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Fourth ETS MRAV Compliance Review

Annex II: Country fiches

- Confidential –

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Annex II: Country Fiches for Member States

- Confidential –

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Summary

This document is Annex II to the main report: Fourth ETS MRAV Compliance Review finalised in January 2015.

This document includes the detailed fiches prepared for each of the countries included in the project, based upon data collected from May to October 2014. The fiches are provided in alphabetical order by country name, as shown in the Table of Contents.

This report represents the work and opinions of the Ecofys and Ricardo-AEA and is not necessarily a reflection of the views and opinions of the European Commission.

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1 Austria

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1.1 Main changes compared to Phase 2

The main changes from Phase 2 to Phase 3 are as follows:

- Commission excel templates are now used for submission of monitoring plans (MPs), annual emissions reports (AERs), verification reports (VRs) and improvement reports (IRs). Excel templates developed by the Competent Authority (CA) were used previously.
- The accreditation process for verifiers of installations is now as for verifiers of aircraft operators. The accreditation process is set up according the Regulation on Accreditation and Verification (AVR) under the EU ETS, Commission Regulation No. 600/2012 as well as EN ISO 14065 and EA 6/03 (EA Document for Recognition of Verifiers under the EU ETS).

1.2 Short description of authorities involved, their responsibilities and how they work together

In Austria, there are several authorities involved in the implementation of the EU emission trading system (EU ETS), each with separate responsibilities. The responsibilities of the different authorities are laid down in the Austrian Act on Emissions Allowance Trading 2011 (Emissionszertifikategesetz 2011 (EZG)).

Figure 1 outlines the organisational structure of the EU ETS in Austria.

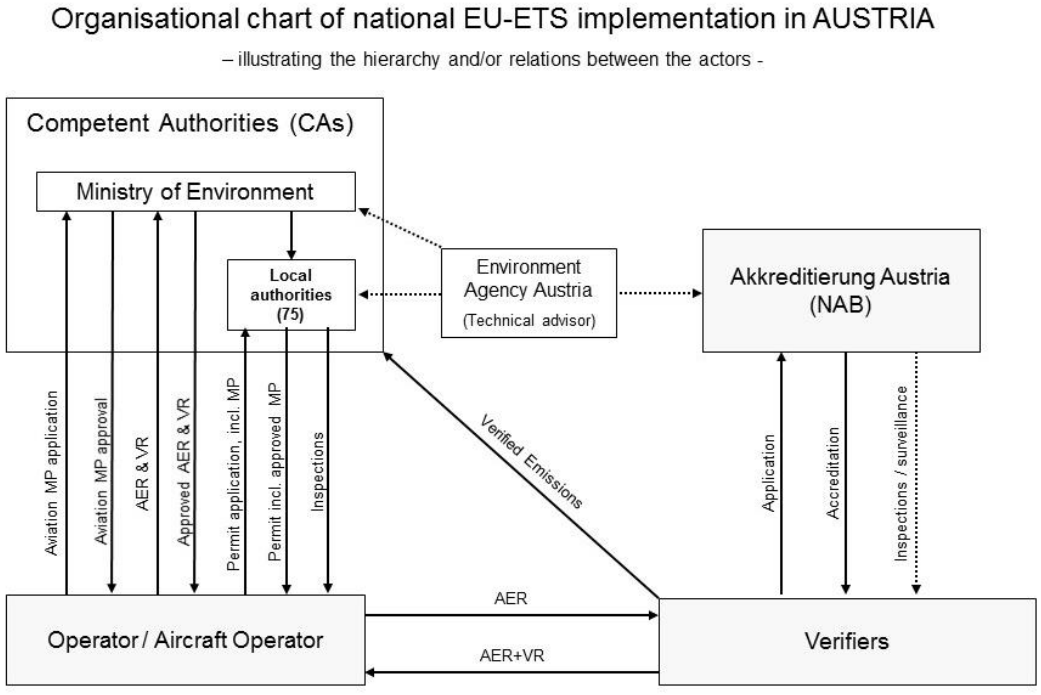

Figure 1 Organisational chart of EU ETS implementation in Austria

1.2.1 The Federal Ministry of Environment

The Federal Ministry of Agriculture, Forestry, Environment and Water Management (BMLFUW) acts as the CA with overall responsibility for ETS. It is located in the Division I/4 - Climate Change and Air Quality.
The BMLFUW is responsible for:

- Drafting of legislation implementing EU ETS legislation
- Allocation and issue of EU ETS allowances
- Receiving and supervising AER and VR
- Running the national registry
- Providing information to the public
- Inspection and enforcement (if this is not related to compliance with the GHG permit and MP)
- Approval of monitoring plans for Aviation.

The Environment Agency Austria (EAA) works as a technical advisor for the Ministry of Environment (BMLFUW), local authorities under the responsibility of the BMLFUW and as an accreditation assessor for the accreditation body (Akkreditierung Austria).

1.2.2 Akkreditierung Austria

Akkreditierung Austria (AA) is the Austrian National Accreditation Body according to 765/2008/CE. AA is based in the Federal Ministry of Science, Research and Economy (BMWFW) (the name changed in March 2014) and, acting as a government authority, is responsible for accreditation in Austria for laboratories, inspection bodies, certification bodies and for EU ETS verifiers. AA has close contacts with the Federal Ministry of Environment on EU ETS. AA is an active European co-operation for Accreditation (EA) member and signed the EA MLA for EU ETS as one of the first Accreditation Bodies.

1.2.3 Local authorities

Local authorities are responsible for issuing, updating and withdrawing permits and approving the MP for installations, as well as receiving and assessing notifications (information on planned verifications to be submitted by verifiers to the National Accreditation Body by 15 November and updates within agreed timeline) of a change to the MP. Inspection and enforcement relating to the compliance with the permit and MP is also the responsibility of the local authorities. At the time of interview, there were approximately 75 authorities involved in permitting for installations. There are around 120 local authorities in total in Austria.
There are some exceptional cases where an organisation other than a local authority takes on the responsibilities outlined:

- The Ministry of Economics is responsible for installations which fall under the Mineralrohstoffgesetz (Mineral Resource Law).
- The Landeshauptmann is responsible for installations that received their principal permit for operation based on provincial law.

1.2.4 Verifiers

A list of accredited verifiers is published on the website of Akkreditierung Austria[1]. Foreign verifiers may operate in Austria, provided they hold a valid accreditation for EU ETS.

1.3 Permitting and monitoring including notification of changes

1.3.1 Permitting

1.3.1.1 Installations

Operators of installations covered by the EU ETS have to apply for a greenhouse gas EU ETS permit. Operators need to submit permit applications to the local authorities (LAs). The MP forms part of the permit, which has to be in conformity with Austrian legislation (Emissionszertifikategesetz 2011, EZG, BGBl. I Nr. 118/2011, last amended by BGBl. I Nr. 98/2013) and the Regulation on Monitoring and Reporting under the EU ETS, Commission Regulation No. 601/2012 (MRR). In some instances, the permit and the MP overlap in some areas, as some LAs copy the application (or parts of it) into the permit. Overlap typically concern information such as capacity, installation boundaries, sources, source streams and contact details. Other LAs refer to the application, as in Austria the application documents are considered part of the permit.

Permits issued for the purposes of the EU ETS are not integrated with any other permits and are valid for as long as the installation is in operation and meets the national EU ETS requirements. A provision in the EZG, states the EU ETS permit can be applied for together with the IPPC permit for operating the installation. However, this is not obligatory and the CAs usually keep the permits separate.

In order to apply for a permit and MP the operator has to fill in a slightly adapted version of the Commission excel MP template and add additional attachments according to the MRR. Examples of adaptations to the template are that operators are asked to include the address of the company that owns operator (also included in AER template) and source stream categories are included (also implemented in the AER).

Documents received by LAs are typically stored in electronic format. Simplified MP are not used, so small installations emitting less than 25,000 tonnes are required to fill all fields in the same excel template, although with less detail in some instances. Operators are classified as a small installation based on the inputted estimated emissions and are therefore allowed to use lower tiers.

When the MRR was introduced, workshops were organised for operators, LAs and verifiers. The aim of the workshops was to harmonise the approval of the MP and the issuance of the permits by LAs. There is no specific training programme for LA staff involved in the MP approval process. The Ministry provide a link to Commission guidance and had feedback from some of the LAs that they had used this guidance and guidance document number 4 on uncertainty was especially useful. In particular, operators of larger installations use the guidance documents of the European Commission. No separate work instructions are produced or provided. Experts from Environment Agency Austria (EAA)

[1] http://www.en.bmwfw.gv.at/technicalaffairsandsurveying/Accreditation/Seiten/ListsofbodiesaccreditedbytheFederalMinistryofEconomy,FamilyandYouth.aspx

assist LAs with technical advice on monitoring and reporting requirements. EAA operates a helpdesk and the Ministry organises workshops for LA to inform them of any changes.

LAs will check MPs to ensure they are complete and that MRR requirements are fulfilled. The LA will do plausibility checks and will assess that level of detail provided is sufficient. Checks are carried out on uncertainty analyses, risks assessment and procedures. Competent authorities are familiar with the installations, as principal permits for operating the installation are also given by the same authority.

Once the permit issued the LAs send all details to the Ministry for a formal check to ensure it is in line with requirements of the MRR. Following this check, the permit can be changed if it is incorrect in a significant way. However, such an instance has not occurred to date in Phase 3. The Ministry have provided feedback to LAs on minor issues found.
During the MP approval process communication between the local authorities and the operator is mainly carried out by mail or phone. In some cases, site visits also take place. There is also communication between the Ministry and LAs on improvements identified by the verifier and changes required to the MP as a result.

The Ministry have received almost all permits for installations from LAs. However, there are a few outstanding and the Ministry is aware of some instances where the permitting procedure has not yet been complete or the permit issued. The reasons for this are:

- One case where the operator did not realise a new permit was needed and submitted their application very late.
- Some instances where the LA did not re-issue permit, but made note of changes, and therefore did not submit to the Ministry.

The Ministry are in contact with the LAs concerned to ensure that outstanding permitting is being completed. The Ministry did receive AERs for all installations (even those without permit) and these were all positively verified. For installations that have not previously been in the ETS, there is provision in Austrian legislation that operators can report as per the MP submitted, until the permit is issued.

The Ministry has noted that an IT web based system would further improve the permitting and approval of MP process, by enabling automated advanced checks on the content of the data and by facilitating the communication process with the operators.

1.3.1.2 Aviation

Aircraft operators (AOs) have to complete the Commission excel template for the MP. The German or English version of the template has to be used. AOs submit the MP to the Ministry of Environment, who is responsible for the approval of MPs for aviation. All other requirements and procedures are similar to those for installations.

1.3.2 Monitoring including notification of changes

1.3.2.1 Notification of changes

With respect to notifying changes of the MP, two different categories of notifications can be distinguished. Permits have to be updated and approved by LAs if a significant change (as per Article 15 of the MRR) is made to the monitoring methodology. Where possible, changes should be noted to the LA before they occur and in all cases notifications should be made ASAP. If changes are due to a change of legislation, operators have four months to notify of changes in line with this.

In other cases, the MP can be changed without updating the permit. These changes have to be reported to the LA, but the LA does not have to give an official decision on this.

Temporary changes in the monitoring methodology have not occurred to date in Phase 3. To notify the LA of changes, the operator submits changes directly in MP excel template. Assessment of the notification is then carried out in the same way as assessment of the MP. Changes also need to be submitted in the AER.

No specific instructions are provided to operators on the notification of changes. The relevant information is based on the changes that occur.

1.3.2.2 Monitoring of emissions

In Austria, there have been no issues with the broadened definition of 'combustion' (as outlined in Directive 2003/87/EC Art. 3(t)), as a broad definition for combustion was already applied in Phase 2, so there were not many changes. Checks were carried out against allocation information. In some instances, additional source streams were found by verifiers during the verification process.

Most category B and C installations were meeting highest tiers in Phase 2 for major source streams (MP dealt with by the LAs) and so expect that the MRR has therefore not had an impact on the number of installation meeting the highest tier requirements. The Ministry is not aware of any instances where an installation is in a transitional period and working to an improvement plan.

There are three installations applying a fallback approach. All are using a fallback approach due to unreasonable cost, and the unreasonable cost calculations are checked in detail by the LAs.

Two installations have adopted the use of measurement-based methodologies (CEMS) under Phase 3. One of these installations is a category B nitric acid plant that had opted in during Phase 2, so is not new to EU ETS. In this instance the European Standards EN14181 and EN15259 are applicable to the CEMs regarding quality assurance and measurement requirements. The Ministry received little information from LAs on their experiences in approving the MPs using CEMS. Due to the additional requirements in checking this methodology, an additional measurement technician was part of the team.

Installations using biomass in Austria use mainly solid biomass, with only a few using bioliquids. LAs would approve methodologies for biomass source streams as per the guidance. Ministry is aware of some instances where operators have claimed unreasonable cost. Methods for estimating the

biomass fraction would have been assessed and approved by the LAs. The Ministry has noted that the sustainability requirements for installations are not particularly clear.

LAs have made particular use of guidance on uncertainty assessments, particularly when checking installation submissions.

Measurement instruments under "type-conform" conditions (national metrological control) were used in Phase 2. The Ministry has noted that gas meters are under national metrological control and the uncertainties here would not meet highest tier. However, in Austria it is considered unreasonable to add additional measurement in such cases and so operators are allowed to use the gas meters to meet highest tier. It should be noted that claiming a highest tier where instruments used do not comply constitutes a non-compliance. If unreasonable costs are an issue (according to MRR Article 18) for measurement instruments under "type-conform" conditions (national metrological control), then the instruments concerned should be approved (in the MP) at the level they actually comply and not to the highest tier.

