

Brussels,
C(2009) 1537

- 6 MARS 2009

Dear Lord Roper,

Thank you for your opinion on the document COM(2008)16 "to improve and extend the greenhouse gas emission allowance trading system of the Community" dated 10 December 2008.

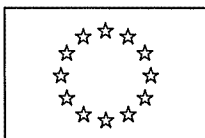
In line with the Commission's decision to encourage National Parliaments to react to its proposals to improve the process of policy formulation, we welcome this opportunity to respond to your comments. I enclose the Commission's reply. I hope you will find this a valuable contribution to your own deliberations.

I look forward to developing our policy dialogue further in the future.

Yours sincerely


Margot WALLSTRÖM

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EUROPEAN COMMISSION

Brussels, February 2009

**COMMENTS OF THE COMMISSION ON AN OPINION FROM
THE HOUSE OF LORDS**

**COM(2008)16 – DIRECTIVE OF THE EUROPEAN PARLIAMENT AND THE
COUNCIL AMENDING DIRECTIVE 2003/87/EC SO AS TO IMPROVE AND
EXTEND THE GREENHOUSE GAS EMISSION ALLOWANCE TRADING SYSTEM
OF THE COMMUNITY**

The European Commission would like to thank the House of Lords for the invitation to comment on its comprehensive report on various issues addressed in the revision of the EU's Emissions Trading System (EU ETS).

On 17 December 2008, the European Parliament voted in favour of the revised EU Emissions Trading Directive, as negotiated with the Council. The final text is quite close to the views expressed by the House of Lords in the report. The Commission would like to make the following comments on the specific points of the report:

The switch from a -20% to a -30% target for greenhouse gas emission reductions

The Council and the European Parliament decided that the modalities for the switch from a -20% target to a -30% target for greenhouse gas emission reductions will be agreed in co-decision. This is because it was judged important to be able to consider not only the increased reduction target in the EU ETS, but also the distribution of efforts between the EU ETS sectors and the sectors covered by the effort sharing decision.

The inclusion of agriculture and forestry

The Commission agrees with the House of Lords that the inclusion of agriculture and forestry in the EU ETS would be problematic due to the difficulties in monitoring and verifying emission reductions in these sectors, and that at the same time it is important that these sectors also contribute cost-effectively to greenhouse gas emissions. The Commission, the Council and the European Parliament believe that global deforestation can be better addressed through other instruments. For example, the auctioning of allowances in the EU ETS should generate means to invest in Land Use, Land Use Change and Forestry (LULUCF) activities both inside and outside the EU. In this respect the Commission has proposed to set up the Global Forest Carbon Mechanism that would be a performance-based system for financing reductions in deforestation levels in developing countries¹.

¹ Communication from the Commission: "Addressing the challenges of deforestation and forest degradation to tackle climate change and biodiversity loss", COM(2008) 645 final.

The elements of redistribution

The principle of redistributing 10% of the auctioning rights was accepted by the Council and the European Parliament. In addition, a further redistributive element amounting to 2% of the auctioning rights was added to take into account Member States which in 2005 had achieved a reduction of at least 20% in greenhouse gas emissions compared with the reference year set by the Kyoto Protocol.

A temporary and limited derogation from full auctioning for the power sector in certain Member States was also included. However, if a Member State chooses to apply the derogation from full auctioning to the power sector, it loses a corresponding number of auctioning rights. In this way, a double compensation is avoided.

Carbon leakage

Important elements of the provisions on carbon leakage included in the legislation are in line with the wishes of the House of Lords. As regards the timing of the decision on sectors or sub-sectors exposed to a significant risk of carbon leakage in the absence of an international agreement on climate change, the Council and the European Parliament decided that the list of sectors or sub-sectors should be determined by 31 December 2009, after the Copenhagen conference. Evidence-based criteria are specified for identifying these sectors and sub-sectors. The list may be supplemented, after completion of a qualitative assessment, taking into account the extent to which it is possible for individual installations in the sector and/or sub-sector concerned to reduce emission levels or electricity consumption.

The Commission is required to report to the European Parliament and to the Council by 30 June 2010 assessing the situation following an international agreement with regard to energy-intensive sectors or sub-sectors that have been determined to be exposed to significant risks of carbon leakage and making any appropriate proposals.

Compliance and enforcement

The Commission agrees with the House of Lords on the importance of compliance and effective enforcement. It intends to make full use of the tools available to ensure compliance with the amended Directive. In addition, the Commission will continue to work for the inclusion of an effective enforcement mechanism in the post-2012 international climate agreement.

External and domestic credits

The Commission agrees with the House of Lords about the important potential role of external credits, as a complement to domestic emission reductions and domestic innovation and investment. The agreement between the Council and the European Parliament provides the Commission to make a proposal allowing, as appropriate, operators to use external credits from third countries which have ratified a post-2012 international agreement.

The agreement also provides a possibility for the Commission to adopt harmonised measures on Community level projects but even if such measures are adopted, there would be no obligation on Member States to propose such projects.

Linking with another mandatory cap-and-trade system

The Commission agrees with the House of Lords that if the EU ETS is to be linked to another mandatory cap-and-trade system, consideration should be given to the levels of ambition with respect to environmental objectives, quality control of credits, and verification and enforcement mechanisms. If credits are allowed in a linked system that would not be allowed in the Community system this could undermine the Community's rules and be an obstacle to linkage. The Commission will seek to avoid this happening.

