



Compliance Review, Article 21 and Peer Review

Machtelt Oudenes

**Compliance Conference
Brussels, 8th November 2016**

Approach Compliance Review

- *Objectives of the Compliance Review:*
 - Assist Commission in follow-up on findings of the 2014 Compliance Cycle review and the EU ETS Article 21 reports
 - Assist countries (MS + EFTA) in improving their implementation of EU ETS MRVA requirements
- *Joint assessment methodology – data sources:*
 - 4th Compliance Cycle evaluation project
 - Article 21 reports submitted in 2014 and 2015
 - Additional information from Compliance Conferences, Peer Review etc.
- *Analysis of surveys and bilateral letters to rank compliance and opportunities for improvement, and identify follow-ups*
- *Select follow-up actions/ develop MS specific action plans*

Overall conclusions on EU ETS compliance (1)

- *Differences between the MS on their CA organisation*
 - Capacity, training programmes, coordination within CA, size of teams
 - Coordination in the case of multiple CAs within a country
 - Some MS took steps to go from decentralised to centralised CA-system
- *Checking MPs and supporting material has improved. Some issues remain and the detail of checks varies per MS*
 - Uncertainty analysis and sampling plans are common problems
 - Not all CAs check risk assessment/non-accredited lab evidence properly
 - Assessment of unreasonable costs causes problems for some countries
 - For many CAs it is unclear how to check MP procedures
 - Other common M&R issues: how to deal with data gaps, CEMS, role verifier versus that of CA, requirements for simple and small installations

Overall conclusions on EU ETS compliance (2)

- *Since 2014 major improvements in AER/VR compliance and classification of outstanding issues by verifiers*
 - There are still some differences in the level of checks on AERs/VRs (risk based approaches, checklists, type of checks carried out)
 - Most MS said that the update of the AER template/ FAQs and training events will further improve the processes
- *IR can provide useful input into other MRVA processes, but there remain differences in the level of implementation*
 - Detail of checks on IR varies
 - Not all CAs monitor the operator's implementation of improvements

Overall conclusions on EU ETS compliance (3)

- *Information exchange on national basis works well, but exchange across borders could in some cases be improved*
 - Some NABs do not submit work programmes and management reports on time → recommendations were made on what to do
 - Information exchange from CAs to NABs is not always timely
 - Differences in how the NABs provide feedback to the CAs on complaints and information reported by the CAs
- *Increased use of IT and COM templates → but type and sophistication of IT systems differ between MS*
- *Differences in inspection procedures and communication and/or follow-up on inspection findings and enforcement*

A selection of MS best practices

- *Coordination in the case of multiple CAs (e.g. ES, FR, PL)*
- *CA procedures and training programmes (e.g. UK, NL, DE, IE)*
- *Data extraction tools (e.g. CZ), MP checklists (e.g. NL)*
- *AER/VR review - checks, risk based approaches, technical data trail (e.g. UK, IE, NL, SI)*
- *Monitoring IR and implementation of improvements (e.g. UK)*
- *Inspection – guidance, checklist, tools (e.g. IE, NL, BE-FL, CY)*
- *Sophisticated IT systems (e.g. DE, UK, IE, BE-W, FI)*
- *Approaches for M&R issues - e.g. unreasonable costs (e.g. FI)*
- *Checks on NABs work programme/management report (e.g. UK)*

Follow-up actions

- *Some general aspects identified as relevant to update MRVA guidance (e.g. inspection guidance, quick guides, FAQ on classification of issues, Update FAQ/ template on AER)*
- *Some general aspects already picked up in CF Task Forces (e.g. data gaps, sampling plan, AER review, inspection, unreasonable costs, information exchange by NABs/CAs)*
- *Some topics recommended for training events, e.g.*
 - A&V training event on classification of outstanding issues (Sept. 2015)
 - M&R training event on uncertainty assessment (May 2016)
 - A&V training event on scope of verification, data gaps etc. (Sept. 2016)
 - Sampling plan
 - Requirements on installations with low emissions
 - How to complete MP

Follow-up actions

- *Bilateral meetings with six MS held in July, Sept. and Oct.*
 - Constructive discussions with focus on issues identified in action plans
 - MS most willing to discuss recommendations for improvement and had in some cases already planned/initiated these
 - A number of issues could be clarified in the discussions
- *Regional training with Latvia, Lithuania, Estonia on 18th Oct.*
 - Discussion on implementation issues and guidance
 - Sharing information on good practice examples
 - Opportunity to raise and discuss questions between experts
- *Three more bilateral meetings planned in Nov./Dec. 2016*
- *Two peer reviews in Czech Republic and Slovenia*