Installations in Austria are meeting the minimum frequency of analyses, as the requirements of Annex VII were already being used.

The number of applications for equivalence of a non-accredited laboratory has decreased under Phase 3.

In Austria there is no case of inherent CO_2 and one case regarding transfer of CO_2, which is an ongoing court case.

Operators of installations are not required to provide specific methods for dealing with data gaps in their MPs, but are required to submit proposals when data gaps occur. The data gaps section of the AER is an optional section, and operators have been unsure as to whether they were required to complete it.

Temporary changes to the MP, where a different monitoring approach will be used, need to be reported to the LA.

1.3.2.3 Aviation

Aircraft operators (AOs) meeting the requirements of MRR Article 54 ('small emitter' status) are allowed to use simplified monitoring requirements and Eurocontrol's small emitter's tool to estimate their fuel consumption.

When updated versions of the Commission EU ETS Operator List are released and new AO identified the Ministry would first request contact details from Eurocontrol and, if contact details could not be provided via this route, would then use internet research to find contact details.

New AO would first be sent an information letter. Where possible, these would be sent both by email and letter. Operators would be asked to confirm receipt of information and to provide some basic information. The Ministry would then determine whether they actually fall under EU ETS.

The Ministry has experienced some issues with contacting very small operators; e.g. those outside of Europe with only one flight in a year and no flights in subsequent years. However, under the new regulations for aviation, these are now exempt.

The requirements for fuel density measurement and identifying sources of uncertainty and determining fuel uplift are used as outlined in the MRR.

The Ministry uses Eurocontrol Support Facility (SF) to check 100% of AERs.

For submission of 2013 AER the Ministry asked AO to wait with submission of AER and surrender until after requirements were clear. AO were then officially informed that 2013 AERs were to be submitted by 31st March 2015 (for those falling in scope). AO are able to submit the AER and surrender allowances earlier than this, but not many have done so.

1.4 Reporting and verification

1.4.1 Submission of reports

Each operator has to submit an AER and VR by 31 March each year. An electronic workflow system (EDM system) is set up to for AER/VR submission and to track the status of the reporting process. This workflow system is part of e-government, which also includes other reporting requirements, such as EPRTR. Data from the AER is used directly for the National Inventory and National energy statistics.

Operators are required to use the German version of the Commissions excel template for AERs (with minor amendments) and upload this via the EDM system, along with any supporting documentation. At this point verifiers will have read access to the AER in order to carry out verification. Verifiers are required to use the German version of the Commission template for the VR. After verification, the verifier uploads the VR in the EDM system and the operator will submit both reports in the EDM system to the Federal Ministry of Environment.

No simplified verifications were approved for the 2013 reporting year, as this was the first year under Phase 3.

A helpdesk for the EDM system is set up at the EAA for the both operators and verifiers.

Commission AER guidance is available to operators and no additional guidance has been developed by the CA on completion of AER. However, guidance on the EDM workflow system is available. The Commission guidance is also used by the CA in the checking of AERs.

The AERs are stored in the EDM System.

The process for submission of aviation AERs is the same as for installations with the exception that either the English or German version of the Commissions excel templates for AER and VR may be used.

1.4.2 Review of AERs and verification reports

The EDM system automatically keeps track of whether the AER and VR have been submitted on time. All AERs and VRs receive a basic completeness check (including a check if any changes were made to the Excel form itself), as well as a check on whether the verifier made any comments or submitted misstatements and non-conformities in the VR.

A detailed check is performed on a selection of AERs and VRs. At least 20% would have a detailed check annually. The selection is made by factors such as the complexity and size of an installation, changes compared to previous reporting period, changes in verifier, etc. A detailed AER check entails plausibility checks on all the data in the AER and VR, including the verifier's competence for a specific sector. A check between the AER and MP is also carried out, particularly on compatibility of the tier, source stream, sources and factors mentioned in the MP with specific data in the emission report. There would also be a sector specific focus each year; e.g. one year ceramics installations were focussed on in detail. While reviewing the AER and VR a checklist is used.

If further information is required from the operator, the Ministry requests the information by letter. Once an AER has been accepted by the Ministry it is noted with an 'ok' in the EDM system, which can be viewed by the operator.

If the Ministry find errors in the AER or VR, these need to be corrected by the responsible party. Typical errors found are typos or differences in numbers between AER and VR. Sanctions are only imposed as a last resort. Actions concerning doubts on AERs can still be closed after the 30th of April.

No negative verification statement has been given to date in Phase 3. If this were to be the case, the Ministry of Environment would require the report to be re-verified or to determine the emission figure themselves.

1.4.2.1 Determination of the emissions figure

There are two instances where the Ministry would determine the emissions figure:

1. If an AER was submitted, but with large deviation, a legal provision would be raised. If the deviation was not resolved in two weeks, the Ministry would then determine the emissions figure.
2. If no AER was submitted, the Ministry can determine emissions in line with available documentation.

For 2013, the Ministry has one case where there was an issue with the verified AER that could not be resolved with the operator. There was also one instance where no AER was submitted due to bankruptcy of the operator.

1.4.2.2 Improvement reports

Operators are required to submit an IR to both the Ministry and LAs by the 30th June each year. IRs are submitted via email. The Ministry expect each operator to submit a single combined IR. A translated version of the Commission template for IR is used.

To date the most common improvement requirements identified by verifiers and operators are:

- Improvements relating to procedures
- MRR requirements not being fully implemented in procedures.

1.4.2.3 Electronic reporting

The EDM system is used for submission of AER/VR. This provides a workflow for the process:

- The operator uploads the complete Commission AER form to the system. Once submitted this is sent to the verifier
- The verifier completes the VR and then uploads to the system. Once submitted both documents are sent back to the operator
- The operator can view the VR (but cannot change) and can then submit both documents to the Ministry
- The EDM system can also be used to upload additional supporting data.

Use of the EDM system is restricted by passwords and access restrictions. Measures are in place to ensure integrity of the data and to ensure confidentiality are in place. The tool is also used by other Ministry departments for other reporting.

1.5 Accreditation of verifiers

For Verifiers of both installations and aircraft operators, the accreditation process is now set up according the AVR (as well as EN ISO 14065 and EA 6/03).

Verifiers have to apply for accreditation to Akkreditierung Austria (AA – the national accreditation body (NAB)), which is a department of BMWFW.

After submitting the application, AA checks the application documentation. If the documentation is deemed complete, AA proposes qualified assessors/experts to perform an in-depth accreditation assessment to the Accreditation Board (representatives of the interested national authorities). Based on the decision of the Accreditation Board the assessment team is appointed by AA and an on-site assessment at the verifier's premises and a witness assessment during verification at an operator's site are performed. After the visit, the assessors draft an assessment reports including eventual non-conformities and areas for improvement are forwarded to AA. In case of non-conformities, the verifier needs to implement improvements and demonstrates the implementation to the AA assessors.

Following improvements, the assessment team updates the assessment work and assessment report and consultation takes place with the Accreditation Board for the final decision.

AA uses qualified personnel of the Environmental Agency Austria as assessors for the AVR assessments.

The accreditation certificate is valid for 5 years (only for EU-ETS verifiers). During the accreditation process, close communication lines exist between the NAB and the technical experts at EAA, which enables the NAB to ask for support when this is needed in order to safeguard quality. There is close

cooperation between the NAB and the CA, as a member of the CA is part of the Accreditation Board, and there are plans to have an annual meeting to discuss any issues.

Each year, annual surveillance is carried out according to the AVR. Annual surveillance includes head office visits and witness assessments. After five years, AA performs a full reassessment of the accreditation (as it does for all Conformity Assessment Bodies).

Detailed guidance on the accreditation process is published on the website of the BMWFW (Akkreditierung[2]).

1.6 Inspections and enforcement

1.6.1 Inspections

Inspection of installations can be carried out by the LA. If the LA has encountered non-compliance during an inspection, the Ministry of Environment should be informed. However, there is no specific obligation for LAs to carry out inspections in installations according to the emissions certificate law.

To date, no inspections have been performed by LAs with specific regard to EU ETS. However, LAs also do inspections for other legal requirements and are familiar with the installations. Improvements relating to the MP are also picked up by verifiers.

For aviation, as there is no ETS specific permit, inspections are not foreseen.

1.6.2 Enforcement

Administrative fines can be imposed by the LAs on an operator who is non-compliant with ETS requirements. The following infringements exist:

- Up to €35,000 for emitting emissions while not having a valid ETS permit
- Up to €5,000 for not notifying changes to the permit and the MP
- Up to €7,000 for monitoring and reporting contrary to national ETS requirements
- Up to €15,000 for failure to fulfil the reporting obligations according to Article 15 of Ordinance 2216/2004/EG to the registry administrator.

Permits have to be withdrawn if:

- The installation permit terminates during a trading period
- The installation has been shut down
- The installation that received an allocation decree (without allowances actually issued) did not start operations.

The enforcement procedures for aviation are similar to those that apply for installations. As the sanction for operating without a permit is not applicable to aircraft operators, a provision has been introduced in the Civil Aviation Act 2008 that makes approval of flight plans of commercial operators subject to submission of a MP under the ETS legislation.

[2] www.bmwfw.gv.at/akkreditierung

1.7 Good practices

- The Ministry uses Eurocontrol SF to check all aviation AERs.

2 Belgium

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2.1 The role of the Federal Government and the Regions

Belgium is divided in three regions: the Flemish Region, the Walloon Region and the Brussels Capital Region. Each region has its own Competent Authority (CA). The three CAs operate autonomously, but try to harmonise where possible. Due to autonomous operations, different approaches to the implementation of EU Emission Trading System (EU ETS) cannot be avoided and do occur. The three regional CAs are ultimately responsible for allocation, monitoring, reporting and verification. The Federal Government is ultimately responsible for the registry and accreditation. Information in this Fiche is therefore presented by region.

2.2 Flemish Region

This section outlines how EU ETS is implemented in the Flemish Region.

2.2.1 Main changes compared to Phase 2

The main changes from Phase 2 to Phase 3 are as follows:

- From 2013, an online reporting tool has been used by the operators/verifiers for the submission of annual emission reports (AERs) and verification reports (VRs). Data from this tool are extracted by the CA.
- Operators can now select an accredited verifier in accordance with the Regulation on Accreditation and Verification under the EU ETS, Commission Regulation No. 600/2012 (AVR). Previously there was only one verifier in the Flemish region (the Benchmarking Verification Bureau of Flanders (VBBV)), paid by the Flemish CA.
- As the Flemish Region holds a large chemical cluster, the new scope of ETS resulted in a lot of additional emissions compared to Phase 2. For example, there are four nitric acid installations using measurement-based methodologies (CEMS) now included under EU ETS.
- All monitoring plans (MPs) have been updated to incorporate new provisions included in the new Regulation on Monitoring and Reporting under the EU ETS, Commission Regulation No. 601/2012 (MRR).
- The VBBV now performs specific 'conformity audits', where a site visit is carried out to check if the MP is in line with the situation on site.

2.2.2 Short description of authorities involved, their responsibilities and how they work together

In the Flemish region, there are several authorities involved in the implementation of the emission trading system (ETS), each with separate responsibilities.

Figure 2 outlines the organisational structure of ETS in the Flemish Region.

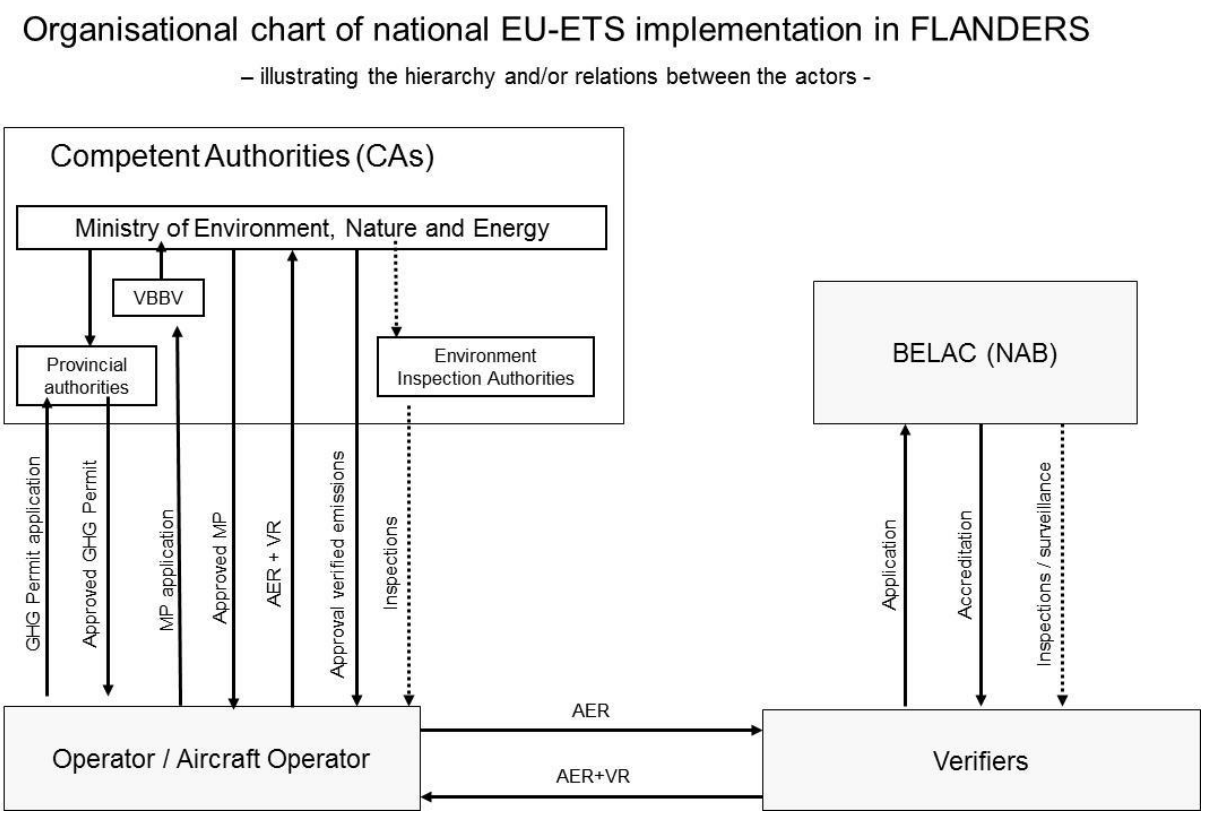

Figure 2 Organisational chart of EU ETS implementation in the Flemish Region

The Flemish Ministry of Environment, Nature and Energy (the Ministry) acts as the CA in the Flemish region and is responsible for the following activities with respect to both installations and aircraft operators:

- Drafting legislation implementing EU ETS
- Approving (changes to) MPs
- Reviewing verified tonne kilometre and verified annual emissions reports
- Reviewing new entrant and closure applications.

