983
CY	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
LV	96	96	0	0	1	0	1	10	2	2	6	1	0	1	108
LT	78	77	1	0	0	0	0	13	2	3	8	2	0	2	93
LU	8	8	0	0	5	0	5	2	1	1	0	0	0	0	15
HU	159	157	1	1	10	2	8	63	7	8	48	6	1	5	238
MT	2	2	0	0	0	0	0	0	0	0	0	0	0	0	2
NL	202	195	6	1	2	1	1	13	2	9	2	0	0	0	217
AT	112	110	1	1	7	2	5	62	16	9	37	31	7	24	212
PL	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
PT	79	77	2	0	2	0	2	135	12	9	114	28	5	23	244
SK	169	167	1	1	2	1	1	27	10	7	10	3	1	2	201
SI	84	84	0	0	4	0	4	16	5	2	9	9	1	8	113
FI	514	511	2	1	7	3	4	19	8	6	5	49	27	22	589
SE	631	624	5	2	18	3	15	20	11	4	5	86	43	43	755
UK	801	785	13	3	10	0	10	174	29	33	112	72	72	0	1 057
EU-21 ¹⁾	6 470	6 331	114	25	205	23	182	1 521	410	317	794	743	172	407	8 939
EU-21 ¹⁾	72.4 %	70.8 %	1.3 %	0.3 %	2.3 %	0.3 %	2.0 %	17.0 %	4.6 %	3.5 %	8.9 %	8.3 %	1.9 %	4.6 %	100.0 %
EU-22 ²⁾	6 733	6 576	132	25	233			1 941	469	376	1 096	856			9 763
EU-23 ³⁾															10 078

¹⁾ Excl. BE, ES, CY, PL; ²⁾ Excl. BE, CY, PL; ³⁾ Excl. CY, PL.

3.2 Combustion installations with a rated thermal input between 20 and 50 MW

Table 3 shows an overview of combustion installations with a rated thermal input between 20 and 50 MW. These are installations which are covered by the Emissions Trading Directive (2003/87/EC) but not by the IPPC Directive (96/61/EC) if they are pure heat and/or electricity producers.

22 Member States have provided adequate data on the number of such installations. They amount to 2 936 installations — roughly one-third of the total number of installations in these countries. In other words, two-thirds of the installations covered by the Emissions Trading Directive are larger sources which are also covered under the IPPC Directive.

Emission estimates for this group of installations have been submitted by only 14 Member States.

These estimates were either derived from the allocation to these installations in 2005 or from the most recent base-year data. Most Member States have provided estimates for the entire year 2005. Germany and Ireland have provided emission data for the reporting period from 1 January to 30 April 2005. This value has been multiplied by three to make it compatible with the other Member States' data. The emissions of those 14 Member States amount to almost 32 million tonnes of CO₂ which is equivalent to 2 % of the total amount of allowances allocated in these countries for the year 2005.

3.3 Installations and their magnitude of emissions

It has been intensively debated whether the EU ETS covers too many small installations (with rather low emissions) where the administrative costs substantially exceed the advantages of trading.

(7) For an explanation of the abbreviations for the Annex I activities please see p. 43.

Table 3 Combustion installations with a rated thermal input between 20 and 50 MW

	Installations		Emissions
	Number	Share of total number	— t CO ₂ e/a —
Belgium	150	48 %	-
Czech Republic	121	28 %	1 500 000
Denmark	244	64 %	1 933 000
Germany	680	37 %	11 400 000 ¹⁾
Estonia	-	-	-
Greece	8	6 %	133 989
Spain ²⁾	2	0 %	-
France	340	31 %	6 900 000
Ireland	53	48 %	672 180 ³⁾
Italy	269	28 %	3 776 095
Cyprus	-	-	-
Latvia	36	40 %	-
Lithuania	35	38 %	248 380
Luxembourg	6	40 %	-
Hungary	73	31 %	874 000
Malta	0	0 %	0
Netherlands	59	17 %	2 272 000
Austria	49	24 %	637 000
Poland	-	-	-
Portugal	39	16 %	1 000 798
Slovakia	103	62 %	-
Slovenia	32	34 %	418 000
Finland ⁴⁾	122	23 %	-
Sweden	65	9 %	-
United Kingdom	450	42 %	-
EU-14 (excl. BE, EE, ES, CY, LV, LU, PL, SK, FI, SE, UK)	2 002		31 765 442
EU-22 (excl. EE, CY, PL)	2 936	30 %	-

¹⁾ Emissions during the reporting period (1st January to 30th April 2005): 4.7 million t CO₂e;

²⁾ Only two installations in public electricity generation, no information available on such installations in other sectors;

³⁾ Ireland provided the emissions during the reporting period (224 060 t CO₂e); as an estimate for the yearly emissions this amount was multiplied by 3;

⁴⁾ Additionally: 220 opt-in installations with a rated thermal input below 20 MW.

Table 4 and Table 5 show a breakdown of installations by emissions categories.

22 Member States submitted information on the number of installations in each emissions category but only seven Member States provided the corresponding emissions. More than one third of the installations have on average emissions below 10 000 tonnes of CO₂ per year. However, this figure varies substantially between Member States. In Finland and Sweden, where several small district heating installations with a rated thermal input below 20 MW were opted in, more than two thirds of the installations come under the smallest category. However, since most of these small installations are operated by large utilities, which operate several installations falling under

the EU ETS, they can make use of synergies in the administration, and thus prevent substantial increases in transaction costs.

The data basis for EU-wide averages on CO₂ emissions in these categories is rather weak. However, some Member States provided their shares of the emission categories but not respective emissions. In general, these share data confirm the average emissions data calculated from the seven Member States (Czech Republic, Denmark, Spain, Italy, Lithuania, Austria and Slovakia). Installations with emissions of more than 500 000 tonnes of CO₂ per year are responsible for more than three quarters of the total emissions, while small installations with 10 000 tonnes of CO₂ emissions or less per year account for less than 1 % of total emissions.

Table 4 Breakdown of installations by emission categories — number of installations

	< 10 000	10 000 to 25 000	25 000 to 50 000	50 000 to 500 000	> 500 000	Total
— Number of installations —						
Beglium	79	69	55	76	33	312
Czech Republic	149	106	54	77	40	426
Denmark	231	69	30	36	14	380
Germany	574	410	294	408	163	1 849
Estonia	6	11	8	14	4	43
Greece	29	34	18	36	24	141
Spain	153	193	148	236	89	819
France	207	324	227	292	61	1 111
Ireland	41	27	10	18	15	111
Italy	282	197	161	211	99	950
Cyprus	-	-	-	-	-	-
Latvia	40	23	12	14	1	90
Lithuania	44	18	14	11	6	93
Luxembourg	1	2	1	9	2	15
Hungary	-	-	-	-	-	-
Malta	-	-	-	-	2	2
Netherlands	79	92	58	94	33	356
Austria	58	49	24	57	15	203
Poland	-	-	-	-	-	-
Portugal	106	59	34	34	13	246
Slovakia	63	38	16	38	12	167
Slovenia	40	22	14	15	3	94
Finland	366	46	31	67	23	533
Sweden	559	56	42	61	6	724
United Kingdom	381	242	126	237	76	1 062
EU-22	3 488	2 087	1 377	2 041	734	9 727
EU-22	35.9 %	21.5 %	14.2 %	21.0 %	7.5 %	100.0 %

3.4 New entrants and closures

In general, there were very few changes in installations, such as new entrants or closures in the first four months of the first trading period. Altogether 14 Member States reported no changes in the period from 1 January to 30 April 2005. Greece, Hungary and Ireland highlighted that either the allowances had not yet been issued or the NAP tables had not yet been entered into the CITL. No information was available on this issue in Finland for the reporting period.

France and Latvia granted 1 488 300 European Union Allowances (EUA) and 45 555 EUA respectively for the three year commitment period to two new entrants in France and one new entrant in Latvia. The Netherlands allocated extra allowances to 19 installations after appeals against the government's allocation decision. These allowances were drawn from the reserve for unknown entrants and for appeals.

The United Kingdom has withdrawn three installations which had been allocated 209 073 EUA for the three year commitment period. In one case the installation was closed and in another the allowances were frozen pending investigation. In a third case the installation was included in the NAP erroneously.

3.5 Applications to form a pool

Article 28 of the Emissions Trading Directive allows operators to form a pool of installations from the same Annex I activity in the periods 2005 to 2007 and 2008 to 2012. In total, 15 Member States report that they did not receive any application to form a pool for the first period. Finland and Sweden point out that their emissions trading law does not provide for pooling. Six Member States report of a total of 21 applications for pools in six different sectors. In one Member State all three applications to form a pool were later withdrawn. Obviously, the

Table 5 Breakdown of installations by emission categories — emissions

	< 10 000	10 000 to 25 000	25 000 to 50 000	50 000 to 500 000	> 500 000	total
— Million t CO ₂ per year —						
Belgium	-	-	-	-	-	-
Czech Republic	0.74	1.69	1.83	13.31	79.52	97.10
Denmark	0.47	1.12	0.99	5.28	23.34	31.20
Germany	-	-	-	-	-	-
Estonia	-	-	-	-	-	-
Greece	-	-	-	-	-	-
Spain	0.89	3.05	5.31	29.85	132.06	171.16
France	-	-	-	-	-	-
Ireland	-	-	-	-	-	-
Italy	1.52	3.15	5.76	35.82	202.73	248.98
Cyprus	-	-	-	-	-	-
Latvia	-	-	-	-	-	-
Lithuania	0.19	0.29	0.49	1.32	5.86	8.14
Luxembourg	-	-	-	-	-	-
Hungary	-	-	-	-	-	-
Malta	-	-	-	-	-	-
Netherlands	-	-	-	-	-	-
Austria	0.30	0.81	0.82	9.34	21.59	32.84
Poland	-	-	-	-	-	-
Portugal	-	-	-	-	-	-
Slovakia	0.38	0.58	0.51	6.23	22.64	30.34
Slovenia	-	-	-	-	-	-
Finland	-	-	-	-	-	-
Sweden	-	-	-	-	-	-
United Kingdom	-	-	-	-	-	-
EU-7 ¹⁾	4,48	10,69	15,70	101,15	487,74	619,76
— % —						
Beglium	-	-	-	-	-	-
Czech Republic	0.8	1.7	1.9	13.7	81.9	100
Denmark	1.5	3.6	3.2	16.9	74.8	100
Germany	0.6	1.4	2.1	13.3	82.8	100
Estonia	0.2	1.0	1.7	11.3	85.8	100
Greece	-	-	-	-	-	-
Spain	0.5	1.8	3.1	17.4	77.2	100
France	0.7	3.5	5.4	26.7	63.7	100
Ireland	1.0	1.9	1.5	11.5	84.1	100
Italy	0.6	1.3	2.3	14.4	81.4	100
Cyprus	-	-	-	-	-	-
Latvia	3.6	11.7	11.6	49.3	23.9	100
Lithuania	2.3	3.5	6.0	16.3	71.9	100
Luxembourg	0.3	0.5	1.0	37.9	60.4	100
Hungary	-	-	-	-	-	-
Malta	-	-	-	-	100.0	100
Netherlands	0.4	1.6	2.2	13.5	82.3	100
Austria	0.9	2.5	2.5	28.4	65.7	100
Poland	-	-	-	-	-	-
Portugal	1.6	2.4	3.3	13.0	79.7	100
Slovakia	1.3	1.9	1.7	20.5	74.6	100
Slovenia	2.4	3.7	5.3	19.8	68.8	100
Finland	-	-	-	-	-	-
Sweden	3.5	4.5	7.0	34.5	50.5	100
United Kingdom	0.7	1.4	1.6	13.7	82.6	100
EU-7 ¹⁾	0.7	1.7	2.5	16.3	78.7	100

¹⁾ CZ, DK, ES, IT, LT, AT, SK

pooling clause of the directive has not been used widely.

