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Non-paper on synergies between the EC emissions trading proposal (COM(2001)581) and the IPPC Directive[1]

Greenhouse gas emissions trading will affect the application of the IPPC Directive. The EC emissions trading proposal has been carefully drafted to ensure that emissions trading and the IPPC Directive are compatible, work well together and that synergies between them are exploited.

This note builds on section 9 of the Explanatory Memorandum for the EC emissions trading proposal, and explains how the EC emissions trading proposal and IPPC Directive work together, under five headings: terminology; coverage; permits; energy efficiency requirements and emission limits under the IPPC Directive.

1. Terminology

Member States are already familiar with the language of the IPPC Directive, so similar language in the EC emissions trading proposal is used for the same concepts. For example, the definitions of "operator", "installation" and "emissions" are based on those in the IPPC Directive, as are the provisions on permitting in Articles 4, 5 and 6 of the EC emissions trading proposal. Where possible, the language has been simplified further because the EC emissions trading proposal applies to a narrower range of pollutants.

2. Coverage

The IPPC Directive introduced an integrated permitting scheme for large industrial point sources for all pollutants. The sources of pollution covered are listed in Annex I to the IPPC Directive, while the pollutants covered include carbon dioxide and all the other greenhouse gases listed in Annex A to the Kyoto Protocol. Carbon dioxide falls within the IPPC Directive's broad definition of pollution[2], and its introduction into the atmosphere through human activities contributes to anthropogenic climate change, which is well recognised as an environmental threat that is detrimental to the quality of the environment.

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[1] Council Directive 96/61/EC concerning integrated pollution prevention and control, OJ L 257, 10.10.1996, p. 26.

[2] Article 2(2): 'pollution' shall mean the direct or indirect introduction as a result of human activity of substances, vibrations, heat or noise into the air, water or land which may be harmful to human health or the quality of the environment, result in damage to material property, or impair or interfere with amenities and other legitimate uses of the environment.

The EC emissions trading proposal in principle covers emissions of carbon dioxide and all the other greenhouse gases listed in Annex A to the Kyoto Protocol from a range of sources listed in Annex I to the proposal. However, Annex I only includes the emissions of carbon dioxide from the specified activities, which in practice would limit the scope of emissions trading to carbon dioxide from the sources covered. These sources cover the most significant carbon dioxide emitting activities covered by the IPPC Directive (which has a wider coverage consistent with its application to a wider range of pollutants). In one respect, the EC emissions trading proposal has a wider coverage than the IPPC Directive. This is in relation to combustion installations, where it applies a threshold of 20MW rather than 50MW. This is because combustion installations of between 20 and 50MW are significant sources of carbon dioxide emissions whose number is likely to increase in the future.

3. Permits

Most installations covered by the EC emissions trading proposal will also be the subject of IPPC permits. For administrative simplicity, Article 8 of the EC emissions trading proposal would allow Member States to combine the permitting procedure for greenhouse gas emissions trading with that for the IPPC Directive. The Commission services would expect Member States to want to take advantage of this possibility. Nevertheless, Member States would not be obliged to combine these procedures.

Where Member States choose not to combine the procedures, Article 8 requires them to co-ordinate the conditions of, and procedure for, the issue of an emissions trading permit with permitting under the IPPC Directive. In Member States with different competent authorities for the IPPC permit and the emissions trading permit, the emissions trading permit may be issued at a different time to the IPPC permit although the competent authority for the IPPC permit must be consulted. The information required for an IPPC permit will tend to include the information required for an emissions trading permit, and it would be useful for the relevant authorities to be able to check the consistency of the applications.

4. Energy efficiency requirements

The IPPC Directive regulates energy efficiency through Article 3(d), which requires competent authorities to take into account the basic obligation of the operator to use energy is efficiently when determining the conditions of the IPPC permit. The IPPC Directive therefore provides a common level of effort for the efficient use of energy that must be undertaken by IPPC-regulated activities.

The EC emissions trading proposal is without prejudice to this requirement, and Article 2(2) of the proposal makes this clear. The common level of effort for energy efficiency which the IPPC Directive provides is a baseline or bottom line for the consumption of electricity or heat which European industry should not be able to go below. In practice, this common level of effort for energy efficiency is not expected to be problematic, and it underlies the emissions trading schemes for which state aid approval has been given by the Commission in Denmark and the United Kingdom.

5. Emission limits under the IPPC Directive

The IPPC Directive requires Member States to ensure that installations are operated in such a way that all the appropriate preventive measures are taken against pollution, in particular through application of the best available techniques. Normally under the

IPPC Directive, the competent authorities should fix emission limit values for pollutants that are likely to be emitted from the installation concerned in significant quantities. Such limit values should be based on the best available techniques.

Article 25 of the EC emissions trading proposal amends the IPPC Directive to ensure that, where emissions of a greenhouse gas from an installation are covered by the emissions trading scheme, the IPPC permit relating to that installation does not set a limit on its emissions of that greenhouse gas. Emissions trading should allow greenhouse gas emissions to vary according to the economic decisions of the operator, which may lead to either an increase or reduction in the installation's emissions. The setting of an emission limit value would diminish the benefits of emissions trading because the installation would not be able to increase its greenhouse gas emissions. Until such a time as greenhouse gases from particular sources are covered by emissions trading, by their inclusion in Annex I of this proposal, the IPPC Directive would continue to apply in all respects.

Carbon dioxide does not have local effects, and so a competent authority could not set an emission limit value for carbon dioxide in an IPPC permit for an installation participating in emissions trading. It is possible that other greenhouse gases could have local significant effects, and in such cases the Commission services are mindful that emissions trading should not lead to significant increases in local pollution. For this reason, Article 25 of the EC emissions trading proposal makes it clear that a competent authority can set an emission limit value under the IPPC Directive where this is necessary in order to ensure that no significant local pollution is caused. In such a case, the installation would still be able to participate in emissions trading but would not be able to increase its emissions above the level set in its IPPC permit regardless of how many allowances it may hold.

The EC emissions trading proposal is without prejudice to emission limit values set for pollutants under the IPPC Directive which are not greenhouse gases. Allowing emissions trading of greenhouses gases should not lead to increases in other pollutants beyond levels set by national competent authorities.

It is possible that a national competent authority may set an emission limit value for another pollutant, such as sulphur dioxide, which, if met, will result in the incidental reduction of greenhouse gas emissions from an installation. In such a case, the operator of that installation will incur costs to meet the emission limit value for sulphur dioxide, which may be offset by the reduction in the number of emission allowances that the operator must surrender in respect of greenhouse gas emissions. Whether such an incidental reduction results in the operator having surplus allowances or not will depend upon the approach taken by Member States to the allocation of allowances.

To conclude, the IPPC Directive and the EC emissions trading proposal are compatible and work together to ensure that greenhouse gas emissions can be reduced in a cost-effective manner while preserving an integrated approach to pollution prevention and control. Advantages are taken of synergies between the IPPC Directive and the EC emissions trading proposal and, where there was scope for conflict, amendment has been proposed to the IPPC Directive that will ensure that the two instruments work smoothly together.