Both the greenhouse gas (GHG) and IPPC permit are integrated in the environmental permit, which is the responsibility of the provincial authorities. The provincial authorities are therefore responsible for extending the environmental permit with EU ETS sections. Each EU ETS Annex I activity needs to be mentioned in the permit. The Flemish CA gives the provincial authorities advice on the EU ETS sections of environmental permit applications.

The VBBV provides advice to the CA on the approval of the MP and is the only verifier for the submission of new entrant applications and closure notifications.

Operators can select an accredited verifier in accordance with the AVR.

BELAC is the National Accreditation Body (NAB) responsible for accreditation of verifiers in accordance with the AVR. BELAC is a member of the European co-operation for Accreditation and oversees the quality of verifiers.

2.2.3 Permitting and monitoring including notification of changes

2.2.3.1 Permitting

Operators of installations covered by the EU ETS have to apply to the relevant provincial authority for a greenhouse gas (GHG) permit. The GHG permit is integrated in the environmental permit, which is the responsibility of the provincial authorities[3]. Each EU ETS Annex I activity needs to be mentioned in the environmental permit.

The installation boundaries are defined in line with the European Guidance document on Interpretation of Annex I of the EU ETS Directive. For example, the installation boundaries therefore also include emergency generators and small heating units.

As part of the permit application procedure the operator has to complete the right application for extending the environmental permit with an activity specific section, add an approved MP, and include relevant accompanying data.

An approved MP therefore needs to be submitted as part of the permit application. Operators must submit draft MP applications to the VBBV. The VBBV is responsible for assessing the MP while the Ministry is responsible for approving the MP, based on advice by the VBBV.

The Ministry advises the provincial authorities on the permit applications and whether the MP is in line with the permit. Cases where no approved MP has been added to the permit application or where there is a difference between the MP data and the permit application are highlighted.

The EU ETS part of the permit does not have a specific validity date by law, but has the same validity date as the environmental permit.

Word-based MP templates for installations are provided by the CA. These templates were developed in Phase 2 and updated for Phase 3 to meet the requirements of the MRR. Consistency with the Phase 2 template was requested by operators, so the Commission template for MP was not duplicated.

There are three versions of the template for installations and a checklist is followed to determine which template is applicable:

- A detailed version for installations using CEMS or a fallback approach (relates to 4 installations using CEMS)
- A simplified version for installations of low emission (if the use of this simplified template can be justified, based on a risk assessment by the operator) (relates to approximately 110 installations)
- A standard version for all other operators (relates to approximately 100 installations).

Commission guidance is used by the CA and VBBV, particularly to help understand provisions in the MRR. Operators have also made use of this guidance. Additional guidance is also incorporated into the MP templates. For small emitters standard procedures have been developed to harmonise completion of the MP.

[3] There are 5 provincial authorities in the Flemish Region

For aviation a template similar to the Commission excel template is used. The main difference is in the way in which changes need to be reported. Small emitters are required to complete this template, although certain sections are not required. For aviation, guidance is provided on how to deal with changes and completion of a logbook.

The VBBV will receive MPs via email. When assessing the MP the VBBV checks the completeness of the MP and carries out plausibility and consistency checks within the MP itself. Each element in the MP is checked against a word checklist/work instruction that corresponds to each section of MP and is in line with MRR requirements. This ensures a common approach is used in assessing the MP. A peer review process is also in place. Both these approaches are good practice. During the MP assessment process, there is direct communication between the installation and VBBV.

In assessment of Phase 3 MP, the VBBV have noted that there is sometimes a misunderstanding of the content and purpose of procedures amongst operators of installations. For aircraft operators (AO) there have been some issues noted in the establishment of the risk assessment and the notification of significant (and other) changes to the CA.

For Phase 3, all MP's were approved by early 2013. Every year updated MPs for the next year need to be submitted by the operator to the VBBV by 15 November. By the end of March of the next year, most of these updated MPs are approved by the Ministry.

Phase 2 GHG permits have remained valid for Phase 3. However, many installations needed to update their permit because of the extension of the scope in Phase 3. In many cases the update consists of just adding a specific Annex I activity. Most permits are now updated, although some applications for update are still pending. These installations already have an approved MP, and were already covered by the EU ETS in Phase 2, so are covered by the obligations to report verified emissions and surrender allowances. In practice, no issues were found in 2013 reporting.

The CA retains all MPs and supporting documents on their server. Files are saved by year and then by operator.

2.2.3.2 Monitoring incl. notification of changes

With respect to notifying changes of the MP, significant changes (as per Article 15.3 of the MRR) need to be verified by the VBBV and then approved by the Ministry. All changes (whether significant or not) also need to be recorded in a 'changes logbook', which is kept by each operator. A special template is provided for this 'changes logbook'. This logbook needs to be submitted to:

1) The accredited verifier alongside the AER each year
2) The VBBV when proposing the updated MP by 15 November each year.

Significant changes need to be reported to the VBBV and approved by the CA before the change is applied, or (in rare cases) as soon as possible after this change, if notifying before was not possible.

All operators have to submit an updated MP by 15 November each year, which includes all significant and other changes. The updated MP is verified by VBBV before 20th January and submitted to the Ministry for approval. VBBV uses checklists to assist in the assessment of changes to the MP. After

approval by the Ministry, this MP is valid for the year plus one, and replaces the previous version of the approved MP.

Guidance is provided on the notification of changes, which helps operators to understand how to complete their logbook and what procedure to follow.

In the Flemish Region, there have been no specific issues with the broadened definition of 'combustion' (as outlined in Directive 2003/87/EC Art. 3(t) and the related Guidance Document). Information has been checked by VBBV, who has a good knowledge of the installations.

Upon request of the CA, we have also included the classification of the installations in the Flemish Region, which is shown in Table 1.

Table 1 Installations in the Flemish region

Installations	Number
Installations with low emissions	111
Category A installations (excluding installations with low emissions)	42
Category B installations	46
Category C installations	18
Total number of installations	**217**

The number of source streams that need to be monitored by the installations is shown in Table 2:

Table 2 Source streams in the Flemish region

# source streams per installation	# installations with this # of source streams	cumulated # of installations	# source streams involved	cumulated # of source streams	% of installations with this # of source streams	% of installations with this or lower # of source streams	% of source streams of this category in total	cumulated % of source streams
1	40	40	40	40	19%	19%	5%	5%
2	69	109	138	178	32%	50%	16%	20%
3	35	144	105	283	16%	67%	12%	32%
4	17	161	68	351	8%	75%	8%	40%
5	12	173	60	411	6%	80%	7%	47%
6	9	182	54	465	4%	84%	6%	53%
7	9	191	63	528	4%	88%	7%	61%
8	7	198	56	584	3%	92%	6%	67%
9	2	200	18	602	1%	93%	2%	69%
10	1	201	10	612	0%	93%	1%	70%
11	4	205	44	656	2%	95%	5%	75%
12	2	207	24	680	1%	96%	3%	78%
14	2	209	28	708	1%	97%	3%	81%
15	2	211	30	738	1%	98%	3%	85%
16	1	212	16	754	0%	98%	2%	86%
21	1	213	21	775	0%	99%	2%	89%
23	1	214	23	798	0%	99%	3%	92%
28	1	215	28	826	0%	100%	3%	95%
46	1	216	46	872	0%	100%	5%	100%
	216		**872**					

Conclusions:

1	Half of the installations under ETS in the Flemish Region have a very limited reporting obligation (one or two activity data to be reported, combined with - in most cases - standard NCV, emission and oxidation factors)
2	75% of the installations under ETS in the Flemish Region have a rather limited reporting obligation (4 or less activity data to be reported, combined with - in a lot of cases - standard NCV, emission and oxidation factors)
3	5% of the installations under ETS in the Flemish Region (the most complex ones) are responsible for 25% of the number of source streams

The CA believes that MRR Article 26 has resulted in more B and C installations meeting highest tiers.

Improvement reports in the Flemish Region have been submitted by approximately 80 installations; predominantly category B and C installations. The plans cover issues related to improvements according to Article 14(1) and 69(1-3) of the MRR, as well as improvements as a result of Article 9, 47(3) and 69 (4) of the MRR (issues mentioned in the VRs).

No installations in the Flemish region are applying a fallback approach.

The Flemish Region has four nitric acid installations using measurement-based methodologies (CEMS) (out of 216 installations overall). CEMS are used only for N_2O emissions from nitric acid production. There were no CEMS prior to Phase 3. The CA requires operators using CEMS to complete the most detailed MP template. Standards relevant to EN14181 (QAL1, QAL2, QAL3 and AST) are applicable regarding quality assurance and measurement requirements for CEMS, as well as requirements for laboratories to be EN ISO 17025 accredited.

No specific issues have been identified with the use of biomass. There is only one installation that uses bioliquids. This installation uses animal fat. The operator of this installation has provided the CA with certified evidence (as part of the MP) that this animal fat meets sustainability criteria under a voluntary scheme in the Netherlands. According to Flemish legislation, the certificate is also valid in the Flemish region.

All operators use route III (i.e. full uncertainty calculation) for uncertainty calculation as they have experience with it from Phase 2. Use of routes I and II is found confusing by operators and therefore these are not used.

The examples in the Commission guidance have been useful, but further examples, such as for online analysers, would be useful. VBBV uses internal guidance to assist in the checking of uncertainty assessments.

The CA has noted that the requirements for uncertainty assessments for measurement instruments under "type-conform" conditions (national metrological control) are confusing for operators and verifiers. The CA has stated that national metrological control is not applicable in the Flemish Region.

The CA has found that the new determination method for unreasonable costs is clear and that the Commission's tool to determine unreasonable costs has helped in assessing operators' claims over facing unreasonable costs.

The CA has not had any experience where an operator has claimed that applying a specific monitoring methodology is technically not feasible.

The CA has had a few experiences of using the 1/3 rule calculator provided by the Commission. These experiences were specifically where an input of a mass balance was a very pure chemical. Where operators were purchasing a pure fuel stream and did not have online analysis, analysis would be performed once a day and the 1/3 rule would then be applied if results were very consistent. In these cases analysis would have dropped from one per day to around six per year.

In general, the requirements of the MRR on frequency of analysis have led to an increase in the frequency of analysis amongst operators.

The CA has seen the number of applications for equivalence concerning EN ISO 17025 accredited laboratories increase since introduction of the MRR. This is due to a lot of installations having special slop streams and off gases that are so operator-specific that there is no lab that tries to acquire an EN ISO 17025 certificate for them. Guidance note 5 and checklist has been particularly useful for operators.

The CA has not experienced any issues with inherent CO_2 or transfer of CO_2 in the Flemish Region. The one case of transfer of inherent CO_2 is with a steel plant that transfers waste gases to an electricity producer. The circumstances of this case have not changed since 2005.

2.2.3.3 Aviation

Aircraft operators (AOs) meeting the requirements of MRR Article 54 ('small emitter' status) are allowed to use simplified monitoring requirements and Eurocontrol's small emitter's tool to estimate their fuel consumption.

When updated versions of the Commission EU ETS Operator List are released and new AO identified the AOC is checked in order to identify the responsible party. If no AOC is available, the owner of the aircraft (determined based on the registration number) is considered to have responsibility. The CA would then look to identify contact details via the internet. If no results were found, Eurocontrol or the aviation authority where the relevant aircraft are registered would be contacted.

The requirements for fuel density measurement and identifying sources of uncertainty and determining fuel uplift, as outlined in the MRR, are clear and straightforward.

The CA uses Eurocontrol Support Facility (SF) to cross check reported emission in AERs.

For 2013 AERs, AO have been advised to report 2013 emission by 31st March 2015. AO are also advised to submit SF report together with their own spreadsheet log of flights to the verifier.

2.2.4 Reporting and verification

2.2.4.1 Submission of reports

Operators are required to submit an AER to the CA by the 14th March each year. From 2014 (for the 2013 AER), an online reporting tool has been used by the operators and verifiers for the submission of AERs and VRs. A long-term goal for the online reporting tool is to combine all forms of environmental reporting into one online interface.

The online reporting tool allows for better handling of data by the CA and makes it easier to check data. The CA has provided a manual for the new online reporting tool to assist operators in completion of their AER.

Operators need to have their AER verified by an accredited verifier. Emissions have to be reported by the operator in the online reporting tool and then a VR needs to be uploaded by the selected verifier in the same online tool.

An excel template is available for the VR. This template is based on the Commission template, but with some minor adaptations for the Flemish Region.