3.6 Other additional remarks

Denmark, Hungary and Latvia pointed out that they have applied the broad interpretation of a combustion installation in accordance with the recommendation of the Commission.

Latvia and Finland highlighted that they have unilaterally included several installations with a rated thermal input of less than 20 MW, if they were connected to a district heating grid with at least one installation. In Sweden all such district heating installations were unilaterally included if the aggregated rated thermal input of all installations connected to the same district heating grid exceeded 20 MW.

Spain and the Netherlands addressed the administrative cost and burden for installations with low emissions, which account for a large

number of installations but a small amount of emissions. They questioned whether the administrative burden for these installations can be justified. Moreover, the Netherlands reported that they have used 'opt-outs' for a number of installations with emissions below 25 000 tonnes per year. To guarantee the compatibility with the Emissions Trading Directive, the emissions of these installations are monitored in a similar way.

Greece stated that installations which are covered by the Emissions Trading Directive but are not yet identified will be treated as new entrants, once they are discovered.

Finally, the United Kingdom explained that the efficiency of the Emissions Trading Directive might be improved by:

- the harmonisation of the definition of a combustion installation;
- the exclusion of installations with low emissions;
- the exclusion of biomass installations.

4 Permits for installations

- *In several Member States emission trading permits will only be granted if a detailed monitoring and reporting plan is submitted; in addition the competent authorities must carry out spot checks to ensure the compliance with the obligations laid down in these permits.*
- *If operators do not comply with their obligations, the competent authorities may impose penalties and/or suspend an installation temporarily.*
- *In eleven Member States more than one competent authority is responsible for the administration of the Emissions Trading Scheme; in those countries, various measures, such as regular meetings of working groups or training courses, have been established to assure consistent implementation of the emissions trading legislation.*
- *In most Member States, changes to an installation or its operating mode have to be authorised by the competent authorities; smaller changes need only be notified.*
- *More than 170 permits were updated during the reporting period, most of them in the United Kingdom; the most frequent reasons for updates were changes in the monitoring and reporting details and changes in the identity of the operator.*

Greenhouse gas emission permits are the basis for emissions trading since they define the conditions with which operators have to comply when their installations are covered by the Emissions Trading Directive. The Member States have implemented the respective provisions of the Directive (Articles 4 to 6) differently. In order to maintain the credibility of the EU ETS, it is important for the European Commission and the Member States to have a clear picture of how Member States implement those provisions. This section therefore addresses several issues related to greenhouse gas permits, such as coordination between permitting authorities, interplay with other environmental permits or changes of permits.

4.1 Measures to ensure operator compliance with the requirements of their permits

Articles 4 to 6 of the Emissions Trading Directive deal with the greenhouse gas emissions permit. Pursuant to Article 4, Member States have to ensure that no installation listed in Annex I of the Directive emits greenhouse gases unless the operator holds the respective permit. Article 5 describes which information operators have to submit in their

application for such a permit. Finally, Article 6 provides the conditions under which the competent authority may grant the permit: the operator has to demonstrate that they are able to monitor and report the greenhouse gas emissions of their installation.

The Member States have taken several measures to ensure that these requirements are met. In at least ten of the Member States (Belgium, Denmark, France, Lithuania, the Netherlands, Austria, Portugal, Sweden, Slovakia and Slovenia) emissions permits will only be granted if the operator submits a detailed monitoring and reporting plan.

In most Member States the competent authorities may impose penalties if operators do not comply with the conditions of the permit. In the case of severe infringements of these conditions, operators in Ireland may face either a fine of up to EUR 15 million or up to 10 years imprisonment. However, in other countries the maximum fines are much smaller (e.g. up to one years imprisonment in Sweden; a maximum of EUR 50 000, EUR 7 000 or some EUR 3 200 in Germany, the Netherlands and Estonia respectively). The United Kingdom's regulations also provide for fines and summary convictions in relation to certain offences. Several Member States also reported that trading of allowances will be prohibited where irregularities are identified (Germany, Austria, Poland and Sweden). In other Member States the competent authorities may revoke the permit and limit or suspend the operation of the installation (Belgium, Hungary, Italy, Latvia, Liechtenstein, Finland and the United Kingdom). Six Member States explicitly mentioned that their competent authorities carry out spot or routine checks or inspections of the installations in order to ensure that the operators comply with the obligations of their permit.

Apart from these measures which are commonly used in several Member States, some Member States reported additional measures to guarantee operator compliance with the conditions which are laid down in their permits: The enforcement branch of the Netherlands' Emission Authority (NEa) will — in addition to the spot-checks — carry out regular audits in one-third of the installations every year in order to monitor compliance with the conditions of the permits. In addition, the Netherlands will also apply a 'naming and shaming' policy for operators who do not comply with their obligations. France

announced that their authorities will apply rather conservative emission estimates if an emission report is not submitted in due time. Thus the operators should be encouraged to avoid these conservative estimates by submitting their reports on time. The United Kingdom explained that the verification bodies are also responsible for checking compliance with the conditions of the permit if they verify the emission reports. Additional 'soft' measures which are intended to improve compliance in the United Kingdom include:

- the provision of specific reporting formats;
- the provision of guidance documents;
- regular meetings with industry associations to discuss issues relevant for compliance.

4.2 Coordination of permission procedures in the case of more than one competent authority

Regarding the coordination of different competent authorities, ten Member States stated that only one competent authority is concerned with the permitting of installations in their country (Czech Republic, Denmark, Estonia, Ireland, Italy, Luxembourg, Hungary, Malta, Portugal and Slovenia). Poland said that no problems have occurred so far. Others declare that the cooperation is explicitly regulated in the emissions trading legislation or in regulation (Belgium, Germany, Greece, Spain, France, Latvia, the Netherlands, Austria, Sweden and the United Kingdom). In Latvia and Sweden, decentralised administrative acts are coordinated by one central authority in order to ensure consistency.

At least five Member States have also set up commissions or working groups which hold regular meetings for the coordination of their tasks (Germany, Greece, Spain, Sweden and United Kingdom). The United Kingdom has in addition developed specific guidance notes to promote consistent implementation of emissions trading law. It has also established an interpretation group which clarifies ambiguous issues. The Slovak Republic and Sweden carried out training courses for employees of their competent authorities in order to ensure consistent implementation of emissions trading law.

4.3 Interplay of the permission procedure under the IPPC and the EU ETS Directive

Basically, the integrated pollution prevention and control (IPPC) Directive (96/91/EC) requires the definition of both energy efficiency requirements

and emission or concentration limits for pollutant emissions from all sources with a rated thermal input higher than 50 MW. These requirements could restrict emissions trading. For example, operators of large sources might be obliged to reduce their emissions (in order to comply with the IPPC Directive) when it could be more economically efficient to increase emissions further and buy additional allowances instead. Article 26 of the Emissions Trading Directive therefore amends the IPPC directive so that permits shall not include CO₂ emission limits for installations which are covered by the EU ETS. Where necessary, the competent authorities shall amend the permit as appropriate. In this regard, several Member States stated that national law, which transposes the Emissions Trading Directive, ensures that no emission or concentration limits for CO₂ are applied to emissions trading installations (Czech Republic, Denmark, Greece, Spain and the Netherlands).

Regarding the permitting procedure which is required under both directives, eight Member States apply an integrated permit procedure (Belgium, Spain, Germany, Malta, Portugal, Austria, Slovenia and United Kingdom) whereas nine other Member States establish separate permits for each of the Directives (Czech Republic, Ireland, Italy, Lithuania, Hungary, the Netherlands, Slovakia, Finland and Sweden). In most of the latter countries the granting of an emissions trading permit requires a valid IPPC permit (Ireland, Hungary, the Netherlands, Slovakia, Finland and Sweden). In Lithuania the approach is exactly the opposite, i.e. the granting of an IPPC permit requires a valid emissions trading permit.

Poland also alluded that under the Emissions Trading Directive the emission trading authorities have access to the IPPC permits and can check them for any information which might be relevant to the permission process. In Greece the IPPC regulators check whether operators of an installation have to apply for an emissions trading permit or not, and will inform the competent authorities if an emissions trading permit is required. Italy reported that the IPPC Directive was transposed into national law after the Emissions Trading Directive and that the permit procedures are not yet coordinated.

4.4 Legal provision for the update of permits

According to Article 7 of the Emissions Trading Directive, operators have to inform the competent authority of any extension or any other planned changes in the nature or functionality of an installation. Where appropriate, the competent

Table 6 Updates of permits by categories of changes

	LV	HU	SI	FI	UK ¹⁾	Sum
Revoked					12	12
Surrendered					19	19
Transferred					20	20
Varied	8	2	1	35	77	123
Increase of capacity					4	4
Decrease of capacity		1	1		1	3
Changes in monitoring and reporting details				35	20	55
Changes in the identity of the operator	8	1			12	21
Non-significant amendments					2	2
Other variations					38	38
Sum	8	2	1	35	128	174

¹⁾ 1 January to 15 June 2005

authority shall update the permit. In the case of changes in the identity of the operator, the competent authority shall update the permit and include the name and address of the new operator.

In total, 18 Member States explicitly mentioned that changes in an installation or its operating mode have to be authorised. In at least ten Member States a change in the monitoring methods has to be authorised as well; this is the case in Sweden, even if the change is only of a temporary nature. Four Member States (Czech Republic, Germany, the Netherlands and Poland) require operators to notify changes several days (the Netherlands) or weeks (Germany) in advance. In Germany, closures have to be notified immediately. In case of breaches of these regulations penalties may be imposed (Germany and United Kingdom).

The Netherlands differentiates between 7 categories of changes: 1) expansion of the installation; 2) changes in the installation or in the operation mode with significant consequences for the greenhouse gas emissions or the monitoring protocol; 3) drastic changes in the monitoring protocol; 4) change in the name or address of the permit holder; 5) changes in the installation or the operation mode without significant consequences for greenhouse gas emissions or the monitoring protocol; 6) minor changes in the monitoring protocol; and finally 7) deviations from the monitoring protocol.

In at least nine Member States changes in the identity of the operator require an update of the permit (Spain, France, Ireland, Italy, Lithuania, Latvia, the Netherlands, Slovenia and Finland). In France, the Netherlands and Finland less significant changes are recorded but do not result in an update of the permit (for the Netherlands, this applies where changes fall under categories 5 or 7). In Germany changes in the identity of the operator do not result in an update of

the permit since the permit refers to the installation and not to the operator.

4.5 Number of updated permits

Only Latvia, Hungary, Slovenia, Finland and the United Kingdom reported changes in the permits (Table 6). All other countries did not register any permit updates during the reporting period of this report. The Netherlands mentioned a number of notifications on temporary or permanent changes to the monitoring protocol which did not result in an update of a permit.

More than 170 permit updates have been administered by the competent authorities of those countries who reported changes in permits. Most of these changes occurred in the United Kingdom. However, one has to take into account that the United Kingdom has — at least for this issue — extended the reporting period from 30 April to 15 June. Most of the updates are caused by changes of the identity of the operator or changes in the monitoring and reporting details.

