EU-Emissions Trading: The Latvian Allocation Plan

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I. Introduction

As a Member State of the European Union, Latvia has undertaken the obligation to create a system for greenhouse gas emission allowance trading. This article aims to present a comprehensive picture of the emission allowance trading legislation in Latvia as derived from the transposition of the Community Directive 2003/87/EC. In addition, the article analyses the National Allocation Plan for the period 2005 - 2007 as submitted to the European Commission. Chapter II of this article describes the legal framework applicable to emissions trading. Chapter III deals with the main issues linked to the issuance of greenhouse gas emission permits. Chapter IV analyses the allocation of emission allowances under the National Allocation Plan, and finally, Chapter V offers several conclusive remarks on the subject.

II. Legal framework

Pollution prevention and control in Latvia are primarily governed by the Law on Pollution1. This Law unites the provisions derived from Directive 96/61/EC concerning integrated pollution prevention and control2 with those resulting from Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community3. Furthermore, the Law covers the relevant provisions of the Community Directives 91/676/EEC4, 2002/49/EC5 and 2003/35/EC6. By combining the relevant legislation on pollution prevention and control in a single code of legislation, Latvia has made a great deal of progress in enhancing the consistency of the whole system of environmental protection and procedural efficiency, as well as in avoiding the fragmentation of legislative provisions and possible fractions in its application.

The Emissions Trading Directive (hereinafter - ET Directive) has been incorporated into the Law on Pollution by the amendments of 18 December 20037. The requirements for greenhouse gas emission permits and allowances now fall explicitly within the scope of the amended law8. The competence to decide upon the overall and sector-specific emission quotas and the methodology for the allocation of allowances rests with the Cabinet of Ministers. The Cabinet of Ministers must approve the National Allocation Plan developed by the Ministry of Environment9. The plan then has to be submitted to the European Commission for approval10. Furthermore, the Cabinet of Ministers is responsible for the adoption of certain implementing regulations11. On 22 April 2004 the Cabinet of

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1 Likums "Par piesārūgojumu", 29.03.2001, Published in Latvijas Vēstnesis 29.03.2001. Consolidated version in English (unofficial translation by the Translation and Terminology Centre) can be accessed at: http://www.ttc.lv/New/lv/tulkojumi/E0138.doc.


7 Grauzdija likuma "Par piesārūgojumu", 18.12.2003, Published in Latvijas Vēstnesis 07.01.2004.

8 Art. 3 para. 1 Nr. 7 and 8 of the Law on Pollution.

9 Art. 32(1) para. 1 of the Law on Pollution.

10 Art. 32(1) para. 4 of the Law on Pollution.

11 According to Section 15 of the Transitional provisions of the Law on Pollution, the regulations referred to in Art. 24(1) para. 3 and 7; Art. 32(1) para. 9; Art. 33(5) para. 7 and Art. 45 para. 7 have to be issued by the Cabinet of Ministers by 1 August 2004.
Ministers adopted Regulation Nr. 400 on the procedure of the application for and the issuance of greenhouse gas emission permits. Two other regulations are currently in their draft stages, namely the draft Regulation on the Procedure concerning Transactions with Emission Quotas and the Pooling of Installations and the draft Regulation on the Procedure for Monitoring Greenhouse Gas Emissions and for the Verification and Approval of the Annual Reports Regarding Greenhouse Gas Emissions. Thus, it appears that Latvia has taken all necessary regulatory steps in order to successfully launch the emission allowance trading scheme as of January 2005, as prescribed by the ET-Directive.

III. Greenhouse gas emission permits

Any operator carrying out polluting activities has to, inter alia, obtain a permit for such activities. An additional emission permit is obligatory for stationary technical installations at which one or more of the polluting activities referred to in Annex 2 of the Law on Pollution are carried out. If operators fail to comply with any of these obligations, they face consequences provided for by the Administrative Violations Code. Art. 24(1) para. 3 of the Law on Pollution entitles operators whose polluting activities do not exceed the thresholds of Annex 2 to apply for and obtain an emission permit on a voluntary basis. A permit, however, is not necessary for installations used for research, for processing or for testing new products or production processes.

Emission permits are written decisions issued by the Regional Environmental Board in respect of one or more installations which are located at the same site and have the same operator. In order to get a permit to commence, continue or substantially change a polluting activity, an operator has to submit an application to the Regional Environmental Board. The submission has to comply with the requirements of the Law on Pollution and other regulatory enactments.

IV. The National Allocation Plan for greenhouse gas emission allowances

The National Allocation Plan (hereinafter – NAP) determines the total quantity of emission allowances to be granted to operators for the relevant period. It also contains a list of the installations that perform polluting activities as referred to in Annex 2 and the intended allocation of allowances to the operators of these installations.

16 Art. 4 para. 8 of the law on Pollution. Polluting activities are classified into categories (A-C) according to the amount and effect or the risk of pollution for the environment and human health. See Art. 19 para. 1, Art. 20 et seq. of the Law on Pollution.
18 Art. 4 para. 8, Art. 19 para. 5, Art. 21(1) para. 1, Annex 2 of the law on Pollution.
19 "Latvijas administratīvo pārkāpumu kodexa", 07.12.1994, published in Žinātnī 20.12.1994. Art. 86.6 currently deals only with the penalty payments for the violations regarding A, B and C permits. Amendments to this Article as regards the emission permits have currently passed the second reading in the Latvian Parliament.
20 Art. 21(1) para. 4 of the Law on Pollution.
21 Currently there are 8 Regional Environmental Boards in Latvia. A listing including their respective websites is available at: http://www.varam.gov.lv/vide/vietas.htm.
22 Art. 19 para. 5 of the Law on Pollution. Art. 31(1) of the Law prescribes the requirements for emission permits. Among others, emission permits are issued subject to the obligation to submit annually, and according to the procedures and time periods specified by the Cabinet of Ministers, a report on the greenhouse gas emission monitoring and emission quota of the respective installation for the previous calendar year to the Latvian Environmental Agency. The procedural regulation on this issue is currently still at its draft stage (see footnote 14 above).
23 The procedural rules concerning these issues have been determined in compliance with Art. 24(1) paras. 3 and 7 of the Law on Pollution by the Cabinet of Ministers in Regulation Nr. 400 (footnote 12 above). The Regulation also determines the conditions and procedures for temporary exemptions of individual installations from the requirement to obtain a greenhouse gas emission permit, as laid down by Art. 24(1) para. 7 point 2 of the Law.
24 Art. 25 para. 1 of the Law on Pollution.
25 Art. 32(1) para. 2 of the Law on Pollution.