Waiving of site visits have not been approved to date in Phase 3. All sites have had site visits relating to their 2013 AERs.

Aircraft operators have not yet reported for 2013 emissions. Commission templates for aviation will be used for aviation AERs and VRs. The online reporting system used for installations will not be used for this.

2.2.4.2 Review of AERs and VRs

The online tool carries out an automated completion check on all submitted AERs. In general, consistency and plausibility checks of AER data are carried out by the CA. Formal procedures for the review of AERs and VRs are under development. The focus for the 2013 compliance cycle was smooth introduction of the new reporting tool. The CA has performed some basic checks on submitted reports, including comparison with emissions with previous years' data and consistency of the emission figures in AER and VR. Checks against the MP or additional sources of information were not specifically carried out for 2013 AERs.

Formal procedures, when developed, will also include the process for when errors are identified in the AER or VR. No issues were identified in the basic checks carried out on 2013 AER.

Operators are informed via email once the CA has accepted the verified emissions. The correspondence confirms that verified emissions will be sent to registry and that the operator will need to surrender allowances for these.

2.2.4.2.1 Determination of the emissions figure

The national legislation does not contain specific provisions on how the CA is allowed to determine the emissions figure. However, the provisions of the MRR apply. No determinations have been required to date.

2.2.4.2.2 Improvement reports

When they are required, operators need to submit the improvement report (IR) to the CA by the 30th June. IRs are currently submitted via email. In the future, it will be evaluated whether submission of IR will also be via the online reporting tool. A word template, which is a simplified version[4] of the Commission template, is provided to operators for IRs.
To date the most common improvement requirements identified by verifiers and operators are:

[4] For example, there are no operators in the Flemish Region that use a fall back approach, so the simplified template has no references to fallback approach.

- Compliance of MP with GHG-permit
- Tier requirements (some installations needed to install new measurement equipment)
- Adjustments to procedures, as procedures often not in line with reality
- Improvements to risk assessments, as sometimes too general and not installation-specific enough
- Internal audits not being performed
- Data flow diagram missing and/or data checkpoints missing from this diagram.

2.2.4.2.3 Electronic reporting

All documents are submitted electronically to the CA and stored on their server. MPs, IRs and additional documentation are received via email, while AERs and VRs are submitted via the online reporting tool.

Electronic submission was not mandatory for 2013 AERs, but it is foreseen that it will be mandatory from 2014 AERs. Already in 2014, all operators submitted 2013 AERs via the online tool.

The online reporting system uses the same access control system as other environmental reporting systems in the Flemish Region. A unique email is sent to the responsible person for submission of AER (as per the details in the MP), providing them with a unique link and login. Confidentiality is managed as part of the IT system.

Some automated checks are carried out in the online system, including some warnings if data inputted is not as expected. Currently automated checks are not carried out against MP information.

2.2.5 Accreditation and acceptance of verifiers

Introduction of the AVR has changed the verification and accreditation process in the Flemish Region. BELAC is the National Accreditation Body (NAB) responsible for accreditation of verifiers in accordance with the AVR.

Previously there was only one verifier (VBBV) in the Flemish Region, paid by the CA. As from 2014, operators need to select an accredited verifier in accordance with the AVR.

The Walloon Region is appointed as the focal point for Belgium between CA and NAB. Regular meetings and email exchanges occur between CAs and NAB, in which the Flemish CA will participate, as required.

Further information on the accreditation and acceptance of verifiers is provided in section 2.3.5 of the Walloon region section of the fiche.

2.2.6 Inspections and enforcement

2.2.6.1 Inspections

Two types of inspection are carried out in the Flemish region:

1. In accordance with the IED, operators are inspected by the environmental inspection authorities. These inspections are always carried out, but the focus is much broader than EU ETS issues. Compliance with the MP and MRR requirements is not the main focus of these inspection bodies. However, when the CA (Ministry of Environment) is aware of non-compliance with the EU ETS sections of the environmental permit (e.g. when no AER is submitted), the environmental inspection authorities are informed which can formally determine the non-compliance.
2. The VBBV performs 'conformity audits'. They do site visits and check if the MP is in line with the situation on site. These conformity audits are new in Phase 3. Frequency of conformity audits going forward will be:
    - Every year for category C installations (started in 2013)
    - Every 2 years for category B installations (starting in 2014)
    - Every 4 years for category A installations (starting in 2014).

During conformity audits, the whole MP will be assessed for conformity with MRR requirements, including supporting documentation on laboratories, measurement devices and in-house procedures. A physical inspection of monitoring equipment on site will also be carried out. Issues will be reported back to the operator who will be required to solve them by the time the updated MP is due (15 November annually). These audits constitute good practice.

To date, conformity audits have found instances where:

- Procedures were not in line with the MRR or were missing
- Basic uncertainties of measurement devices were not correct
- Information on emissions sources not in line with GHG permit
- No EN ISO 17025 certificates of laboratories.

2.2.6.2 Enforcement

With the exception of not surrendering sufficient emission allowances, there are no EU ETS specific sanctions. The Ministry of Environment can only impose sanctions on operators based on the general provisions of the environmental act. The following infringements can be distinguished:

- Up to €250,000 multiplied with an index of 5.5 for emitting emissions while not having a valid ETS permit
- Up to €50,000 multiplied with an index of 5.5 for not complying with monitoring and reporting requirements
- Up to €50,000 multiplied with an index of 5.5 for not notifying changes
- Not surrendering emission allowances equivalent to the emissions reported.

For these infringements administrative fines can be imposed by the Ministry of Environment.
For aviation, the following penalties apply:

- An AO that does not have an approved MP by the 1st of January faces an administrative fine between 5,000 and 450,000. The exact amount is calculated as €0.5 by the estimated emissions (taking into account the minimum and maximum)
- An AO that does not report verified emissions by the second Thursday of March faces an administrative fine between 5,000 and 450,000. The exact amount is calculated as 0.5 by the estimated emissions (taking into account the minimum and maximum).

2.2.7 Good practices

- As the CA does not use the Commission MP templates, additional guidance is incorporated into the word-based MP templates to assist operators in their completion.
- The CA has produced standard procedures for installations of low emission to harmonise completion of the MP.
- Each element in the MP is checked against a word checklist/work instruction that corresponds to each section of MP and is in line with MRR requirements. This ensures a common approach is used in assessing the MP. A peer review process is also in place.
- All changes (whether significant or not) are recorded by operators in a 'changes logbook'. A special template is provided for this logbook by the CA. The logbook needs to be submitted to the accredited verifier alongside the AER each year and to the VBBV when proposing the updated MP by 15 November each year.

- Two types of inspection are carried out in the Flemish region; IED inspections and 'conformity audits', which are new for Phase 3. The conformity audits will assess the whole MP for conformity with MRR requirements and a physical inspection of monitoring equipment on site will also be carried out. Operator will be required to solve issues by the time the updated MP is due on the 15 November.

- The CA has provided a manual for the new online reporting tool to assist operators in completion of their AER.

2.3 Walloon Region

2.3.1 Main changes compared to Phase 2

The main changes from Phase 2 to Phase 3 are as follows:

- ETSWAP has been introduced for the submission of MPs, AERs, VRs and IRs for both installations and aircraft operators in the Walloon Region.
- Operators can now select an accredited verifier in accordance with the AVR.
- New operators included in EU ETS due to combustion definition clarification (asphalt sector).

2.3.2 Organisation and responsibilities of authorities involved in EU ETS

2.3.2.1 Key responsibilities

In Belgium Walloon Region, there several authorities involved in implementation of the emission trading system (ETS), each with separate responsibilities.

Figure 3 outlines the organisational structure of ETS in the Walloon region of Belgium.

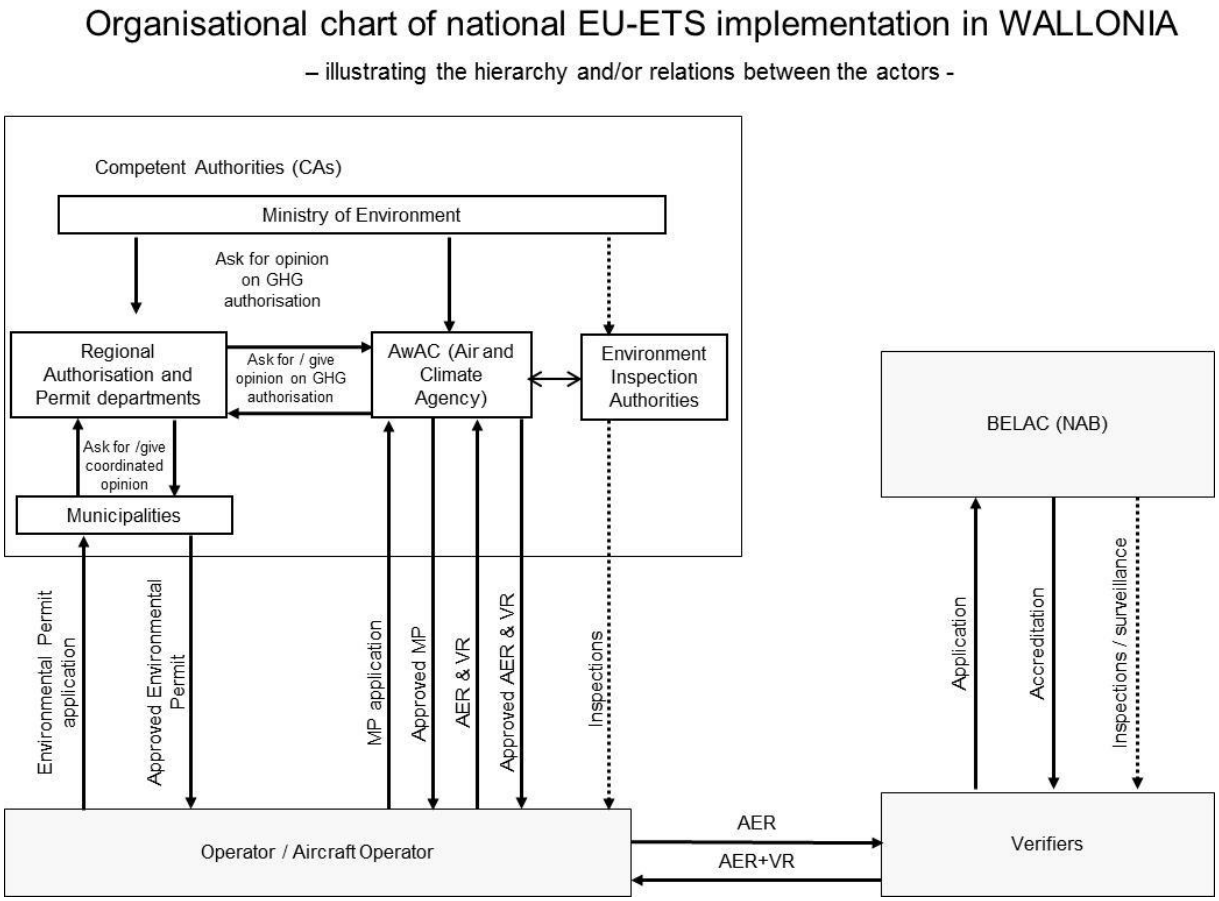

Figure 3 Organisational chart of EU ETS implementation in Wallonia

In the Walloon region the MRR is supplemented with regional legislation that complements the EU legislation, with Walloon specific requirements.

The Walloon Air and Climate Agency (AwAC) acts as the CA in the Walloon Region and is responsible for the following activities:

- Drafting legislation implementing EU ETS
- Providing an opinion and proposing a GHG Authorisation when Regional Authorisation and Permit departments ask for an opinion from AwAC following a demand for an environmental permit application
- Approving MPs
- Making decisions on notifications of changes to the MP
- Reviewing tonne kilometre, AERs and VRs for both installations and aircraft operators.

Greenhouse gas (GHG) authorisation for EU ETS is integrated in environmental permits, which are the responsibility of the Regional Authorisation and Permit departments. These departments are therefore responsible for integrating ETS conditions in the environmental permits. The final permits are delivered by the municipalities.

BELAC is the National Accreditation Body (NAB) responsible for accreditation of verifiers in accordance with the AVR. BELAC is a member of the European co-operation of Accreditation and oversees the quality of verifiers.

Operators can now select an accredited verifier in accordance with the AVR.

2.3.3 Permitting and monitoring including notification of changes

2.3.3.1 Permitting

Operators of installations covered by the EU ETS have to apply to the relevant Regional Authorisation and Permit departments/municipality for an environmental permit, which includes authorisation for GHG. The Regional Authorisation and Permit departments are responsible for integration of ETS conditions into these permits and the municipalities for final issuance of the permits.

Installation boundaries for the permit are assessed on a case-by-case basis and defined as broadly as possible. The CA has found Commission guidance on Annex I interpretation particularly useful in helping to define installation boundaries. The verifier will check the installation boundaries as part of the verification of the AER. AwAC also provided training to the different permitting departments regarding the interpretation of annex 1 of the ETS directive.

As part of the permit application procedure, capacity data is provided for the installation and individual combustion units.

Operators are not required to submit an approved MP as part of the permit application. However, operators are required to complete an Annex with information on capacity and the monitoring methodology to be applied. When the permit is issued by the municipality and before operations begin, the operator is required to submit a MP to AwAC via their IT system ETSWAP.

The Walloon version of ETSWAP is based upon UK Environment Agency's version and adapted to Walloon specifications. This web-based tool provides IT support for the full compliance cycle. ETSWAP has an online MP form that has the same content as the Commission MP templates, with some minor adjustments for the Walloon Region (for example the source stream diagram has been made mandatory, as has the written procedure for "change in operation" which is optional in EC template. ETSWAP helps facilitate EU ETS implementation, provides easy access to data and history of reporting and facilitates communication with operators.