4.6 Other additional remarks

Latvia reported that several permits were only issued after 1 January 2005, but that at the time of their reporting all permits were issued and included monitoring and surrendering requirements for the entire year 2005.

The Netherlands highlighted that changes in the monitoring protocol can be notified electronically on the basis of the Electronic Administrative Communication Act — an electronic system which was set up to facilitate notifications by operators and their approvals by the competent authority.

5 Application of the 'Monitoring and Reporting Guidelines'

- *Only limited information on the tiers applied by installations during the first four months of the emission trading scheme was available. From available data it appears that at least for minor fuel flows minimum tiers were not met by around 20 % of installations with annual emissions above 500 000 tonnes CO₂.*
- *There are several issues for which minimum tiers are not (yet) technically feasible in several Member States. These include accreditation of laboratories, according to ISO 17025, as well as the determination of calorific values and oxidation factors.*
- *At least 18 installations in four Member States will apply continuous emissions measurement. In eight Member States no emissions measurement will be used for monitoring under the EU ETS.*
- *Only in eight Member States were reporting obligations coordinated under the Emissions Trading Scheme with other existing obligations; five are still evaluating options and nine as well as one region did not coordinate obligations.*

Monitoring and reporting of emissions by operators play a fundamental role in any emissions trading scheme. The emission report will determine the amount of allowances which have to be surrendered for each year and thereby establish whether an operator is able to sell emission rights or acquire more. The monitoring methods to be used are included in the greenhouse gas emission permits and determined on the basis of the monitoring and reporting guidelines by the relevant competent authorities in each Member State. Only a consistent application of these guidelines ensures a level playing field for all companies irrespective of location. In this section of the questionnaire, Member States are asked to provide information on the approaches and methods used to monitor emissions, temporary deviations from the monitoring methodologies and other specific issues such as continuous emissions measurement, waste burning and emissions from CO₂.

5.1 Approaches and methods used to monitor emissions

The approaches and methods used to monitor emissions were only partly known in most Member

States by the end of the reporting period (30 April 2005). Ten countries (Belgium, Ireland, Latvia, Hungary, the Netherlands, Austria, Portugal, Slovenia, Sweden and United Kingdom) provided the applied tier levels for at least some installations with annual estimated emissions of more than 500 000 tonnes CO₂. In addition to this, only Belgium and Latvia were able to report emission factors, net calorific values and oxidation factors of the fuels used by these installations. Analysis of these data shows that for around 20 % of these installations either the activity data, the emission factor or the net calorific value is not determined for at least one fuel, according to the minimum tiers specified by the monitoring and reporting guidelines⁽⁸⁾. As only total annual emissions of an installation have to be reported in the questionnaire, it is not possible to analyse the significance of the effected emissions in comparison to the total emissions of these installations in this report. Detailed analysis of the data was further impeded by inconsistencies in the way Table 3 of the questionnaire was filled in.

15 Member States provided some general information on the tiers applied. Only Estonia reported that minimum tiers were technically feasible in all installations. In Austria, Finland, France, Ireland and Latvia the necessity of ISO 17025 accreditation of laboratories analysing calorific values was eased. In Austria calorific values can be determined by other laboratories under the supervision of an accredited laboratory. Finnish and French laboratories do not need to be accredited according to ISO 17025 during the first trading period if other quality standards are applied. Moreover, default calorific values can be used for homogeneous fuels in Austria and Finland.

In Austria, Ireland and Italy lower tier levels are accepted for a transition period. During the first reporting period operators in Italy were only required to apply tier 1 for all parameters. In October 2005 the Monitoring and Reporting Guidelines were included in the national legislation and operators were obliged to use the tiers provided for in those. Six Member States report that lower tier levels are accepted permanently. Austria and Finland also provided default (FI) or mandatory (AT) oxidation factors. In Finland operators of combustion installations

⁽⁸⁾ This figure does not include Italian installations which were allowed to apply tier 1 until October 2005 independent of size or emissions (see below).

are allowed to determine the used energy amount and its calorific value from the energy output from the installation. Finland also provided national emission factors for large installations (over 500 kt CO₂) using fuels of proven uniform quality. Lower tiers for venting and flaring are accepted in Austria and Denmark due to technical difficulties with this source. In France there are two general exemptions from the tier levels mandated by the guidelines. Installations producing cement clinker (M1) with annual emissions over 500 000 tonnes are allowed to determine the emission factor using tier 1 instead of tier 2. In total 14 installations with combined emissions of 9.43 million tonnes per year are affected. Additionally, combustion installations with emissions over 50 000 tonnes are permitted to determine the oxidation factor using tier 1 instead of tier 2. This exemption applies to 273 installations emitting 58 million tonnes annually. The Netherlands report that lower accuracies are accepted for minor fuel flows. Finally, in Slovenia three operators are allowed to apply default oxidation factors.

5.2 Which installations temporarily applied different tier methods from those agreed with the competent authority?

Ten Member States (Belgium (Wallonia and Brussels), Estonia, Hungary, Ireland, Italy, Luxembourg, Latvia, Portugal, Slovenia, Sweden) reported that temporary lower tiers (i.e. lower than those included in the emission permit) were not applied during the reporting period. The only cases

so far were reported by the United Kingdom where a small number of installations had to apply lower tiers as a result of failures of gas supply meters. In addition, a number of offshore installations are applying lower tiers until metering facilities have been upgraded.

5.3 Application of continuous emissions measurement

At the time of reporting there was only limited information available on the application of continuous emissions measurement (CEM). At least 18 installations in four Member States will apply CEM. In eight Member States all installations will use the activity data approach for estimating CO₂ emissions (Table 7). Austria and Sweden had no final information but expected that only few installations will apply CEM. Ten Member States were not able to answer this question in their first report.

5.4 CO₂ transferral, biomass combustion and emissions from waste combustion

Most Member States were not able to provide any information on CO₂ transferral, biomass combustion and emissions from waste combustion in their first questionnaire. This was partly due to the reduced first reporting period, which does not include a submission of monitoring information, and partly to the late transposition of the Emission Trading Directive in several Member States.

Table 7 Application of continuous emissions measurement

	E1		E2		M1	Sum
	< 50 kt	> 500 kt	> 500 kt	> 500 kt	> 500 kt	
Belgium						0
Czech Republic						0
Denmark					1	Min 1
Estonia	3	5				8
Ireland						0
Latvia						0
Luxembourg						0
Hungary						0
Netherlands						0
Portugal						0
Slovenia						0
Finland				1		1
United Kingdom				8		8
Sum	3	5	9	1		18

CO₂ is not transferred by any installation covered by the trading scheme in Luxembourg, Latvia and Malta. In Ireland data available at the time of reporting indicated the same situation. In all other Member States this information was not yet available and will only be provided in the next report.

In Lithuania one combustion installation with a thermal input exceeding 20 MW (E1) will use biomass as a fuel. Luxembourg and Malta report that no installations covered by the scheme will combust biomass. In all other Member States this information was not yet available and will only be provided in the next report.

Only Latvia had the necessary information to report on CO₂ emissions from waste. In the first reporting period 6 400 tonnes CO₂ were emitted. Nearly 60 % of emissions were caused by the combustion of old tyres, while the remaining 40 % originated from the use of reconstituted mineral oils. Luxembourg indicated that there is only one installation burning waste, whereas there is none in Malta. In all other Member States this information was not yet available and will only be provided in the next report.

5.5 What measures have been taken to coordinate reporting requirements with any existing reporting requirements in order to minimise the reporting burden on businesses?

Belgium (Flanders), Denmark, Estonia, France, Greece, the Netherlands and Slovenia coordinated reporting requirements under the Emissions Trading Directive with other reporting requirements or are preparing to do so. In Belgium (Flanders) it is planned to use emission data for reporting under the European Pollutant Emission Register (EPER) and the regional benchmarking covenant. France and Greece intended to coordinate with reporting under EPER. The Netherlands integrated obligations under the national Nitro oxide (NO_x) Emission Trading

Scheme, and the Statistics Office of Slovenia can directly access data from verified annual reports. Belgium (Wallonia), Denmark and Estonia planned joint reporting with other national requirements but did not provide further details.

Six Member States (Austria, Spain, Ireland, Luxembourg, the Netherlands and Portugal) are still evaluating possibilities for coordination with existing reporting requirements while five Member States (Czech Republic, Lithuania, Latvia, Malta, Slovakia), and Brussels decided not to coordinate reporting requirements. In Hungary, Sweden and the United Kingdom there is no overlap with existing reporting requirements. No information was provided by Poland.

Eight Member States reported (Denmark, Germany, France, the Netherlands, Austria, Finland, Sweden and United Kingdom) that monitoring reports will be submitted electronically by operators to facilitate the reporting process.

5.6 Other additional remarks

Austria reported that the default oxidation factors included in the monitoring and reporting guidelines do not represent the current technological development and suggests that they should be set to 1. To reduce the reporting burden, Austria also recommended that more default values should be provided, e.g. emission factors of biomass and other fuels as well as the carbon content of process input materials.

In Latvia irregularities with measurement equipment were discovered by operators. The Netherlands developed a unified format for monitoring protocols to harmonise and simplify the process. Sweden requested clarity on whether the emission levels in the monitoring and reporting guidelines refer to CO₂ emissions from fossil fuels only or include emissions from biomass combustion as well.

6 Arrangements for verification

- *In all Member States, with the exception of one Belgian region, independent verifiers can be accredited ⁽⁷⁾ according to national rules.*
- *Eight Member States reported that verified emission reports may be subject to additional checks to ensure the quality of the verification process.*
- *Five Member States have already developed verification guidance and eleven more are in the process of doing so.*
- *The treatment of verifiers accredited in another Member State is not harmonised across the EU. Five countries require a full national accreditation process. Six Member States already accept accredited verifiers without additional procedures, while the process in eight Member States depends on the accreditation already obtained.*

As operators would profit from monitoring reports which underestimate actual emissions, independent verification of these reports is required. The Emissions Trading Directive and the monitoring and reporting guidelines only regulate some fundamental requirements and aspects of the verification process. Details are left to individual Member States. This section provides some overview of the verification framework, elaborated guidance documents and provisions for the accreditation of verifiers already accredited in another Member State.

6.1 Verification framework and the role of competent authorities

Independent verifiers are accredited by accreditation bodies in accordance with national rules in almost all Member States. The only exception is Belgium (Flanders), where only one verifier (VBBV) is accredited. The verification process in Luxembourg has not yet been decided. Slovakia did not provide any information on the verification framework and the role of the competent authority. In Italy verifiers can only be temporary accredited for the years 2005 and 2006. Full accreditation will be possible after

the Emissions Trading Directive has been fully transposed.

In Austria, Germany, Spain, France, Latvia, Portugal, Slovenia and the United Kingdom the competent authority (or other bodies) may check verified emissions reports, whereas Denmark decided to accept all verified reports without further evaluation. In Austria, Germany and Spain the competent authority has the right to estimate emissions if verified reports are deemed unsatisfactory.

From the reporting Member States, eight (Denmark, Greece, Latvia, Malta, the Netherlands, Slovenia, Sweden and the United Kingdom) informed that they use the criteria for accreditation contained in the guidelines of the European Cooperation for Accreditation (EA) or the related EN 45011.

Some countries foresee written procedures only, while other clearly require site visits from the verifier.