2016 Article 21 reporting (1)

- *All MS reports received by mandatory deadline 30th June, except MT (7/7), FR (22/7), CZ (26/7), DE and LI (2/8) and IT (2/9) – late submission delays COM/EEA reporting*
- *Summary points M&R (based on MS submissions)*
 - Overall number of installations: 10 944 (cf. 11 187 last year)
 - Cat A: 72%; Cat B: 21%; Cat C: 7%
 - > 5700 installations of low emission (excl. IT)
 - Number of AOs with MPs: 503 (cf. 611 last year), 263 small emitters
 - Only 8 MS making use of ETS Directive Article 27 exclusions
 - Only 6 MS reported any application of MRR Article 13 (simplified MPs)
 - 151 installations reported use of CEMs
 - 14% Cat C installations not meeting highest tiers for all major source streams (26% Cat B installations).

2016 Article 21 reporting (2)

- *Summary points A&V (based on MS submissions)*
 - 1077 verifier scope accreditations, at least 130 estimated verifiers (verification bodies) in total
 - 51 accredited verifiers reported for aviation
 - Mutual recognition of verifiers working well (all except three MS reporting at least one foreign accredited verifier active in their territory)
 - No reported suspensions or withdrawals of accreditation
 - Reported number of complaints down 20% cf. last year
- *Publication of DG Climate Action Carbon Market Report and EEA Technical Report on Article 21 scheduled for early next year*
- *Room for improvement noted for timely submission and completeness of next year's Article 21 reports!*

Peer Reviews

- *The Basis is Art 21(3) of the EU ETS Directive*
 - **“The Commission shall organise an exchange of information between the competent authorities of the Member States”**
- *The objective is to support MS in their implementation of the MRR and the AVR*
- *It aims at:*
 - **Fostering a common understanding of the implementation of EU ETS procedures & national compliance regimes between experts**
 - **Harmonisation of implementation across EU ETS countries**
- *The scope is all relevant activities of the EU ETS compliance cycle that involve action by the competent authority*

Peer review principles

- *A method for quality management*
- *Review of activities, documents, procedures etc.*
- *Carried out by "colleagues", i.e. persons of the same hierarchical level, having similar professional competence*
- *Thus informal atmosphere, mutual understanding possible*
- *Outside view to bring in fresh ideas*
- *Team approach fosters broader spectrum of contributions and comparison options*
- *Overall target: Improvement*

Peer Reviews – history and 2016

- *Pilot Peer Reviews in 2011 concluded:*
 - Success due to mutual trust & learning and cooperative atmosphere
 - Allows the sharing of best practices and increase in harmonisation, creating constructive discussions
 - Recommended to define objectives, scope, duration, criteria
- *Two further Peer Reviews organised in 2014*
 - Usefulness again confirmed; recommended making this a regularly established common practice
 - Several best practices identified and shared
 - Developed a methodology for EU ETS (MRVA) peer-reviews plus handbook/tools, to be used also for future peer-reviews
- *Again two further Peer reviews organised in 2016*

Participation to date

09-2011	10-2011	07-2014	11-2014	06-2016	10-2016
NL	DK	UK/ Scotland	PT	CZ	SI
EE	EE	BE	BG	BG	BE(W)
LV	LV	BG	DE	FI	BG
PT	PT	DE	IT	LT	ES (Galicia)
UK	PL	IT	NL	LV	FR
		NL	UK	SK	HR
					IE

Czech Experience

Contact: Eva.Hejralova@mzp.cz

Thanks to the peer review in Prague, the Czech experts obtained useful information about how to handle different procedures and improve administration, such as:

- handling procedures on data gaps
- assessing unreasonable costs
- make use of more tools and GDs published by the EC
- implementing an IT system

To enhance discussion it is necessary that all participants:

- work directly with MRVA issues (or any other issues discussed)
- are experienced enough
- Are English proficient

Suggestions for improvement of future peer reviews: at the beginning of the next PRs participants could present to others their expectations and objectives which would be evaluated at the end.





Slovenia would like to share Peer Review experience with you

- Preparation for the Peer Review required revisiting all processes in the ETS system, which triggered complete overview of the system
- During the Peer Review process we had a very constructive discussion with the Peer Review team
- It is good to learn about similar problems from other MS
- It made us aware that some issues may (re)occur in the future
- Peer Review is stimulating, very rewarding and productive for the hosting MS...so from our experience...**we highly recommend it!**
- **Contact: Zorana.Komar@gov.si**

Thank you for your attention

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