Since the beginning of Phase 3, operators are required to use the IT system ETSWAP to submit their application for a MP. Early in Phase 3, some flexibility was provided, which allowed operators to use the Commission Template and AwAC transferred the data provided by operators into ETSWAP.
Simplified MPs are not allowed to be submitted by operators. However, level of detail in MPs for low emitters can be less than for larger installations.

When assessing the MP, AwAC checks the completeness of the MP (some fields are mandatory in ETSWAP, which helps to ensure completeness). It also carries out plausibility and consistency checks within the MP. Each specific element in the MP is checked against the MRR. This includes the correct application of the tier and the correct application of analyses and uncertainty assessment.

Regular internal meetings have been held by the CA to help harmonise the MP assessment approach. The CA also appointed one peer reviewer for all MP to support a harmonised approach. This peer

reviewer was the senior technical expert on the team, with many years of experience. If an agreement on any element wasn't reached internally, the CA has raised the question with the Commission or the Compliance Forum Task Forces to gain an additional view.

MP approval is granted by letter. This is sent via email directly from ETSWAP and by post. Walloon legislation mandates that such a written letter be sent to the operator within 60 days after the operator has submitted his MP.

AwAC has also drawn verifiers' attention to elements of the MP for checking during the verification process. Particular areas highlighted to verifiers to check includes checking of source streams and emission sources completeness, source stream diagram representativeness, sampling plan representativeness and implementation of procedures.

Newsletters are regularly sent to operators and verifiers for information purposes and to help harmonise the implementation of EU and Walloon legislation and workshops were organised for operators and for verifiers separately to inform them of the changed requirements of Phase 3.

Commission guidance is used by the CA and is distributed to operators via newsletters or the website of AwAC. Examples provided in the guidance on issues such as uncertainty assessment, biomass fraction analyses and risk assessments are particularly useful for operators, although some operators have found the uncertainty assessment guidance confusing.

The CA provided examples of written procedures to small operators, where requested.
Some information is available in ETSWAP to assist operators in completion of the MP template, including equivalent help text as in the Commission's template.

In accordance with the EU-Directive, permitting is not applicable for aircraft operators in the Walloon Region. ETSWAP is also used for submission of aviation MPs, with similar procedures to installations.

For Phase 3, the MP approval process was started in 2012 and all MP's were approved by March 2014. Approval of some MPs was delayed due to needing to send the MP back to the operator several times due to the quality of data submitted, even though AwAC had reviewed some draft versions of MPs before the official MP submission date. It took a lot of time (particularly for large operators) to collect, submit and check data such as information on measurement devices and sampling plans (where not already in place). Many operators were also not used to working with written procedures, so this was an area of difficulty for the CA to get corrected in installations MPs.

Some permits have not yet been updated with ETS requirements by the municipal authorities. The municipalities will carry out updating the permits. This process is ongoing and is likely to be completed by the end of 2014 or the beginning of 2015. AwAC does not have control over the municipal authorities and is only able to know if the permit has been issued (or not) if informed by the municipality. Some operators have expressed their concerns to AwAC that they don't have an updated GHG authorisation, but AwAC notes that all the installations are covered by an approved MP.

2.3.3.2 Monitoring incl. notification of changes

Significant changes to the MP, that required notification to the CA, are listed in Article 15 of the MRR. These changes are also listed in the MP approval letter sent to the operators.

Operators are required to submit an updated MP for significant changes. An update of the environmental permit is only required if there is a change in Annex I activities.

The CA should be notified ASAP of significant changes. However, CA has noticed that, in practice, operators don't always notify when they should.

Approval of changes is granted by letter attached to an email sent via ETSWAP.

The CA assesses changes to the MP via the variation or notification workflow in ETSWAP. Where required, information on notification of changes is provided to operators via newsletters.

Changes that do not require approval by the CA need to be reported via ETSWAP by the end of the year (31st December). However, such changes are often picked up by verifiers during site visits and verification of the annual emissions report.

In the Walloon Region of Belgium, there have been no specific issues with the broadened definition of 'combustion' (as outlined in Directive 2003/87/EC Art. 3(t)). The broadened definition is checked as much as possible in the review of MPs. Where clarity was required, the CA used the Commission guidance, examples and Annex I directive examples to help interpret the definition. Particular attention was paid to furnaces (including those for offices).

The CA did receive some clarification questions about the definition of the scope from operators, particularly from the asphalt sector, which was new in Phase 3 due to the broadened definition.
The CA is not aware as to whether MRR Article 26 has resulted in more B and C installations meeting highest tiers.

Approximately 8% of installations are in a transitional period and working to an improvement plan to reach the highest tiers. ETSWAP stores every situation where operator do not apply the tiers required by article 26 (based on the MP). Based on this information, the system, at the frequency indicated in article 69.1, generates a task in ETSWAP for each installation that had obtained a derogation to apply a lower tier than required by article 26. This task consists of an improvement plan required by the article 26 and article 69.1. AwAC can ensure that those situations are tracked by ETSWAP. If an operator does not submit its improvement plan by the required deadline, the system will alert CA user of the non-compliance so that a follow-up is possible.

For installations applying a fallback methodology, the CA had detailed contact with the operator and carried out a full assessment of the uncertainty assessment for the whole installation. There are two installations applying a fallback approach in the Walloon region. Both cases are to do with flares without measurement instruments to measure composition of the flare gas and the complexity of the site makes mass balance difficult. The installations have also submitted unreasonable cost calculations to the CA.

The CA has encountered one instance where an operator was not able to achieve the minimum tier requirements for a natural gas source stream, linked to its exclusion as a Commercial Standard Fuel. This case concerned a category B installation that was not connected to the Fluxys[5] gas network and so did not have access to the Fluxys EDP-platform and did not know the composition of their gas. This operator then found it difficult to meet the minimum tier requirement for natural gas. A solution has been found in collaboration with the operator and the gas supplier so that the operator was able to achieve the required tier.

The CA has often required higher tiers for natural gas, in the case where installations are connected to the Fluxys gas network, as installations on the network can meet tier 3 without additional effort. The CA has also required higher tiers in cases where the results of the uncertainty assessment showed that a higher tier could be achieved.

In the checking of MPs, the CA came across some instances where the MP application needed to be amended, as the joint emissions total for a source stream in a given category exceeded the permitted total.

The CA has not been notified of any instance where an installation with low emissions has exceeded the low emitter threshold. The CA has made special contact with installations just below thresholds to inform them of the thresholds. Special attention is given to these installations during the review phase of annual emissions reports. Following contact, some operators requested to be put into the higher category, as they were aware that their emissions may exceed the low emitter threshold in future years.

The Walloon region has one nitric acid installation using measurement-based methodologies (CEMS) (out of approximately 110 installations overall). CEMS are used only for N_2O emissions from nitric acid production. There were no CEMS prior to Phase 3. Standards regarding quality assurance and measurement requirements for CEMS are applied as per the MRR. The CA has received certification that the laboratory used is EN ISO 17025 accredited.

Installations in the Walloon region use mainly solid biomass, with limited use of bioliquids. The CA hasn't specifically needed to consider the sustainability criteria for bioliquids as:

- Bioliquids used are often considered as waste, and should be considered as sustainable (although CA has noted that other MS may have taken a different interpretation here)
- There is no legal base in Wallonia for sustainability criteria for heat production. There is a legal basis for sustainability criteria for electricity production, but no Walloon ETS installations are using bioloquid for electricity production.

The CA has noted that there is often a difference in the documentation provided by operators regarding purity of biomass. It does not appear clear to operators which evidence is required.

The CA has interpreted that the emission factor (EF) is zero for a pure biomass source stream and MP approved with EF as zero in such instances. This has an implication in AER reports, as emissions from

[5] Fluxys is the company is responsible for the transport of gas in Belgium. They are responsible for analysing the know composition of natural gas in their pipeline. This data is then made available through their website. Originally, only net calorific value (NCV) was available from Fluxys. However, the CA carried out discussions with Fluxys and, due to this intervention, Fluxys has also made the emissions factor (EF) for natural gas available (since the beginning of Phase 3).

pure biomass source streams for 2013 are not calculated. From 2015 onwards, a preliminary emission factor will be integrated for pure biomass so that emissions from pure biomass will be calculated as well.

The CA has approved analytical techniques/standards for determining the biomass fraction of biomass source streams. The most used method in these instances is the selective dissolution method. CA has noted that it can be difficult to find laboratories executing 14C-analysis method, which is also a very expensive analysis.

The CA has not encountered instances where an operator has claimed unreasonable cost or technical infeasibility in applying the requirements of Art. 39(1) of the MRR.

Operators have found the requirements for uncertainty assessments difficult. The examples in the Commission guidance have been useful for simple situations, but further examples on more complex situations would be useful. The CA prioritises checking of uncertainty assessments according to risks. Large installations and major source streams would all be checked in detail. The CA also provided operators with a lot of support on completing their uncertainty assessments.

The requirements for uncertainty assessments for measurement instruments under "type-conform" conditions are difficult for operators to understand, as operators often do not have any information on the uncertainty error in such instances.

The CA used the formula in the MRR to help in determination of unreasonable costs. In practice, it can be difficult for a CA to assess the estimated costs, as they are not industry experts on costs related to industrial production.

The CA finds the requirements of the MRR on frequency of analysis clear. However, there is no adaptation for installations with seasonal activities (for example, sugar factories) and whether such installations are still required to meet the outlined frequency of analysis.

The CA has had one installation using the 1/3 rule calculator provided by the Commission.

The requirements of the MRR relating to laboratories accredited according EN ISO 17025 are clear to the CA. Regarding non accredited laboratories, it was not easy for the CA to assess which level of details was required to prove their technical competencies. In practice it took a long time for operators to provide the necessary certificates/documents to the CA. In some instances operators had difficulties in obtaining information from supplier laboratories.

The CA has not had any experiences with inherent CO_2 or the transfer of CO_2.

2.3.3.3 Aviation

Aircraft operators (AOs) meeting the requirements of MRR Article 54 ('small emitter' status) complete the same form on ETSWAP as other operators. They are allowed to use Eurocontrol's small emitter's tool to estimate their fuel consumption.

When updated versions of the Commission EU ETS Operator List are released and new AO identified, the CA requests a contact address directly from Eurocontrol or Airport managers. Contact details are occasionally found via the internet.

Where possible, new AOs will be contacted directly by mail. Email may be used in instances where a postal address is not available.

The requirements for fuel density measurement and identifying sources of uncertainty and determining fuel uplift, as outlined in the MRR, are clear and straightforward.

Since 2013, the CA uses Eurocontrol Support Facility (SF) to cross check reported emission in AERs. For 2013 AERs, AO have been advised to report full scope and the CA will recalculate emissions with regards to the new scope. This approach is possible as the CA regulates only five AOs.

2.3.4 Reporting and verification

2.3.4.1 Submission of AERs and VRs

Operators are required to have their AER verified by an accredited verifier and need to submit their AER and VR to the CA by the 2nd Thursday of March each year. Templates are available on ETSWAP for completion of AER and VR. The procedure for submission of AERs and VRs is the same for both installations and aircraft operators.

The AER and VR templates on ETSWAP cover the contents of the Commission templates and the requirements of the MRR.

Guidance additional to the Commission guidance on AER was not produced by the CA. However, the CA did organise a workshop for verifiers on how to use ETSWAP. However, verifiers interviewed stated that they only have access to the VR section on ETSWAP. They suggested that they cannot view the MP or additional document and can only view a printout version of the AER. If this were the case, it means that they do not have ready access to the information required to carry out the verification and they have suggested they typically need to request documentation from the operator. This introduces a risk that information received from the operator is not the most up to date version.

The CA has confirmed that verifiers will have access to AER and all versions of MP via ETSWAP but only when the operator has submitted its AER to the verifier. The verifier is also able to give the access back to the operator so that the operator is able to make corrections to its AER. This means that if the operator has not submitted its AER, the verifier can access neither the different MP versions nor the AER. Verifiers interviewed have demonstrated that they are not clear with the level of access they have in ETSWAP and should be made aware of how to access necessary information in ETSWAP.

Three applications for a simplified verification were approved relating to 2013 AERs. These cases were very simple installations owned by the same company. They were approved due to the type of equipment used on site. With the equipment there is nothing that can actually be seen, as verified in previous site visits. Operations involved in these simplified verifications are turbojets that are used to produce electricity during peak demand. Those sites have been visited by the verifier in 2010 and

similar sites from the same company have been visited during 2013 emission verification exercise. All other sites had site visits relating to their 2013 AERs.

2.3.4.2 Review of AERs and VRs

AERs and VRs are reviewed by the CA, who follow internal procedures and the workflows set out in ETSWAP.

ETSWAP ensures 100% completeness of AER and VR, as incomplete reports cannot be submitted. Checks are also made by the CA on content. A checklist has been developed to facilitate such checks. These include:

- Plausibility checks on the data within the AER and crosschecks with the VR, permit and MP
- Crosscheck on consistency historic emissions
- Checks on comments contained in the VR, including assessment of whether a change the permit or MP is required
- Check for any changes in the operation of installation
- Crosschecks with data gathered from other reporting mechanisms
- Check on the correctness of the data in the AER, including calculated data
- That the selected verifier is accredited with the correct scope.

A log of comments on the assessment is retained in ETSWAP. A peer review process is followed to ensure a harmonised approach to the review of AERs and VRs. 100% of AERs and VRs are reviewed for consistency and related to content.