The legislative process on verification was still ongoing at the time of reporting in Belgium (Wallonia), Spain, Hungary, Italy, Luxembourg, Poland and Portugal.

In Austria the verifier has to be notified ex-ante to the competent authority for approval. The competent authority has the right to appoint a different verifier if it has substantial doubts on the independence of the verifier.

In Slovenia verifiers have to pass an exam as a prerequisite for accreditation. Hungary foresaw different approval procedures for individual and institutional verifiers. Individual verifiers are only permitted to conduct verification activities for small installations.

In Ireland and the United Kingdom verifiers have to recommend improvements on monitoring and reporting procedures to operators.

⁽⁹⁾ In Austria and other Member States verifiers are accepted and not accredited through a decree by the Ministry for Environment or other government bodies. The term 'accredited' is used throughout the document to improve readability instead of 'accredited or accepted' unless explicitly stated.

In the Netherlands operators may appeal to the Verification Benchmarking Agency (VBE) to carry out the verification free of charge. The VBE has to be accredited by the Dutch Accreditation Body. This verification exercise by the VBE is completely free of charge in the first year, but for the following years 2006 and 2007, a reduction scheme will be introduced. From 2008, all the emission reports shall be verified by commercial verification bodies.

In Portugal the competent authority will also train verifiers.

6.2 Overview of verification guidance documents

So far, verification guidance documents have been elaborated by five Member States (Denmark, the Netherlands, Slovenia, Sweden, and the United Kingdom). The verification guidance was not yet finalised in ten Member States (Austria, Belgium, Czech Republic, Germany, Spain, Finland, Hungary, Ireland, Malta and Portugal). Estonia, Latvia, Italy and Poland reported that they have not or will not elaborate on such guidance. Five Member States (Greece, France, Lithuania, Luxembourg and Slovakia) did not report on verification guidance.

6.3 Procedures of accreditation and mutual recognition of accreditation

Five Member States (Austria, Belgium (Brussels), Latvia, Portugal and Sweden) reported that all verifiers have to be accredited through the national accreditation process, mainly due to different accreditation criteria across Member States. In the Czech Republic, Finland, France, Italy, Latvia and Malta verifiers already accredited in another Member State are not subject to an additional accreditation process. In future, the necessity for a national accreditation procedure in the Czech

Republic will depend on the accreditation already obtained by a verifier. Sweden plans to introduce simplified procedures for additional accreditation.

Eight Member States (Denmark, Germany, Greece, Ireland, Hungary, the Netherlands, Slovenia and the United Kingdom) reported that verifiers can work without additional accreditation, if prior accreditation is in accordance with national legislation. Some countries (Ireland, the Netherlands, and the United Kingdom) referred to EA accreditation guidance as a basic requirement. Germany, Denmark, Ireland and Slovenia require knowledge of the national language and/or relevant national legal provisions from verifiers accredited in other Member States. In Ireland and the United Kingdom the first verification undertaken by verifiers which did not need to undergo a full national accreditation procedure due to prior accreditation is overseen.

In Belgium (Flanders) no independent verifiers, apart from one institution, are accredited. Accreditation procedures for verifiers already accredited in another Member State were not decided upon at the time of reporting in Belgium (Wallonia), Spain and Estonia. Luxembourg, Slovakia and Poland did not report on procedures for mutual accreditation.

6.4 Other additional remarks

The Netherlands reported that it will accept verifications with a limited level of assurance for the first year. Research on the risks and consequences when using a limited level of assurance or a reasonable level of assurance has commenced and was expected to be completed by September 2005.

Latvia and Malta reported that no verifiers had been accredited at the time of reporting. The United Kingdom proposed increased harmonisation of verification.

7 Operation of registries

- 14 Member States elaborated specific terms and conditions for the use of their national registries.
- The use of the registries is free of charge in five Member States, while 15 other Member States charge fees. Fees are normally differentiated between operator holding accounts and personal holding accounts.
- Only limited experience was gained in the first reporting period on the operation of registries, due to the late connection of registries to the Community Independent Transaction Log.

Registries provide the necessary infrastructure for tracking emission rights, transferring allowances between market players and surrendering emission rights. To ensure smooth operation, specifications for registries are laid down in detail in the registries regulation⁽¹⁰⁾. This section of the questionnaire therefore focuses on issues related to the daily operation of registries, such as terms, conditions and fees for using the registry as well as other technical aspects like malfunctions or security alerts.

7.1 Terms, conditions and identity checks of account holders

14 Member States (Belgium, Czech Republic, Denmark, Germany, Spain, France, Lithuania, Hungary, the Netherlands, Austria, Slovenia, Finland, Sweden and the United Kingdom) elaborated on specific terms and conditions for the use of their national registries, which have to be signed by account holders. The extent of these terms and conditions varies from two pages (e.g. Denmark) to over 20 pages (e.g. Austria and the United Kingdom). In Estonia no terms and conditions need to be signed by account holders, whereas Ireland only refers to relevant EU legislation⁽¹¹⁾. In Italy the terms and conditions were not yet finalised.

Ten Member States (Czech Republic, Germany, France, the Netherlands, Italy, Austria, Slovenia, Finland, Sweden and the United Kingdom) implemented different identity checks for operator holding accounts and personal holding accounts.

All applicants have to provide a (certified) copy of their passport or identity card in most Member States. Applications for operator holding accounts in these countries need to be further substantiated by a copy from the company register in most cases. Some countries require additional identity checks such as successful mail delivery (FR) or presentation in person at the competent authority. In Germany and Sweden the applicant has to present himself at a post office for identification. Hungary and Portugal had not decided upon the necessary identity checks at the time of reporting.

7.2 Overview of registry fees

The operation of registries is financed in different manners across the Member States. While some countries charge fees for the use others price the allocation of allowances or other aspect related to the trading scheme. This section only provides an overview of fees directly charged for the use of registries and gives no information on the total administrative costs to operators.

Of the reporting Member States only five (Spain, Estonia, Italy, Latvia, Portugal) do not charge any fees for the use of their registries at present but several of those intend to do so in the future. 15 Member States (Czech Republic, Denmark, Germany, Greece, France, Ireland, Lithuania, Hungary, the Netherlands, Austria, Poland, Slovenia, Finland, Sweden and the United Kingdom) charge fees which are differentiated between operator holding accounts and personal holding accounts in most cases. Fees charged include opening fees to be paid once and maintenance fees to be paid annually. In several countries the maintenance fee depends on the allocation of allowances for operator holding accounts. In Finland personal holding accounts are charged in relation to the average balance of the account. In the Netherlands, Sweden and the United Kingdom operators are not charged for holding accounts as the operation of the registry is mainly funded through other charges paid by operators. In these Member

⁽¹⁰⁾ Commission Regulation of 21 December 2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council OJ L 386/1 dated 29.12.2004.

⁽¹¹⁾ Directive 2003/87/EC and Commission Regulation (EC) No 2216/2004.

Table 8 Overview of the fees charged for opening and maintaining accounts in national registries

	Operator holding account			Person holding account		
	Opening	Maintenance		Opening	Maintenance	
	fee	min	max	fee	min	max
	— € —	— €/a —		— € —	— €/a —	
Czech Republic	17	20	20	27	20	20
Germany	200	0	0	200	0	0
Denmark		27	27		28	28
			+ 0.015 per EUA			
Estonia	0	0	0	0	0	0
Greece		100	300			
Spain	0	0	0	0	0	0
Ireland		150	150		150	150
Italy	0	0	0	0	0	0
Latvia	0	0	0	0	0	0
Netherlands	0	0	0	50	0	0
Austria		1 077	12 580		378	378
Poland	118					
Portugal	0	0	0	0	0	0
Slovenia	100	100	100	50	0	50
Finland	0	50	1 000	50	50	1 000
Sweden	0	0	0	53	53	53
United Kingdom	0	0	0	260	0	0

Notes: Only those MS are included which provided detailed information.
All fees were converted to Euro for this table.

States, only holders of personal holding accounts are charged. Table 8 provides an overview of the fees charged for opening and maintaining holding accounts in 17 Member States. In Belgium, Spain, France, Hungary, and Latvia fees will be charged but were not determined at the time of reporting. Cyprus, Luxembourg, Malta and Slovakia did not provide any information.

7.3 Discrepancies, security alerts, downtime and registry upgrades

Due to the late connection of registries to the Community Independent Transaction Log (CITL), only limited experience was gained in the first reporting period on the operation of registries. By April 2005, only few registries were connected to the CITL and only limited transactions were undertaken.

Germany and France reported discrepancies which led to an update of the registry software. In Finland and the Netherlands no discrepancies were detected. Eight Member States (Denmark, Germany, Greece, Finland, France, Austria, Finland, Sweden and the United Kingdom) reported specific procedures established to prevent reoccurrences. No security

alerts were discovered during the first reporting period.

Most registries which were operational before the report was submitted experienced scheduled or unscheduled downtime. Scheduled downtime in reporting Member States ranged between zero and 100 minutes/month over the four-month average. Unforeseen downtime was more substantial in several Member States, e.g. the United Kingdom registry was offline for about 20 % of the time. In Denmark downtime due to unforeseen problems dropped from 530 minutes in January to only 1 minute in April reflecting the experience gained over time.

The registry software used in most Member States (Seringas, GRETA) is scheduled for upgrades in collaboration with the French Caisse des dépôts et consignations (CDC) and the United Kingdom Department for Environment Food and Rural Affairs (DEFRA) respectively, who provide the registry software. Reasons given for upgrades, apart from complying with the registry specifications, were increased user friendliness and enhanced functionality. The registry software smart.register in Austria was developed by Smart Technologies.

8 Arrangements for the allocation of allowances, new entrants and closures

- *Most Member States welcome harmonisation of allocation rules, such as the definition of a combustion installation, treatment of new entrants and closure etc.*
- *Several Member States recommend improving the guidance document, to strengthening the NAP format and demanding a more transparent assessment of the NAPs.*
- *Austria and Finland suggest carrying out notification in two stages. In the first stage only the number of overall allowances, the allocation to the sectors and the allocation rules should be notified to the Commission. The allocation to individual installation list should be developed and notified in a second step after the Commission's approval of the first stage.*
- *Three Member States (France, Finland and Latvia) allocated a combined total of about 2.3 million EUA to new entrants in the reporting period.*
- *Only four Member States (Denmark, Hungary, Lithuania and Ireland) intend to auction allowances; none of them had carried out an auction, and two report that rules for auctioning are still under development.*

The development of the NAPs and the allocation of allowances are the core of the Directive's implementation. These decisions may influence the competitive positions and profits of the companies covered by the scheme and are therefore often controversial. Hence, it is very important to have a clear picture of how this process was carried out in each Member State and which results have been achieved in these processes. This section addresses relevant issues related to allocation. It covers the experience gained with the accomplished allocation process and suggestions made for future processes, allocation to new entrants, closures of installations and auctioning.

8.1 The allocation process: experiences gained and main lessons learned

The answers to this question are rather heterogeneous. Some Member States described in detail their experience in the allocation process, others reported in brief a number of major lessons learned, and a final group just stated that the assessment of the allocation process was not yet

finished in their country. Despite the heterogeneity of the answers some major findings can be identified that are common to several Member States or are interesting for all Member States.