If errors or material misstatement were identified in an AER or VR, the CA would return to the operator via ETSWAP and request corrections or complementary information. The operator then needs to submit the report to the verifier via ETSWAP for re-verification.

The CA is legally obliged to inform the operator when the AER/VR has been accepted. A letter is sent via ETSWAP.

2.3.4.2.1 Determination of the emissions figure

The national legislation does not contain specific provisions on how the CA is allowed to determine the emissions figure. However, the provisions of the MRR apply. No determinations have been required to date in Phase 3.

The process for the determination of emissions will follow the same procedure as for Phase 2, where estimates will be made on a case-by-case basis, based on available information.

Determination of emissions would occur in cases where an AER was not submitted or in cases such as bankruptcy of an operator.

2.3.4.2.2 Improvement reports

Any recommendation made by a verifier in the VR (with the exception of recommendations for improvement for low emitters) requires an improvement report (IR) to be completed, as required by

Article 69(4) of the MRR. Verifier recommendations in the VR result in an IR workflow being generated in ETSWAP. Operators are required to complete and submit via ETSWAP by the 30th June each year. ETSWAP also has a separate workflow for improvement reporting relating to Article 69(2) and 69(3) of the MRR.

To date common improvement requirements identified by verifiers and operators are:

- Improvements relating to written procedures
- Further explanation of data flows
- Inclusion of missing emission sources
- Tier requirements (some verifiers noted that tier for natural gas higher than required. However, the CA had required higher tiers for natural gas in instances where this could be met without additional effort)
- Changes to category of source streams (e.g. de-minimis to minor)
- Improvements to risk assessments (as sites tend to have more coverage of risks at the meter level and no consideration of wider risks and controls for these)
- Organisation of people and their roles and responsibilities.

2.3.4.2.3 Electronic reporting

As discussed, the CA in the Walloon Region uses ETSWAP for submission of MP, AER, VR and IR. Electronic reporting of these documents has been used by all operators/aircraft operators in Phase 3, although some flexibility was given to operators early in Phase 3.

ETSWAP has been developed in line with the requirements of Article 75 of the MRR.

2.3.5 Accreditation of verifiers

Introduction of the AVR has changed the accreditation process in the Walloon region of Belgium. BELAC is the National Accreditation Body (NAB) responsible for accreditation of verifiers in accordance with the AVR. Previously there was no formal accreditation process and verifiers were authorised by Walloon Air and Climate Agency (AWAC).

The Walloon region is appointed as the focal point for Belgium between CA and NAB and a collaboration arrangement is in place for communication and information exchange. Regular meetings and email exchanges occur between CAs and NAB. Up to Feb 2014 all CAs in Belgium met on an almost monthly basis to ensure successful implementation of the new accreditation process. It is envisaged that these meetings will be carried out on a bi-annual basis going forward.

No complaint regarding a verifier has been submitted by the CA to the NAB that has accredited that verifier. However, remarks and comments on minor issues found have been submitted as part of the information exchange process.

The CA has not been informed of any suspension, withdrawal or reduction of accreditation scope imposed on a verifier by any NAB.

BELAC now accredits verifiers according to ISO14065 and the detailed recommendations set out in the AVR. Additional information on the accreditation process is made available to verifiers, which

highlights specific points relevant to the NAB and provides practical steps that draw together the requirements and signposts to the AVR and specific Commission guidance.

The accreditation certificate is currently valid for one year, until the end of 2014. Accreditation certificates have been renewed in November 2014 and now have a validity until 30/06/2017.

In the assessment process for accreditation of verifier, BELAC would carry out the following steps:

- An informal pre-assessment, which would allow the NAB and verification body to become acquainted. The NAB would look at status of documentation and the verification body can become acquainted with the accreditation process. The NAB will outline certain requirements, which will allow the verification body to prepare effectively.
- A formal assessment, which would be carried out in two parts:
    1. Analysis of documentation to ascertain whether this shows conformity with the AVR. The NAB provides verification bodies with a list of required documentation that is based on Art.45 of the AVR. The list also includes general documents required as part of all their general accreditation process
    2. An office assessment would then be carried out, where the NAB will discuss findings and the implementation stage
- The verification body will get a report detailing any non-conformities found. They will have an agreed period of time to take remedial actions and demonstrate compliance to the NAB.
- The NAB will then carry out witnessed audits, witnessing activities covered by the scope applied for and verifying work and competencies.
- At the end of the process, the NAB will have a formal decision process based on final report
- Formal decision will be made by the accreditation board.

The NAB will also carry out annual surveillance of verification bodies. Each year the verification body would have an office visit. The NAB would expect to see that verification procedures and personnel remain relatively stable over the years. A surveillance and witness plan for the year would then be created, based on the number of verifications planned for the year.

The NAB has established procedures to withdraw, suspend or reduce the scope of an accreditation of a verifier not meeting the AVR requirements. These have not been applied to date, although the NAB has reduced the scope applied for by an applicant (i.e. accredited for part of the original scope requested), as the verification body did not demonstrate that it was competent in all the fields applied for.

The NAB updates information on accredited verifiers to their website as soon as possible.

AwAC has now started a process to be able to assist as observer to the Belac's audits of verifiers. This will extend the competences of the audit-team and will allow AwAC to have a better view on what happens in practice.

2.3.6 Inspections and enforcement

2.3.6.1 Inspections

There are currently no EU ETS specific inspections being carried out in the Walloon region. Operators are currently only inspected by the Environmental Inspection Authorities as part of the IED permit. These inspections are always carried out, but the focus is much broader than EU ETS issues. Only non-compliance with the IED permit (including the EU ETS section) can be followed up by this inspection body and so some issues are not picked up. Compliance with the MP and MRR requirements is not assessed. If the Environmental Inspection Authority finds issues of non-compliance with the EU ETS part of the permit, AwAC is informed.

Non-compliance of the MP and MRR requirements is currently tackled by AwAC during the review of AERs and notification of changes.

AwAC can carry out site visits to installations, but can't take actions on any issues identified. AwAC is currently elaborating their strategy for inspection going forward and will be looking to develop complementary legal procedures on inspections.

2.3.6.2 Enforcement

AwAC can only impose sanctions on operators/aircraft operators as follows:

- Delay in submitting AER: €500 per working day (up to a maximum of €15,000)
- Delay in surrendering allocations: €100 per tonne of CO_2e
- Environment Inspection Authorities can impose penalties related to environmental permit (infractions).

2.3.7 Good Practices

- The CA also appointed one peer reviewer for all MP to support a harmonised approach to the approval of MPs.
- The CA provided examples of written procedures to small operators, where requested.
- The CA has often required higher tiers for natural gas, in the case where installations are connected to the Fluxys gas network, as installations on the network can meet tier 3 without additional effort. The CA has also required higher tiers in cases where the results of the uncertainty assessment showed that a higher tier could be achieved.
- The CA makes special contact with installations just below thresholds to inform them of the thresholds and pays special attention to these installations to ensure they are not exceeding the threshold.
- Checking of AERs and VRs follow a detailed workflow in ETSWAP. A log of comments on the assessment is retained in ETSWAP.
- Verifier recommendations in the VR result in an IR workflow being generated in ETSWAP and the IR process is automated through ETSWAP. ETSWAP also has a separate workflow for improvement reporting relating to Article 69(2) and 69(3) of the MRR.
- Newsletters are regularly sent to operators and verifiers for information purposes and to help harmonise the implementation of EU and Walloon legislation.

- As good practice all MS should consider (continuing to) actively participating in the Compliance Forum, and use this as a resource to resolve questions as they arise.

2.4 Brussels Region

There is only one installation in the Brussels Region. The Brussels Region did not participate in the interview of competent authorities. Therefore, no information is available on Phase 3 organisation or procedures the Brussels Region.

The Walloon Region and the Brussels Region work together for NIMs, but not for practical implementation of Phase 3 of the EU ETS.

3 Bulgaria

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3.1 Main changes compared to Phase 2

- Use of Commission templates for monitoring plans, improvement reports, annual emission reports and verification report.

3.2 Short description of authorities involved, their responsibilities and how they work together

Key responsibilities:

- Executive Environment Agency: The competent authority, responsible for the issuance of permits and monitoring plans and reviewing of AERs/VRs
- Executive Agency Bulgarian Accreditation Service is the national accreditation body
- Regional Inspectorates of Environment and Water: carry out environmental inspections including EU-ETS issues.

Figure 4 shows the authorities and stakeholders involved and the communication between them.

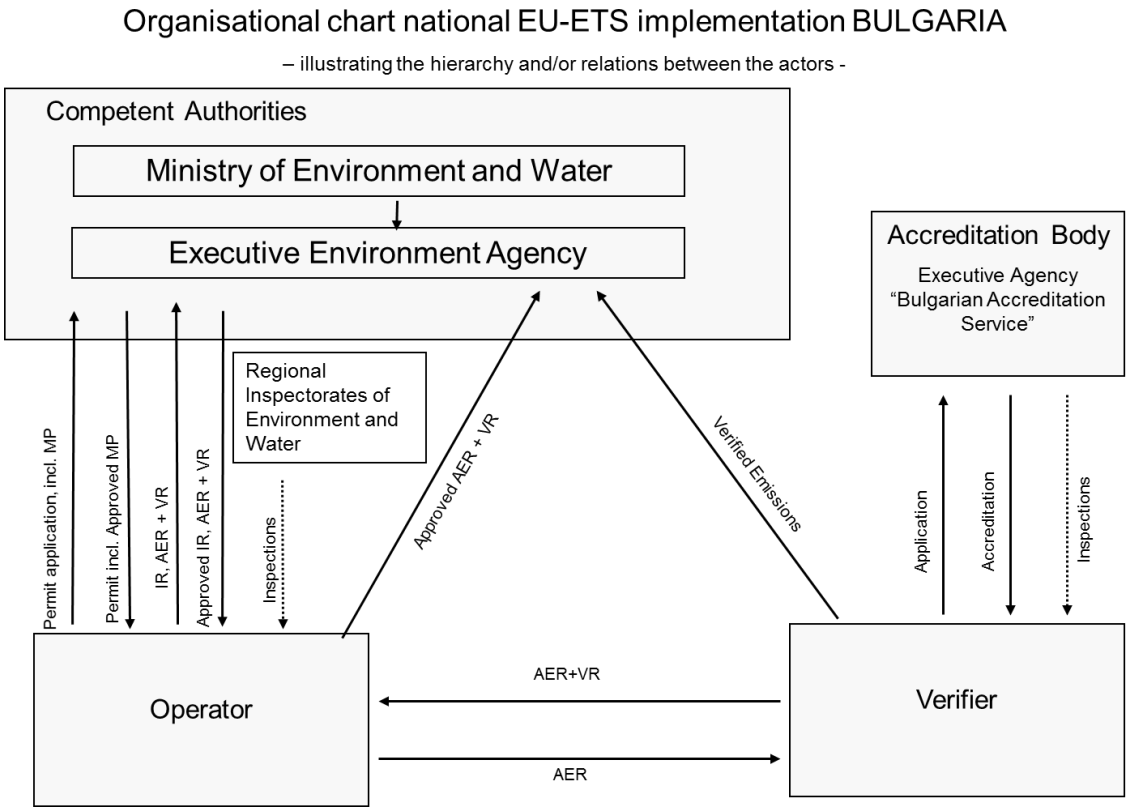

Figure 4 Institutional Structures of the EU ETS in Bulgaria

3.3 Permitting and monitoring, including notification of changes

3.3.1 Permit application and monitoring plan

The application for the permit and monitoring plan (MP) is sent on paper and on CD-ROM to the Executive Environment Agency. The permit to emit greenhouse gas emissions is not connected to other permits. There are four staff members at the Executive Agency available for the review of the applications. There is an internal checklist with the main points that should be checked by competent authority (CA) staff, but not comprehensive guidance. Thus, the necessary expertise has mainly been gained through on-the-job learning.

Applications are checked for completeness, correctness and consistency, also using information from the installations' IPPC permits, e.g. regarding emission sources and source streams covered. Letters with requests for changes are sent to the operators if issues are found in the application. After the staff at the Executive Environment Agency has checked the application, the draft GHG emissions permit is forwarded to the Regional Inspectorates of Environment and Water (RIEW) and the operator. Final approval is granted by the Director of the Environmental Agency and the operator is informed via official letter. The permit and MP are valid for the whole trading period if no changes occur. At the time of the interview, all permits were issued and all MPs, bar one[6], were approved.

The use of the Commission template is mandatory for MPs. Simplified MPs are not allowed to be submitted by operators of installations nor by aircraft operators. However, installations with low emissions are allowed to fill in less information in the Commission template. The CA is currently discussing the possibility to allow simplified MPs for installations with low emissions in the future but such a template has not yet been developed.

The CA has found the Commission guidance useful. However, operators still had some difficulties due to the lack of translation of the Commission guidance documents into Bulgarian and the timing of translation of the Commission templates. The CA did not provide additional guidance, but operators could ask their questions via email or phone.

3.3.2 Notification of changes

There is no defined interpretation of the "without undue delay" of Art 15(1) MRR in Bulgaria, but operators are expected to notify the CA of significant changes to the permit or monitoring plan as soon as possible. No template or guidance is provided for this. Operators have to report significant changes by sending an official letter. Changes which are not relevant (e.g. change of phone numbers) to the emission determination are confirmed as a decision by the CA and the notification is appended to the permit. Information on changes occurred are kept in the paper file of the installation and are also stored on the CA server.

[6] Approval still pending process because of unresolved issues

3.3.3 Aviation

Aircraft operators have to use the Commission template for the MP and send the MP then to the CA. In case that an aircraft operator would meet the requirement of MRR Article 54 (small emitter) he would be allowed to use Eurocontrol's small emitter's tool to estimate its fuel consumption.

The Environmental Agency identifies new aircraft operators by comparing the latest version of the Commission EU ETS Operator with the previous version. The CA reported that it happens quite often that aircraft operators are listed by mistake and actually do not have to participate in the EU ETS. In addition, the CA stated that they experienced some difficulties in contacting new foreign aircraft operators, in which case, the CA tried to reach the aircraft operators via the Bulgarian IATA office.

The CA informed all aircraft operators that they should report their annual emissions of 2013 and 2014 jointly in 2015.

3.4 Reporting and Verification

3.4.1 Submission of Reports

Reports have to be received at the CA both as a paper copy and in an electronic format (CD-ROM), together with the verification report including the verification statement, by March 31. The use of the Commission templates is mandatory.

The CA uses the Commission guidance. No additional guidance has been produced on the completion of annual emission reports (AERs). All AERs were verified by an accredited verifier and submitted, with exception of one. The operator of one installation became bankrupt and stopped operating three months before the end of the reporting year 2013. Therefore, the CA will make a conservative estimation and determine the annual emission of the installation for 2013.

Improvement reports (IRs) are due by 30 June and operators are obliged to use the Commission template. At the time of the interview no IRs had been received. Therefore, the CA did not have any experience with the implementation of this new requirement and whether this enhances the quality of the monitoring methodology overtime.

No simplified verifications were approved in Phase 3. Interviewed verifiers stated that the most common improvement requirements identified were:

- Application of higher tier (operators tend to apply always the lowest tier whereas a higher tier would be possible)
- Mistakes with small source streams (de-minimis)
- Mistakes with regards to the NCV and EF of biomass,

3.4.2 Review of AERs and Verification Reports

The CA checks all submitted AERs and VRs for consistency and completeness with the MP. In addition, the CA checks the plausibility of data contained in AERs, e.g. a check whether the reported

emissions correspond to the reported fuel consumption. In case of non-conformities, the CA sends the report back to the operator/verifier with a deadline to clarify and correct the issue.

Where the verification report indicates non-conformities or contains suggestions for improvement, the operator is required to send an improvement report to the CA by June 30 of the same year, stating how these issues will be addressed.

Operators and verifiers are informed of the acceptance of the AER/VR via letter and AERs are published on the website of the Environmental Agency.

3.5 Accreditation of verifiers

In Bulgaria, the appointed national accreditation body (NAB) for the accreditation and supervision of verifiers is the Executive Agency "Bulgarian Accreditation Service" (BAS). BAS works under the supervision of the Ministry of Economy, Energy and Tourism and has been a member of the EA since 2001.

After the AVR came into force, BAS had to adapt its procedures. Information on the accreditation process as well as a database with all accredited verifiers is publically available on the BAS website.

Eight months before the expiration of the accreditation certificate, the verifier has to hand in its application for reaccreditation. The NAB does not remind the verifier, rather it is the responsibility of the verifier to apply in time. The accreditation certificate is valid for four years.

Annual surveillance is carried out through visiting the head office of the verification body and undertaking witnessing activities, typically between January and March. The national accreditation body can make use of technical experts from the CA or experts drawn from the industry when doing the assessments.

The NAB has accredited two Bulgarian verifiers in Phase 3. In the last trading period, three verifiers were accredited but after a change in the personnel one verification body was no longer able to meet the competence criteria for being accredited in Phase 3. Foreign verifiers are accepted by the Executive Environment Agency upon submission of their accreditation certificate and other administrational documentation. The NAB is not involved in this process and does not perform surveillance on foreign verification bodies.

The information exchange between the CA and the NAB has improved since the last review, but is still infrequent. As the NAB is working under the supervision of the Bulgarian Ministry of Economy, Energy and Tourism, the CA is not in the position to check on the NAB or to require a more regular information exchange. However, the Environmental Agency strives for a better information exchange and aims to improve communication over time.

3.6 Inspections and enforcement

Inspections are carried out by regional environmental inspectorates in Bulgaria. In order to ensure a harmonised approach, inspectors participated in workshops organised by the CA. In addition, inspectors are sometimes accompanied by CA experts. Since the beginning of Phase 3 about 20 inspections have been carried out. The recipients of the inspections were either new entrants or installations with a significant change and/or an updated permit. The regional inspectorate is expected to send the CA a report for every ETS related inspection they have carried out.

Infringements include not surrendering a sufficient amount of allowances, not holding a permit, not communicating changes to the monitoring plan and not handing in a verified emission report. Fines are charged when infringements occur, but so far no fines have been issued. Depending on the infringement fines range from 1,000-100,000 €.

The CA reported that they may have difficulties in bringing enforcement against operators. There is currently the case of one installation where the operator ownership changed several times. Thus, so far it was impossible to impose the fine as it was not clear which operator should be fined and which inspectorate would be responsible.

3.7 Good practices

- The way that inspections are carried out in the MS can be considered good practice. While inspections are implemented by staff of the regional environmental inspectorates, inspectors are trained through workshops organised by the CA. Also, CA staff sometime accompanies inspectorates. Both approaches ensure EU ETS focused inspections.

4 Croatia

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Reviewer of Document: Melita Zdilar (Ministry of Environmental and Nature Protection)

4.1 Main changes compared to Phase 2

- Operators are now obliged to surrender allowances based on their verifier emission figures
- MRAV obligations of aircraft operator being transferred from Germany to Croatia
- Croatian Accreditation Agency NAB was appointed to accredit verifiers, previously a department of the Ministry of Environmental and Nature Protection authorised verifiers
- Inspection and enforcement procedures changed substantially due to MRR and AVR.

4.2 Short description of authorities involved, their responsibilities and how they work together

Croatia introduced the monitoring, verification and reporting provisions of the EU ETS in accordance to the EU ETS Directive in 2010. While installation operators were obliged to monitor and report in line with the Monitoring and Reporting Guidelines and the Directive's verification requirements, they did not face any obligations to surrender allowances. So while only getting connected to the EU ETS very recently, Croatia did have experience with the systems already before Phase 3. Currently 59 installations and one aircraft operator are included in the EU ETS.

In Croatia, two authorities are involved in the European Union Emissions Trading Scheme (EU ETS) which execute the functions of the Competent Authority (CA) as defined by the Directive 2003/87/EC. In the following subsection, duties of the administrative CA and the technical CA will be discussed.

Figure 5 shows the authorities and stakeholders and the communication between them.

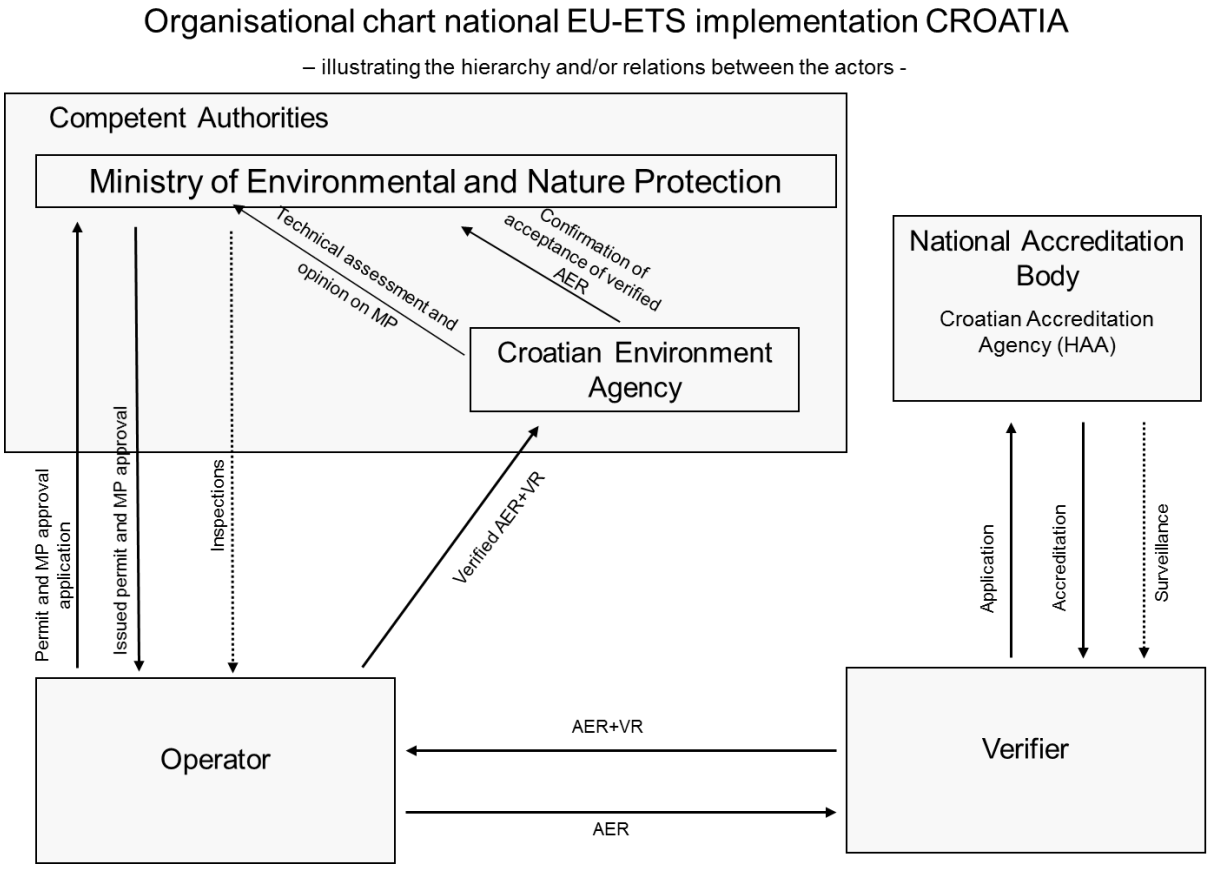

Figure 5 Institutional MRAV Structures of EU ETS in Croatia

4.2.1 The Ministry of Environmental and Nature Protection

The 'service for climate activities and ozone layer protection' of the Ministry of Environmental and Nature Protection (MENP) serves as the administrative CA in Croatia, and is responsible for issuing permits, approving monitoring plans (MP) and enforcement. Inspections are undertaken by the Ministry's department for environmental inspectional supervision.

4.2.2 Croatian Environmental Agency

The Croatian Environmental Agency (CEA) serves as the technical CA and has two main tasks. It provides the technical assessment of MPs and issues opinions on their approval to the MENP. The CEA is directly in charge of the review of verifier annual emission reports and determining emission figures. It is also the national administrator of the national accounts in the EU registry to which Croatia was connected on 1st Jan 2013.

4.2.3 Technical Committee

A technical Committee has been formed involving representatives from various national institutions:

- MENP

- CEA
- Energy Department of the Ministry of Economy
- State Office for Metrology
- Institute of Economics
- Croatian Accreditation Agency
- Faculty of Chemical Engineering and Technology.

The technical committee is tasked with providing recommendations to the MENP and CEA on technical issues related to the requirements of the Monitoring and Reporting Regulation (MRR) and the Accreditation and Verification Regulation (AVR).

4.2.4 National Accreditation Body:

The Croatian Accreditation Agency (HAA) has been appointed the national accreditation body for the EU ETS. It provides accreditation to verifiers according to the AVR and EN ISO 14065. It is a member of the European co-operation of Accreditation (EA) and has successfully participated in the EA's peer review.

4.3 Permitting and monitoring, including notification of changes

The MENP is in charge of issuing permits and formal approval of MPs. It receives permit applications both in electronic form (on CD) and as signed hard copy, which consists of a short description of the monitoring methodology and the MP for approval. For developing the MPs, operators are obliged to use a translated version Commission template made available by the MENP and CEA. MENP first checks whether the application is in line with national legal requirements. When this is the case it opens a legal procedures and sends the MPs to CEA for its expert opinion. During the assessment process CEA is in direct contact with the operators, by phone, email or through meetings, to clarify issues if necessary to support operators in finalising the MP in accordance with CEA's recommendations. Based on CEA's opinion that the MP is in accordance with the requirements of the MRR, MENP approves the MP and issues a permit. In case any technical issues need to be resolved both CEA and MENP can bring it to the attention of the technical committee and ask it to provide guidance. CEA is currently developing guidance for internal use in addition to Commission guidance to elaborate on the requirements for uncertainty assessments. It provides to operators a template for uncertainty assessment for the flow meters. All permits as part of the re-permitting process have been issued together with approved MPs in Mar/April 2014. MENP has approved the amalgamation of permits and MPs in at least one case and ensured accuracy through cross checking the previous MPs.

4.3.1 Notification of changes

Notification of changes are required for any significant modifications as defined by the MRR but also in case of a change to the legal entity of the operator. Whether a change to the MP also requires an update of the permit is assessed on a case-by-case basis. Since in principle the permit and MP are linked, a modification of one usually requires the other to be update as well. National legislation requires these notification to be made by the end of the year at latest, but in principle they need to be noted 'immediately', which is in considered to be about 8 days after operators have decided to

implement a change. Such notifications can be sent by email, with a hard copy requested whenever considered necessary by MENP. No template or formal requirements exists for the notification of changes.

Deviations from the MP, which are considered to be temporary if they last no longer than one month and occur due to for example interruptions of production due to accident or maintenance, updating for quality control procedures or replacing equipment/instrument with new one of the same type. Such deviations are cross-checked with the AER of the relevant reporting period.

4.3.2 Ensuring competence of staff and consistent assessment approaches

For its assessment process CEA has developed its own checklist based on a checklist used by NEa (the Dutch CA). The checklist is in EXCEL format and follows the structure of the Commissions MP template. In case information is missing, CEA sends a PDF version of the checklist to the operator. According to the checklist the operator can identify what is missing in the MP. The internal checklist also contains procedures and guidance to staff. CEA staff is also provided relevant training on issues such as uncertainty assessment and statistics, and participates in technical workshops held by the National Metrological Society.