Belgium, Denmark and the Netherlands addressed the level of complexity of the NAPs. Belgium stated that the first allocation process was quite complex but nevertheless fair. Denmark underlined the rather simple and transparent allocation rules in their country and suggested with the Netherlands and Italy that the second allocation process should be transparent, objective and as simple as possible. In Italy decisions based on clear and transparent rules as well as stakeholder consultations proved to be uncontroversial whereas decisions not taken in such a manner resulted in conflicts.

France, Greece, Ireland, the Netherlands and Spain referred to timing aspects of the allocation process. Spain highlighted that the time for the implementation of the Directive was too short and that this constraint might jeopardise the entire instrument of emissions trading. In France the time constraint was caused by the change in the interpretation of the definition of a combustion installation, which required a second public consultation period. Greece claimed that greater emphasis must be placed on accurate, timely and systematic notification for operators. Ireland concluded that the length of the public consultation should be extended and the Netherlands highlighted that, due to the tight schedule, it was useful to start early with the allocation process.

Both France and Spain complained about the ambiguous definition of a combustion installation, which has caused difficulties. Both Member States stated that such a situation should be avoided during the second allocation process. Sweden supported this suggestion and emphasised that clarification of the definition of a combustion installation is required.

The Czech Republic, France, Hungary and Poland explained that the data availability was a major problem in the first allocation process. However, they expected this problem to be of minor importance for the second trading period. Estonia, the Netherlands and Portugal stated that working with industry (both with the operators and their

associations) pays off, as the industry knows its installations best and can identify difficulties and inconsistencies at an early stage.

Hungary, Austria and Poland stated that the consideration of projections in the allocation process was difficult since there was a lack of reliable estimates of emission growth. Several Member States (Czech Republic, Estonia, France, Ireland, Hungary and Finland) also reported that the entire allocation process put a very significant workload on their administration and caused major problems. Finally, Belgium, Austria, Poland and the United Kingdom expressed their views that several issues (new entrants, closures, capacity increases, definition of installation etc.) should be harmonised to improve the allocation process for the second trading period. However, more details with regard to the latter suggestion were given in the answers to the next question.

8.2 Allocation process: suggestions for improvement

Several Member States argued for more harmonised allocation rules in general (Austria, Belgium, Denmark, Germany, Ireland, Portugal, Spain and the United Kingdom). Four Member States explicitly mentioned the need to harmonise the definition of a combustion installation (Austria, Denmark, Germany and the Netherlands). Austria, Denmark and Germany supported harmonisation of the treatment of new entrants, and Austria and Germany also suggested harmonising closure rules. Finally, Germany, Greece and the Netherlands demanded harmonisation in the treatment of installations with low emissions.

Apart from these recommendations to harmonise rules, several Member States stressed the need to improve the Commission's NAP guidance (Belgium, Denmark, Greece, Poland and the United Kingdom). Nine Member States also emphasised that the NAP assessment process and the Commission's decision on the NAPs should be more transparent (Belgium, Germany, Ireland, Italy, Austria, Latvia, Hungary, Poland and the United Kingdom). In addition to this recommendation, Belgium and Latvia also suggested developing an improved and more stringent NAP format.

The Netherlands and the United Kingdom also recommended developing EU-wide standardised emission benchmarks, at least in the electricity sector. Austria and Finland reported on the problems with submitting the list of installations

in time and suggested separation of notification into two stages. In the first stage only the overall number of allowances (or if applicable the number of allowances for sectors) and the allocation rules should be submitted. The list of allocations to individual installations should only be submitted at a later stage when the Commission has already approved the overall numbers and the allocation rules.

Furthermore, Finland complained that the treatment of opt-in applications was too bureaucratic, particularly for new entrants. Instead, the opt-in of new entrants should be approved automatically, if the definitions of new entrants and the allocation criteria for new entrants are defined in the NAP and the Commission has approved the NAP. France highlighted that all decisions on the NAPs, including the list of installations, should be made before the start of the trading period. The United Kingdom suggested that a common understanding of the long-term targets of the Emissions Trading Scheme should be developed. Greece expressed the view that process emissions should receive less attention since they are inevitable. Latvia suggested that opt-in installations with capacities lower than the thresholds given in Annex III are listed in the NAP table with allocations to individual installations as well. Finally, Sweden recommended that the Commission should clearly state whether and when a NAP has to be re-notified and that the treatment of legal appeals against the national allocation decision in the individual Member States should be compared.

8.3 Allowance allocation to new entrants

Most Member States had not yet allocated allowances to new entrants or did not answer the question at all. Hungary and the Netherlands explained that allowances to new entrants will not be allocated before the end of the year 2005 or before 1 October 2005 respectively.

Finland, France and Latvia stated, however, that they have allocated allowances to new entrants: Finland has allocated 759 635 EUA, France 1 488 300 EUA and Latvia 45 555 EUA to new entrants for the period 2005–2007. Denmark had allocated about 600 000 EUA from the new entrants reserve (before the start of the trading period) to installations which started operation after 31 March 2004.

8.4 New entrants reserve

The table below gives an overview of the number of allowances (EUA) remaining in the new entrants reserve (NER) at the end of the reporting period (30 April 2005):

Most Member States have not answered this question. Out of those who answered only Denmark, Finland and Latvia had already allocated allowances to new entrants from the NER. However, 79 %, 70 % or 97 % respectively still remained in the NER of these countries, and Germany, Estonia, Greece, Spain, Sweden and the United Kingdom did not allocate any allowance from the new entrants reserve at all.

8.5 Auctioning

Pursuant to Article 10 of the Emissions Trading Directive, 95 % of the allowances have to be allocated free of charge in the first trading period. Correspondingly, only 5 % of the allowances can be sold or auctioned. Only Denmark, Hungary, Lithuania and Ireland reported that they plan to make use of this provision by auctioning 5 %, 2.5 %, at least 1.5 % and 0.75 % respectively of their total amount of allowances ⁽¹²⁾. However, none of these countries carried out auctions, and thus had not sold any allowances by the end of the reporting period (30 April 2005). Hungary and Ireland stated that the rules for auctions were still under development.

Most of the other Member States reported that this question was not relevant to them or did not answer the question.

8.6 Treatment of allowances that had been allocated but were not issued

Most of the Member States explained that no installations were closed during the period 1 January to 30 April 2005 and that therefore this question was not relevant or they did not answer at all. Ireland

stated that allowances had not yet been issued since the registry was not operating at that point in time.

Nevertheless, Belgium, Denmark, Hungary and the United Kingdom made it clear that in general these allowances will be transferred to the new entrants reserve. In Latvia and Poland allowances which were allocated but not issued due to the closure of an installation were cancelled.

8.7 Other additional remarks

A few Member States made additional remarks. Belgium explained that apart from new installations, extensions in existing installations that increase the capacity are also treated in the same way as new entrants, if the capacity increases more than 10 % or the annual CO₂ emissions by 5 million tonnes or more compared to the base-year 2003.

Finland made it clear that 12 operators with about 20 installations have appealed against the allocation decision. Additional allowances will probably be allocated from the new entrants reserve if the High Court accepts these appeals.

Greece stated that the allocation to new entrants will be regulated in a joint ministerial decision. This decision will, however, be consistent with the provisions already provided in the NAP which was approved by the Commission.

Hungary described in detail the allocation process applied in Hungary.

The Netherlands explained that their new entrants reserve is split in two parts, one for known new entrants and the other for unknown new entrants and appeals. Because of extra allocations due to appeals, the latter part of the reserve has already been reduced by 2.4 million EUA. Based on an 'interim judgement' of the Council of State, 1.5 million EUA were additionally allocated to 19 of the 50 installations whose operators have appealed against the allocation decision. The remaining 0.9 million EUA have been transferred to the reserve for known new entrants.

⁽¹²⁾ DEHSt (Deutsche Emissionshandelsstelle), Implementation of Emissions Trading in the EU: National Allocation Plans of all EU states. Brief fact sheets of EU member state allocation plans, as of November 2005.

Table 9 **Number and share of allowances remaining in the new entrants reserve at the end of the reporting period**

	Number of EUA remaining in the NER	Percent of EUA remaining in the NER
Belgium	-	-
Czech Republic	-	-
Denmark ¹⁾	2 422 062	79 %
Germany	12 000 000	100 %
Estonia	568 590	100 %
Greece	-	100 %
Spain	-	100 %
France	-	-
Ireland	-	-
Italy	-	-
Cyprus	-	-
Latvia	1 526 483	97 %
Lithuania	-	100 %
Luxembourg	-	-
Hungary	-	-
Malta	-	-
Netherlands	-	-
Austria	-	-
Poland	-	-
Portugal	-	-
Slovakia	-	-
Slovenia	-	-
Finland	1 740 365	70 %
Sweden	2 056 503	100 %
United Kingdom	-	100 %

¹⁾ Allowances were allocated before 1 January 2005 to installations put into operation after 31 March 2004.

9 Surrender of allowances by operators

- *No accounts were closed in registries because there was no reasonable prospect of further allowances being surrendered by the installation's operator during this reporting period in any reporting Member State.*

In some cases a Member State may need to close an operator holding account even if it has a negative balance because there is no reasonable prospect of further allowances being surrendered. This can happen if an operator has to file for bankruptcy and has fewer EUAs in the account than needed to cover the emissions of the affected installations. This did not occur during the first reporting period.

10 Use of Emission Reduction Units (ERUs) and Certified Emissions Reductions (CERs) in the Community scheme

- *No ERUs or CERs could be used during the reporting period.*
- *In seven Member States approval of hydro-electric JI or CDM projects depends on the adherence to the criteria and guidelines contained in the World Commission on Dams year 2000 Final Report.*

The first certified emission reduction units (CERs) were issued by the Executive Board of the Clean Development Mechanism (CDM) on 20 October 2005. Emission reduction units (ERUs) from Joint Implementation (JI) projects will only be issued after the start of the first commitment period of the Kyoto Protocol in 2008. Consequently, operators could not use CERs or ERUs during the reporting period and no EUAs had to be cancelled because of JI or CDM projects reducing directly or indirectly the emission levels of installations (under the EU Emission Trading Scheme).

10.1 Provisions for large hydro-electric power production JI or CDM projects

At the time of reporting, most Member States had not yet transposed Directive 2004/101/EC (Linking Directive). In addition, no final decisions had been taken on measures ensuring that relevant international criteria and guidelines (including those contained in the World Commission on Dams year 2000 Final Report) will be respected during the

development of hydro-electric power production projects with a generating capacity exceeding 20 MW. Austria, Belgium (Flanders), Germany, Denmark, Spain, the Netherlands and the United Kingdom reported that CDM and JI projects will only be approved if the relevant criteria have been met. In all these countries except Austria and the United Kingdom, this has already been incorporated into national law. In Austria, Denmark, Spain, Ireland and the United Kingdom it is planned that the compliance with the relevant WCD criteria is verified by the designated national authority, competent authority or another agency.

No Member State reported upon other international criteria or guidelines which project developers have to adhere to during the development of hydro-electric projects.

10.2 Other additional remarks

Germany reported that the caps on the use of CERs and ERUs by operators in the second national allocation plan were not yet decided on and suggested harmonising this issue across the EU. It went on to state that the use of project units was determined by UNFCCC decisions 16/CP.7 and 17/CP.7 ⁽¹³⁾. The United Kingdom is developing a scheme offsetting emissions caused by official travel. Emissions will be compensated through CERs and other instruments.

⁽¹³⁾ Guidelines for the implementation of Article 6 of the Kyoto Protocol and Modalities and procedures for a clean development mechanism, as defined in Article 12 of the Kyoto Protocol as contained in document FCCC/CP/2001/13/Add.2 of 21 January 2002.

11 Issues related to compliance with the directive

- *So far, only the Netherlands have imposed administrative penalties on two operators because their application for a permit was overdue. However, these fines were cancelled when the two operators fulfilled their obligations.*
- *Only a few Member States reported more details on their administrative penalties but already from these few examples it is clear that the maximum fines deviate substantially. For instance in Spain, penalties of up to EUR 2 million may be imposed while the maximum penalty in Latvia has been set at EUR 3 000.*
- *In addition to the penalties which have to be paid in case of excess emissions pursuant to Article 16 of the Emissions Trading Directive, Spain and Hungary also suspend the respective operators from selling allowances by partly blocking their registry account. In Hungary, for example, the amount equivalent to the excess emissions will also be deducted automatically from next year's issuance of the allocated allowances.*

Operators of installations covered by the EU ETS must comply with the national legislation implementing the Directive. However, this can only be assured if adequate penalties are applied in case of contravention. The minimum penalties relating to excess emissions are provided in Article 16 of the Directive. Breaches of other administrative provisions are regulated by the Member States. The following sections provide a synopsis of these legal provisions and a summary of the application of penalties.

11.1 Legal provisions with regard to penalties

22 Member States reported that they have not yet applied any penalty. Hungary did not clearly indicate whether penalties have been applied or not. The Netherlands have imposed two administrative penalties because the application for a permit was overdue. However, the fines were never paid since the operators fulfilled their obligations later.

Austria highlighted that the penalties are imposed by regional or local authorities. Since there is no provision that impositions of fines have to be

notified to the federal government, it will be difficult for Austria to report on this question in the future.

Several Member States (Belgium (Wallonia), Hungary and Poland) reported the penalties which will be imposed in the case of excess emissions. These provisions are consistent with Article 16 of the Emissions Trading Directive: operators who do not comply with their obligations to surrender allowances have to pay EUR 40 per tonne of excess emissions in the pilot phase of the emissions trading scheme and EUR 100 per tonne hereafter without being released from surrendering allowances for these excess emissions. In addition, in Spain and Hungary, the holding accounts of such operators will be blocked. Furthermore, Hungary will deduct the excess emissions from next year's issuance of allowances.

The Netherlands described their administrative penalties in more detail. These penalties were as follows: operation without permit might be fined with a penalty of up to EUR 35 000; infringements of monitoring or reporting obligations with a penalty of up to EUR 7 000; and infringements of obligations to notify changes in the installations with a penalty of up to EUR 5 000.

Spain differentiates between very serious, serious and slight infringements. Very serious infringements may be fined with a penalty of up to EUR 2 million while serious or slight infringements could receive fines of EUR 50 000 or EUR 10 000 respectively. In Ireland and Sweden severe infringement may also be fined with up to 10 and 1 year of imprisonment respectively. Generally, the maximum administrative penalties vary substantially between the Member States: In the Netherlands it is EUR 35 000, in Germany EUR 50 000, in Ireland and Spain up to EUR 15 million and EUR 2 million respectively and in Latvia less than EUR 3 000.

In addition to financial penalties, the installations of Spanish operators who infringe the obligations of the emissions trading law may be totally or partly closed for a period from two to five years respectively depending on whether the infringement is classified as serious or very serious.

11.2 Operators for which excess emission penalties were imposed

No penalties were imposed between 1 January and 30 April 2005 in any of the Member States since no allowances had to be surrendered during this period

11.3 Other additional remarks

Most of the Member States did not provide any additional information under this topic. However,

two Member States (Greece and Hungary) stated the reference to the legal provisions which transposes Article 16 of the Emissions Trading Directive. Belgium (Flanders) provided a translation of the respective Articles which transpose Article 16 of the Emissions Trading Directive (particularly Article 26 of the Flemish REG-decree and Article 22 of the Flemish emissions trading legislation).

12 The legal nature of allowances and fiscal treatment

- *For the purpose of accounting, allowances regarded as (intangible) assets in several Member States; in Italy and the United Kingdom emissions are additionally regarded as liabilities.*
- *For the purpose of financial legislation, some Member States consider allowances to be commodities which do not fall under the responsibility of the financial services authority (FSA). Futures or other derivatives of these commodities are however regarded as financial instruments and their transactions are supervised by the FSA. In other Member States the allowance itself is considered to be a financial instrument.*
- *In most Member States all transactions of allowances are subject to value added tax (VAT), except the issuance free of charge.*
- *Profits and losses from transactions in allowances are subject to income or corporate tax. Most countries did not establish separate rules for allowances but apply the same regulations as for all other profits and losses.*

CO₂ allowances are often called a new 'currency' for the use of environmental services. Accordingly, they have to be clearly defined and integrated into already existing financial legislation and institutions. The sections below describe in detail how the Member States defined allowances from the perspective of accounting and financial legislation, and how the allowances will be treated under their fiscal law.

12.1 Legal status of allowances

Some Member States (Belgium, Spain and Poland) reported either 'no' or 'only a few details', because final decisions were not yet taken on some of these issues. Greece stated that emissions trading legislation does provide specific rules regarding accounting, financial treatment or taxation.

Eight Member States (Czech Republic, Denmark, Germany, France, Ireland, Italy, Malta and the United Kingdom) explicitly stated that for the purpose of accounting, allowances are to be regarded as (intangible) assets. The United Kingdom and Italy, on the other hand, stated that emissions are to be regarded as liabilities. Furthermore, the United Kingdom announced that their accounting rules will comply with interpretation 3 of the International Financial Reporting Interpretations Committee (IFRIC 3).

In some Member States (Estonia and Sweden) allowances are regarded as financial instruments which are supervised by the financial service authority (FSA). In other Member States (Germany, France, Austria, Finland and the United Kingdom) allowances are considered to be commodities. Spot-trading of these commodities does not fall under the responsibility of the FSA. Futures and other derivatives of these commodities are, however, considered as financial instruments whose transactions are supervised by the FSA.

Regarding taxation, value added tax (VAT) and income or corporate tax can be differentiated. Sweden explained that it is waiting for an agreement on the guidelines of the EU VAT Committee on the treatment of allowances before taking a final decision on this matter. Other Member States, particularly France, Germany, Latvia, Finland and the United Kingdom, reported that transactions of allowances are regarded as a supply of service and that they are subject to VAT with the respective rates. Issuances of allowances free of charge, in contrast, are not subject to VAT.

Five countries (Germany, Denmark, Latvia, Malta and the Netherlands) stated that profits and losses from transactions of allowances are subject to income or corporate tax at the respective rates. The profits or losses are to be calculated as the difference between the acquisition and the sale price of the allowances. Latvia and the United Kingdom explained explicitly that regarding income or corporate tax no new tax law has been introduced to specifically deal with allowances.

12.2 Allowances allocated for payment

Only six Member States intended to sell or auction some of the allowances. However, during the reference period of this report no allowances had yet been sold or auctioned.

Denmark planned to sell or auction 5 % of the overall amount of allowances but did not yet decide when and how this will be done. Ireland and Hungary explained that they will auction a share of their allowances but that the rules for these auctions had not yet been developed. Lithuania also intended to auction a share of their

allowances and has already developed draft rules for auctioning. However, it did not provide any further details on these rules. Slovenia aimed to auction any allowances which remain unallocated by 28 February 2008. Similarly, the United Kingdom intended to sell those allowances which remain in the new entrants reserve, but also declared that the decision on the methods will be taken later.

Out of those Member States which allocate allowances for payment, three (Hungary, Lithuania and the United Kingdom) did not decide whether VAT will be applied to these transactions or not. Ireland explained that allowances issued by the Environmental Protection Agency on behalf of

the Republic will be outside the scope of VAT, as is the charging of fines due to infringements. Transactions between taxable persons, however, are subject to VAT. Denmark, in contrast, made clear that allowances which are auctioned or sold by the state — in accordance with the decision of the 75th meeting of the VAT committee — will be subject to VAT.

12.3 Other additional remarks

Austria highlighted the need to harmonise the legal character of the certificates and the fiscal treatment in all Member States across the EU.

13 Access to information pursuant to Article 17

- *Most Member States publish their national allocation plan, allocation rules and installation allocation on the internet.*
- *Monitoring reports are generally available upon request only. In two Member States these reports will be published on the internet.*
- *Information on project mechanisms in which a Member State participates or authorises private or public entities to participate is published on the internet in eight countries.*

Article 17 of the Emissions Trading Directive, as amended by the Linking Directive, requires decisions relating to the allocation of allowances, information on project activities in which a Member State participates or authorises private or public entities to participate, and the reports of emissions required under the greenhouse gas emissions permit shall be made available to the public. 20 Member States reported that they publish their national allocation plan, allocation rules and installation allocation on the internet, normally on the website of the competent authority. Two additional countries reported that this information is published in their official journals.

Information on project mechanisms in which a Member State participates or authorises private or

public entities to participate is published on the internet in eight countries (Belgium, Denmark, Spain, Estonia, Finland, Hungary, Italy and the Netherlands). Austria planned to prepare three-yearly reports. In Sweden this information is available upon request only. All other Member States have either not yet decided upon access to information concerning project mechanisms or have not reported on this.

Monitoring reports of installations are available upon request in six Member States (Hungary, the Netherlands, Austria, Slovenia, Sweden and the United Kingdom) while in Flanders monitoring reports are published on the internet. In Spain regional administrations are responsible for monitoring, and rules governing access to the monitoring reports vary between the regions.

Germany, Lithuania and Latvia additionally reported that their competent authorities are conducting general outreach and information activities for the public and operators. Activities included seminars, presentations and email distribution lists.

14 General observations

- *Several Member States suggested reducing the burden imposed by the Emissions Trading Directive on operators and authorities. Small installations and the need for accreditation of laboratories were raised as especially problematic.*
- *More harmonisation on the application of the Emissions Trading Directive was requested by several Member States. Areas suggested include allocation rules, definition of combustion installations, coverage and verification.*

14.1 Burden to operators and authorities

Several Member States expressed concerns on the burden imposed by the Emission Trading Directive on operators and authorities. Belgium, Spain, the Netherlands, Poland and Sweden pointed out that the burden, especially on operators of small installations, should be reduced. Belgium suggested an exclusion of installations with emissions below 25 000 tonnes and the Netherlands advocated simplified monitoring and reporting guidelines for small installations. Austria, Latvia and the Netherlands reported that the monitoring and reporting guidelines (2004/156/EC) were too complex in some cases, not cost effective enough and even counter-productive in some instances. In particular, the need for accreditation according to EN ISO 17025 of laboratories determining calorific values was questioned.

14.2 Harmonisation across EU Member States

Member States proposed increased harmonisation on several issues. This was partly to reduce the burden on national authorities, but mainly to avoid distortion of competition due to differences in the transposition of the Directive.

Belgium, Denmark, Slovenia and Sweden suggested more harmonisation of the allocation of EUAs to new and/or existing installations. Denmark, Portugal and Sweden requested a unified definition of combustion installation across all Member States. Portugal also raised the need to harmonise the coverage of the ceramics sector.

The Netherlands, Slovenia and the United Kingdom raised the issue that verification is currently implemented differently across Member States, yet it is crucial that a level playing field is ensured. The formulation and limited information on verification in the Directive was mentioned as one of the reasons for differences in implementation.

14.3 Other concerns in Member States

In Finland a few appeals against allocation decisions were pending, which might result in court rulings in favour of the operators. Finland suggested that the rules governing the new entrants reserve should be more flexible to allow for unexpected events such as court rulings.

Italy reported that most operators and stakeholders in general did not fully understand the allocation process and especially the determination of a national cap which depends on projections, use of flexible mechanisms, Kyoto target and policies and measures in non-trading sectors. The lack of transparency on the criteria used by the Commission for assessing national allocation plans aggravated the situation. As a result there were strong conflicts in Italy between the government and operators who expected a higher total allocation and saw a competitive disadvantage to installations outside of the EU as a result.

Malta expressed concerns about its status as a non-Annex I country under the Kyoto Protocol. As such, Malta will not be able to issue assigned amount units (AAUs) while the Directive requires transfers of EUAs to another Member State (starting 2008) to involve corresponding adjustments of AAUs under the Kyoto Protocol. It is still unclear how this will be solved in the second trading period of the EU ETS.

Poland suggested using different allocation criteria for economies in transition as defined under the UNFCCC ⁽¹⁴⁾. Additionally, Member States achieving their Kyoto targets should be treated differently from Member States which have difficulties in doing so. Poland also put forward

⁽¹⁴⁾ All new Member States except for Cyprus and Malta have economies in transition.

that ex-post adjustments should be permitted in some cases, e.g. to compensate the effect of weather variability on emissions related to district heating.

Slovenia stated that the Directive is ambiguous and open to interpretation in some instances, especially concerning the legal nature of emission rights and provisions for the temporal and permanent cessation of operation and corresponding transferral of allowances.

Sweden highlighted that the assessment of the first national allocation plans was difficult due to different formats and a lack of transparency. It therefore suggested increasing transparency

in the second round of national allocation plans. Sweden also proposed to increase the coverage of installations and/or greenhouse gases of the scheme to sectors in direct competition with sectors included in the EU ETS. Examples given were aluminium and stone wool production.

The United Kingdom stressed that the integrity of the emission trading scheme depends on a consistent implementation across the Member States. It sees a crucial role for the European Commission in controlling and ensuring consistency, and requested more information on how this will be achieved in the light of the replies to the questionnaire mandated by Article 21 of the Directive.

Abbreviations

Member States

BE	Belgium
CZ	Czech Republic
DK	Denmark
DE	Germany
EE	Estonia
EL	Greece
ES	Spain
FR	France
IE	Ireland
IT	Italy
CY	Cyprus
LV	Latvia
LT	Lithuania
LU	Luxembourg
HU	Hungary
MT	Malta
NL	Netherlands
AT	Austria
PL	Poland
PT	Portugal
SK	Slovak Republic
SI	Slovenia
FI	Finland
SE	Sweden
UK	United Kingdom

Annex I categories of activities

Energy activities

- E1 Combustion installations with a rated thermal input exceeding 20 MW (excepting hazardous or municipal waste installations)
- E2 Mineral oil refineries
- E3 Coke ovens

Production and processing of ferrous metals

- F1 Metal ore (including sulphide ore) roasting or sintering installations
- F2 Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2,5 tonnes per hour

Mineral industry

- M1 Installations for the production of cement clinker in rotary kilns with a production capacity exceeding 500 tonnes per day or lime in rotary kilns with a production capacity exceeding 50 tonnes per day or in other furnaces with a production capacity exceeding 50 tonnes per day
- M2 Installations for the manufacture of glass including glass fibre with a melting capacity exceeding 20 tonnes per day
- M3 Installations for the manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a production capacity exceeding 75 tonnes per day, and/or with a kiln capacity exceeding 4 m³ and with a setting density per kiln exceeding 300 kg/m³

Other activities

Industrial plants for the production of

- O1 (a) Pulp from timber or other fibrous materials
- O2 (b) Paper and board with a production capacity exceeding 20 tonnes per day

Annex – Article 21 questionnaire (Part 1 and 2)

Part 1

Questionnaire on the implementation of directive 2003/87/EC

1 Details of institution submitting the report

1. Name of contact person:
2. Official title of contact person:
3. Name and department of organisation:
4. Address:
5. International telephone number:
6. International telefax number:
7. E-mail:

2 Competent authorities

Question 2.1 is to be answered in the first report and in subsequent reports if changes were made during the reporting period:

- 2.1 Please list the competent authorities and their tasks.

3 Coverage of activities and installations

Questions 3.1 to 3.3 are to be answered in the first report ⁽¹⁵⁾ of each trading period and in subsequent reports if changes were made during the reporting period:

- 3.1 How many installations carry out each of the activities listed in Annex I to Directive 2003/87/EC? For each activity, please indicate the number of installations that have been unilaterally included, if any.

In answering this question, use Table 1 of Part 2 of this Annex. It should furthermore be noted that the same installation can carry out activities falling under different subheadings. Indicate all relevant activities (even if this means that the installation is counted more than once).

- 3.2 How many of the combustion installations have a rated thermal input that exceeds 20 MW but is below 50 MW? In total, how many CO₂ equivalents were emitted by these installations in the reporting period?

- 3.3 How many of the covered installations emit less than 10 000 tonnes CO₂ equivalents, 10 000 to 25 000, 25 000 to 50 000, 50 000 to 500 000 or more than 500 000 tonnes CO₂ equivalents annually? By percentage, how are the total emissions covered by the Directive distributed over these classes?

- 3.4 What changes occurred during the reporting period in comparison with the national allocation plan table as entered into the Community Independent Transaction Log (new entrants, closures)?

In answering this question, use Table 2 of Part 2 of this Annex.

- 3.5 Did the competent authority receive any application(s) during the reporting period from operators who wish to form a pool pursuant to Article 28 of Directive 2003/87/EC? If yes, which Annex I activity did the application refer to?

Any information given in reply to this question will not be published.

- 3.6 Is there any other relevant information concerning the coverage of installations and activities in your country? If so, please specify.

4 The issue of permits for installations

Questions 4.1 to 4.4 are to be answered in the first report and in subsequent reports if changes were made during the reporting period:

- 4.1 What measures have been taken to ensure that operators comply with the requirements of their greenhouse gas emissions permits?

⁽¹⁵⁾ Where not possible to give complete information in the first report, please give an estimate and forward the complete information in the second report.

4.2 How does national law ensure that the conditions of and the procedure for the issue of a permit are fully coordinated where more than one competent authority is involved? How does this coordination work in practice?

4.3 What measures have been taken to ensure that, where installations carry out activities that are included in Annex I to Directive 96/61/EC, the conditions of, and procedure for, the issue of a greenhouse gas emissions permit are coordinated with those for the permit provided for in that Directive? Have the requirements laid down in Articles 5, 6 and 7 of Directive 2003/87/EC been integrated into the procedures provided for in Directive 96/61/EC? If so, how was this integration performed?

4.4 What are the legislative provisions, procedures and practice concerning updating of permit conditions by the competent authority pursuant to Article 7 of Directive 2003/87/EC?

4.5 How many permits were updated during the reporting period because of a change in the nature or functioning, or extension, of installations made by operators as specified under Article 7 of Directive 2003/87/EC? Please provide for each category (capacity increase, capacity decrease, change in process type, etc.) how many permits were updated.

4.6 Is there any other relevant information concerning the issue of permits for installations in your country? If so, please specify.

5 Application of the monitoring and reporting guidelines

For the first report, complete information may not be available for questions 5.1 to 5.7. Reply to those questions as fully as possible in the first report.

5.1 Which approaches and methods were used to monitor emissions from installations (cf. Decision 2004/156/EC establishing guidelines for the monitoring and reporting of greenhouse gas emissions)?

In answering this question, use Table 3 of Part 2 of this Annex. The information required in Table 3 need only be given for installations with annual

reported emissions of more than 500 000 tonnes CO₂ per year.

5.2 If the minimum tiers specified in Table 1 in Section 4.2.2.1.4 of Annex I to Decision 2004/156/EC were not technically feasible, please indicate for each installation for which this situation occurred the coverage of emissions, the activity, the tier category (activity data, net calorific value, emission factor, oxidation factor or conversion factor) and the monitoring approach/tier agreed in the permit.

In answering this question, use columns A to I of Table 3 of Part 2 of this Annex. The information required in Table 3 need only be given for installations with annual reported emissions of less than 500 000 tonnes CO₂ per year.

5.3 Which installations temporarily applied different tier methods than those agreed with the competent authority?

In answering this question, use Table 4 of Part 2 of this Annex.

5.4 In how many installations was continuous emissions measurement applied? Please indicate the number of installations per activity listed in Annex I to Directive 2003/87/EC and within each activity per subcategory based on reported annual emissions (less than 50 kt, 50 to 500 kt and over 500 kt).

In answering this question, use Table 5 of Part 2 of this Annex.

5.5 How much CO₂ was transferred from installations? Please indicate the number of tonnes of CO₂ transferred pursuant to section 4.2.2.1.2 of Annex I to Decision 2004/156/EC and the number of installations that transferred CO₂ for each activity listed in Annex I to Directive 2003/87/EC.

5.6 How much biomass was combusted or employed in processes? Please indicate the quantity of biomass as defined in paragraph 2(d) of Annex I to Decision 2004/156/EC combusted (TJ) or employed (t or m³) for each activity of Annex I to Directive 2003/87/EC.

The organic fraction of any waste combusted or used as input material should be included here.

5.7 What was the total quantity of CO₂ emissions from waste used as fuel or input material? Please submit a percentage breakdown of any such emissions per waste type.

5.8 Please submit sample monitoring and reporting documents from some temporarily excluded installations, if applicable.

Question 5.9 is to be answered in the first report and in subsequent reports if changes were made during the reporting period:

5.9 What measures have been taken to coordinate reporting requirements with any existing reporting requirements in order to minimise the reporting burden on businesses?

5.10 Is there any other relevant information concerning the application of the monitoring and reporting guidelines in your country? If so, please specify.

6 Arrangements for verification

Questions 6.1 to 6.4 are to be answered in the first report and in subsequent reports if changes were made during the reporting period:

6.1 Please describe the framework for verification of emissions from installations, in particular the role of the competent authorities and other verifiers in the verification process.

6.2 Please submit documents setting out the accreditation criteria for verifiers.

If the documents are available on the Internet, it is sufficient to include a link to the website.

6.3 Are verifiers who have been accredited in another Member State subject to an additional accreditation process before being able to carry out verifications? If yes, please briefly describe the procedure and why it is considered necessary.

6.4 Please submit any verification guidance provided for accredited verifiers and documents setting out the mechanisms for supervision and quality assurance for verifiers if available.

If the documents are available on the Internet, it is sufficient to include a link to the website.

6.5 Did any operator not provide an emission report verified as satisfactory by 31 March of the reporting period? If so, please provide a list of the installations concerned and reasons for non-validation.

In answering this question, use Table 6 of Part 2 of this Annex.

6.6 Did the competent authority carry out any independent checks on verified reports? If yes, please describe how additional checks were undertaken and/or how many reports were checked.

6.7 Did the competent authority instruct the registry administrator to correct the annual verified emissions for the previous year for any installation(s) to ensure compliance with the detailed requirements established by the Member State pursuant to Annex V to Directive 2003/87/EC?

Indicate any corrections in Table 6 of Part 2.

6.8 Is there any other relevant information concerning the arrangements for verification in your country? If so, please specify.

7 Operation of registries

Questions 7.1 and 7.2 are to be answered in the first report and in subsequent reports if changes were made during the reporting period:

7.1 Please provide any terms and conditions required to be signed by account holders and provide a description of the identity check of persons undertaken before creating holding accounts (cf. Regulation (EC) No 2216/2004 for a standardised and secured system of registries).

7.2 What fees are charged, if any? Please give details.

7.3 What steps were taken pursuant to Article 28(2) of Regulation (EC) No 2216/2004 to prevent reoccurrences of discrepancies discovered by the Community Independent Transaction Log?

7.4 Please provide a summary of all security alerts relevant to the national registry which have occurred during the reporting period,

how they were addressed and the time taken for resolution.

- 7.5 Please state how many minutes for each month of the reporting period the national registry was unavailable to its users (a) due to scheduled downtime, and (b) due to unforeseen problems.
- 7.6 Please list and provide details on each upgrade to the national registry scheduled for the next reporting period.
- 7.7 Is there any other relevant information concerning the operation of registries in your country? If so, please specify.

8 Arrangements for the allocation of allowances – new entrants – closures

Questions 8.1 to 8.2 are to be answered in the first report after each notification and allocation procedure under Articles 9 and 11 of Directive 2003/87/EC:

- 8.1 Looking back at the completed allocation process, please describe the main lessons learnt by your authorities, and how you think they will influence your approach to the next allocation process?
- 8.2 Do you have any suggestions for the improvement of future notification and allocation processes for the EU as a whole?
- 8.3 How many allowances were allocated to the new entrants listed in Table 2, if any? Please give the installation identification code for the new entrant and the transaction identification code associated with the allocation of allowances.

In answering this question, use Table 2 of Part 2 of this Annex.

- 8.4 How many allowances were left in any new entrants reserve at the end of the reporting period, and what share do they represent of the original reserve?
- 8.5 If auctioning was used as an allocation method, how many auctions were held during the reporting period, how many allowances were auctioned during each auction, what share do they represent of the total quantity

of allowances for the trading period, what was the price per allowance at each auction and what use was made of allowances not purchased at the auction(s)? Please also list the transaction identification codes associated with the allocation of auctioned allowances.

- 8.6 How were allowances treated that had been allocated but were not issued to installations that closed during the reporting period?

Question 8.7 is to be answered in the first report following the end of the trading periods set out in Article 11(1) and (2) of Directive 2003/87/EC:

- 8.7 Were allowances remaining in the new entrants' reserve at the end of the trading period cancelled or auctioned?
- 8.8 Is there any other relevant information concerning the arrangements for allocation, new entrants and closures in your country? If so, please specify.

9 Surrender of allowances by operators

- 9.1 In all cases where an account in the registry was closed because there was no reasonable prospect of further allowances being surrendered by the installation's operator, please describe why there was no reasonable further prospect and state the amount of outstanding allowances.
- 9.2 Is there any other relevant information concerning the surrender of allowances by operators in your country? If so, please specify.

10 Use of Emission Reduction Units (ERUs) and Certified Emission Reductions (CERs) in the Community scheme

Questions 10.1 and 10.2 are to be answered annually starting with the report submitted in 2006 as regards CERs and starting with the report submitted in 2009 as regards ERUs:

- 10.1 How many CERs and ERUs were used by operators pursuant to Article 11(a) of Directive 2003/87/EC? Please list, for CERs and ERUs separately, the sum of units used

and the total number of operators who used them.

- 10.2 Have ERUs and CERs been issued for which an equal number of allowances had to be cancelled pursuant to Article 11b(3) or (4) of Directive 2003/87/EC because the JI or CDM project activities reduce or limit directly or indirectly the emission level of installations falling under the scope of that Directive? If so, please provide the sum of allowances cancelled and the total number of operators concerned separately for cancellation pursuant to Article 11b(3) and pursuant to Article 11b(4).

Question 10.3 is to be answered in the first report and in subsequent reports if changes were made during the reporting period:

- 10.3 What measures have been taken to ensure that relevant international criteria and guidelines, including those contained in the World Commission on Dams year 2000 Final Report, will be respected during the development of hydroelectric power production projects with a generating capacity exceeding 20 MW?
- 10.4. Is there any other relevant information concerning the use of ERUs and CERs in the Community scheme in your country? If so, please specify.

11 Issues related to compliance with the Directive

- 11.1 Where penalties were imposed pursuant to Article 16(1) for infringements of national provisions, please state the relevant national provisions and the penalties imposed.
- 11.2 Please provide the names of operators for which excess emission penalties were imposed pursuant to Article 16(3).

In answering this question, it is sufficient to provide a reference to the publication of the names under Article 16(2).

- 11.3 Is there any other relevant information related to compliance with the Directive in your country? If so, please specify.

12 The legal nature of allowances and fiscal treatment

Questions 12.1 to 12.3 are only to be answered in the first report and in subsequent reports if changes were made during the reporting period:

- 12.1 What is the legal status given to an allowance for the purposes of accounting, financial legislation and taxation?
- 12.2 If your Member State allocates allowances other than for free, please explain how such allocation is made (e.g. the way in which auctioning is undertaken)?
- 12.3 If your Member State allocates allowances for payment, is VAT due on the transaction?
- 12.4 Is there any other relevant information concerning the legal nature of allowances and their fiscal treatment in your country? If so, please specify.

13 Access to information pursuant to Article 17

- 13.1 Where are decisions relating to the allocation of allowances, information on project activities in which a Member State participates or authorises private or public entities to participate, and reports of emissions required under the greenhouse gas emissions permit and held by the competent authority made available to the public?
- 13.2 Is there any other relevant information concerning the access to information pursuant to Article 17 in your country? If so, please specify.

14 General observations

- 14.1 Are there any particular implementation issues that give rise to concerns in your country? If so, please specify.

Part 2

Table 1
Number of installations per Annex I activity

Member State:

Reporting period:

Annex I activities		Number of installations ⁽⁴⁾
Energy activities		
E1	Combustion installations with a rated thermal input exceeding 20 MW (excepting hazardous or municipal waste installations)	
E2	Mineral oil refineries	
E3	Coke ovens	
Production and processing of ferrous metals		
F1	Metal ore (including sulphide ore) roasting or sintering installations	
F2	Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2,5 tonnes per hour	
Mineral industry		
M1	Installations for the production of cement clinker in rotary kilns with a production capacity exceeding 500 tonnes per day or lime in rotary kilns with a production capacity exceeding 50 tonnes per day or in other furnaces with a production capacity exceeding 50 tonnes per day	
M2	Installations for the manufacture of glass including glass fibre with a melting capacity exceeding 20 tonnes per day	
M3	Installations for the manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a production capacity exceeding 75 tonnes per day, and/or with a kiln capacity exceeding 4 m ³ and with a setting density per kiln exceeding 300 kg/m ³	
Other activities		
Industrial plants for the production of		
O1	(a) pulp from timber or other fibrous materials	
O2	(b) paper and board with a production capacity exceeding 20 tonnes per day	

⁽⁴⁾ The same installation can carry out activities falling under different subheadings. All relevant activities should be indicated (even if this means that the installation is counted more than once).

Table 2
Changes to list of installations

Member State:

Reporting period:

A Permit ID code	B Installation Installation ID code	C Operator Name	D Main Annex I activity ^(a)	E Other Annex I activities ^(a)	F Main non-Annex I activity ^(b)	G Change compared with instal- lations included in NAP ^(c)	H Allowances allocated or issued ^(d) Quantity Year(s)	I Transaction identification code ^(e)

^(a) The same installation can carry out activities falling under different subheadings. All relevant activities should be indicated. Please use the codes for Annex I activities listed in Table 1.

^(b) The main activity at an installation can be other than an Annex I activity. Please fill in where relevant.

^(c) Please indicate 'new entrant' or 'closure'.

^(d) For new entrants, please indicate the years for which the quantity of allowances was allocated. For closures, please indicate allowances issued during the remaining trading period, if applicable.

^(e) For new entrants, please indicate the code associated with the allocation of the allowances.

Table 3

Monitoring methods applied (only for installations with annual reported CO₂ emissions of more than 500 000 tonnes per year and for installations for which it has not been technically feasible to use the minimum tiers specified in Table 1 of Section 4.2.2.1.4 of Decision 2004/156/EC)

Member State:

Reporting period:

A	B	C	D	E	F	G	H	I	J	K	L	M	N
Permit ID code	Installation ID code	Main Annex I activity (*)	Total annual emissions (t) t CO ₂	Activity data Tier	Emission factor Tier	Tier chosen (t) Net calorific value Tier	Oxidation factor Tier	Fuel or activity type (t)	Emission factor Value	Unit (t)	Value	Net calorific value Unit (t)	Oxidation factor %

(*) The same installation can carry out activities falling under different subheadings. The main Annex I activity should be indicated. Please use the codes for Annex I activities listed in Table 1.

(t) Verified emissions if available, otherwise emissions as reported by the operator.

(t) Only to be filled out if emissions are calculated.

(t) Had coal, natural gas, steel, lime, etc. Please use a separate line for each fuel or activity if more than one fuel or activity is carried out in the same installation.

(t) Columns J to N only need to be filled out for installations with reported CO₂ emissions of more than 500 000 tonnes per year.

(t) kg CO₂/kWh, t CO₂/kg, etc.

(t) kg/kg, kJ/m³, etc.

Table 4
Temporary change of monitoring method

Member State:

Reporting period:

A	B	C	D	E	F	G	H	I	J
Permit ID code	Installation	Annex I activity ⁽⁴⁾	Total annual emissions t CO ₂	Affected monitoring parameter ⁽⁵⁾	Original method approved Tier	Temporary method applied Tier	Reason for temporary change ⁽⁵⁾	Period of temporary suspension until restoration of appropriate tier method Beginning Month/year	End Month/year

⁽⁴⁾ The same installation can carry out activities falling under different subheadings. The main activity should be indicated. Please use the codes for Annex I activities listed on Table 1.

⁽⁵⁾ Please use the following notation keys: activity data (AD), net calorific value (NCV), emission factor (EF), composition data (CD), oxidation factor (OF), conversion factor (CF). If several values in an installation are affected, fill out one row per value.

⁽⁵⁾ Please use the following notation keys: failure in measurement devices (FMD), temporary lack of data (TLD), changes in installation, fuel type, etc. (CIF), other (please specify).

Table 5

Number of installations applying continuous emission measurement

Member State:

Reporting period:

A	B	C	D
Main Annex I activity (*)	< 50 000 t CO ₂ e	50 000 to 500 000 t CO ₂ e	> 500 000 t CO ₂ e
E1			
E2			
E3			
F1			
F2			
M1			
M2			
M3			
O1			
O2			

(*) Please refer to Table 1 for a description of the Annex I activity codes. If an installation carries out more than one activity, it should only be counted once under its main Annex I activity.

Table 6
Emissions reports under Article 14(3) not validated as satisfactory

Member State:						
Reporting period:						
A	B	C	D	E	F	G
Installation	Installation ID code	Emissions reported from installations t CO ₂	Allowances surrendered t CO ₂	Allowances blocked in operator holding account t CO ₂	Reason for non-validation of emission report ^(*)	Correction of verified emissions by competent authority t CO ₂
Permit ID code						
^(*) Please use the following notation keys: reported data is not free of inconsistencies (NFI), collection of data has not been carried out in accordance with the applicable scientific standards (NASS), relevant records of installation are not complete and/or consistent (RNC), verifier was not provided with access to all sites and information related to the subject of verification (VNA), no report was produced (NR), other (please specify).						

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