MP, permits and supporting documents are saved on local servers. MENP and CEA both retain copies of each document and store them on their separate servers, as well as retaining hard copies.

4.3.3 Aviation

Croatia only has one aircraft operator under its EU ETS administration, which used to be under German administration in 2012. The MP was therefore approved by the German CA, while an updated tonne-km report for additional flights has been approved by MENP. Aircraft operators need to provide MPs and tonne-km reports based on the Commission templates.

4.4 Reporting and Verification

4.4.1 Submission of reports

Annual emission reports (AERs) are prepared on the basis of the translated version of the Commission template. Croatia has not issued any national guidance in addition to the guidance provided by the Commission. Operators need to submit both a hard copy and an electronic file in standard office format via email or on CD. For reporting of 2013 emissions the deadline was 31st March. However from next year on AERs and VRs will be due by 1st March to allow the CA more time for its review.

4.4.2 Review of AERs and Verification Reports

All submitted AERs and VRs are checked for completeness, and content related and consistency checks are being performed. CEA uses a checklist for its review, which is based on the Commission guidance and similar to the checklist for MP. While the checklist does not strictly follow the

procedures and checks outlined by the guidance it does fulfil all of the national legal obligations for such procedures. Standard checks contain cross-checks with the MP, VR, with data from the registry, previous AERs and any outstanding issues. Similarly to the assessment process of MPs, CEA can contact operators in case of minor issues or missing information during the review of AERs and can ask for resubmissions of the AER. If approved, a copy of the AER and VR is sent to MENP, a note confirming acceptance of the reports is sent operators and the administrator of the registry (within CEA) receives a confirmation of the emission figure, which the verifier had entered. From 31st March on operator accounts are blocked for allowance sales until CEA confirms the emission figure. Yet, in case material misstatement are found in the AER, both AER and VR are sent back to the operator and verifier for correction while not in all cases the CA makes a conservative estimate of the emission figure. The technical committee would be asked to make conservative estimates to determine emission figures whenever required. However, this was not the case so far.

4.4.2.1 Improvement reports

Both types of improvement reports (IRs) are principally due by 30 June, but the MENP, based on the technical committee's opinion, can postpone the deadline to 30 September if operators apply for such a derogation. Both a national template, which combines the two forms of reports into one document, and the Commission template can be used for preparing IRs. During its assessment of MPs, CEA made recommendations to some operators for improvements to the MP. In these cases the permit contains a deadline of about three months within which a revised version of the MP needs to be submitted. CEA's approach is to assess the reviewed MPs together with the received improvement reports, AERs and VRs.

The CA confirmed that the formal requirements on reporting improvements of the MRR lead to more timely and enhanced improvements of the monitoring methodology. Particularly in light of the late approvals of MPs, some of which contained recommendations for improvements by the CA, the new requirements provide a formal process for bringing all MPs in line with the requirements of the MRR.

All electronic versions of AERs, VRs and related documents are stored on the servers of MENP and CEA. Hard copies are stored as well. A project is scheduled for the second half of 2014 to establish an electronic reporting system encompassing all steps of the compliance cycle, from permit application to MP approval, and IR, AER and VR submission.

Verifiers operating in Croatia and interviewed as part of this review indicated that the way in which time is allocated for verifications has changed due to the requirements in the AVR, but they have not yet charged for the additional time as this was not necessary so far.

4.4.3 Aviation

Since Croatia only joined the EU mid-2013, a derogation was granted by the Commission allowing Croatia to include aviation in the EU ETS after 1 Jan 2014, meaning domestic flights only need to be reported next year. Yet, MENP advised the operator to report full scope by the 2013 deadline with a separate AER for domestic flights. Aircraft operator need to provide AERs and VRs based on the Commission template.

4.5 Accreditation of verifiers

Since Phase 3 the Croatian Accreditation Agency (HAA) has been appointed the national accreditation body for the EU ETS, and is entrusted with the authority of accreditation as a public authority activity. It is a member of the European co-operation for Accreditation (EA) and has successfully participated in the EA's peer review. Previously a department of MENP provided, based on an opinion from the department for climate change, verifiers with a statement allowing them to do verifications in the EU ETS. With the new accreditation system provided by HAA in accordance with the AVR and EN ISO 14065 three verifiers have been accredited, compared to 22 in Phase 2.

HAA is under the supervision of the Ministry of Economy, but MENP has been appointed as the focal point for EU ETS accreditation issues and received HAA's work programme and management report within the deadline. However, the first work programme was not complete, as notification by verifiers, who were in the middle of the accreditation process at the time when notifications were due, came in only in December or January. HAA provided an update of the work programme as soon it had complete information available. Next to the formal reporting requirements, an effective information exchange has been established through regular meetings, the fact that HAA has two members in the technical committee, and a MENP representative is participating in HAA's accreditation committee.

While the procedures of HAA stipulate that changes to verification activities need to be reported as soon as possible, no verifier reported any changes after the update provided in January 2013.

HAA provides elaborate information about the application process on its website, including information about appeal procedures in line with other accreditation programmes governed by HAA. The accreditation process starts with the submission of an application which is followed by an assessment of the application and all documentation that needs to be submitted with it. On-site assessments are preformed, which include office visits and witness activities. Any identified non-conformities are communicated to the applicant entity, who is given time to address these issues (according to HAA Rules) and provide evidence that they have been dealt with appropriately. Upon successful completion of the assessment process HAA issues an accreditation certificate, which is valid for five years. Procedures for reassessment are laid out in the rules and procedures of HAA and verifiers will be reminded of having to submit an application for extending their accreditation six month before expiry of the certificate. Surveillance takes place no later than 12 month after the issuance of the accreditation certificate and has been scheduled for the second half of 2014. A database of accredited verifiers is available on HAA's website both in Croatian and English, and gets updates on a daily basis.

4.6 Inspection and enforcement

Due to the fact that Croatia implemented all EU ETS provisions before it joined the EU the requirements of the MRR and AVR had to be transposed into national legislation. In order to take due account of the requirements the national procedures for inspection and enforcement have been amended accordingly.

4.6.1 Inspection

EU ETS related inspections are undertaken by staff of the department for environmental inspectional supervision of MENP. The procedures distinguish between 'planned' and 'requested' on-site visits. The aim is to visit each installation each year. In 2013 60[7] on-site visits have been made by inspectors, of which one was done based on request of the CA. Until end of 2013 inspectors plan on having visited all 59 installations covered by the EU ETS. Inspectors are provided with an elaborate checklist to follow when visiting operators that are already covered by the scheme. The review of operators' procedures is not covered and instead left to verifiers. The climate change department of MENP held a workshop for inspectors to introduce to them the amendment of air protection law, i.e. the new requirements of the AVR and MRR. The department in charge of inspection provides a yearly report, divided into the different areas of inspection. However, for planned inspections no report is provided on individual operators and related findings. Such a report is only provided if the inspection was ordered by CA to be done of specific operator, which is the minority of cases. A key reason for inspecting installations so far has been to seek confirmation of cessations of plants.

4.6.2 Enforcement

Enforcement in Croatia is based on penalties. Fines of 13,000 € - 40,000 € can be charged to legal persons in cases where they are operating without permit, failed to submit an AER, or not opening a registry account on time. Until now no enforcement actions had to be imposed on any operator. However, some of the requirements of the MRR remain unclear, such as the evidential requirements in case of a partial cessation or a cessation. For cases of insolvency evidence of cessation provided by the insolvency manager is accepted.

4.7 Good practices

- The establishment of a Technical Committee, involving experts from all areas and various institutions, to discuss and resolve technical issues during the assessment and review processes should be considered a good practice as it is an effective way of making efficient use of available resources.

[7] Which include operators with low emissions that have opted out of the EU ETS

5 Cyprus

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5.1 Main changes compared to Phase 2

- Use of Commission templates for monitoring plans, improvement reports, annual emission reports and verification reports
- Activities are now aligned to the MRR and AVR

5.2 Short description of authorities involved, their responsibilities and how they work together

Key responsibilities:
In Cyprus the functions of the competent authority (CA) as defined by Directive 2003/87/EC are centralised in the Ministry of Agriculture, National Resources and Environment (MANRE) that is supported by a steering and advisory committee.

Figure 6 shows the authorities and stakeholders involved and the communication between them. Descriptions of each organisation follow the figure.

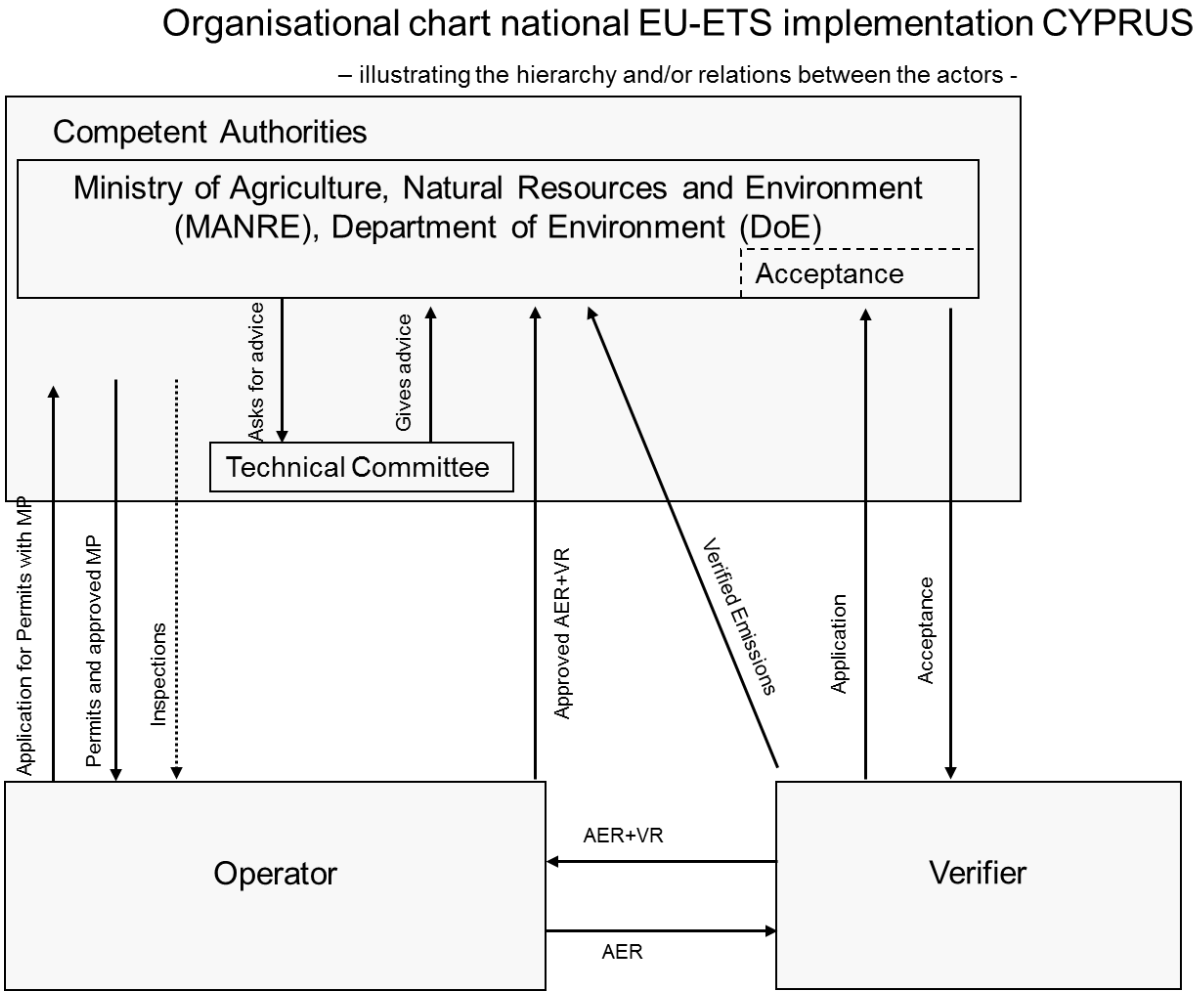

Figure 6 Institutional Structures of the EU ETS in Cyprus

5.2.1 Ministry of Agriculture, National Resources and Environment (MANRE)

According to the new National Law 110(I)/2011, which transposes the EU Directives 2008/101/EC and 2009/29/EC, all responsibilities lie with the Ministry of Agriculture, Natural Resources and Environment, which acts as competent authority and accepts foreign verifiers, as there is not an appointed accreditation body for the accreditation of verifiers under the EU ETS in Cyprus.

5.2.2 Technical Committee

According to the national law, a 7-member Technical Committee chaired by the CA exists, which has a steering and advisory role to the Minister of MANRE on all issues relating to the permitting, monitoring, reporting and verification of the EU ETS.

The Technical Committee consists of the following 7 member representatives from various organisations/ministries:

- Head of the Climate Action Unit, Department of Environment (Chairman)
- The Ministry of Energy, Commerce, Industry and Tourism (Energy Service)

- The Ministry of Communications and Works (Department of Civil Aviation)
- The Ministry of Labour and Social Insurance (Department of Labour Inspection – responsible for air quality)
- Cyprus Energy Regulatory Authority (CERA)
- The Cyprus Scientific and Technical Chamber (ETEK)
- The Federation of Environmental and Ecological Organisations of Cyprus (FEEO).

5.3 Permitting and monitoring, including notification of changes

The Operator has to submit a permit application (available on the internet) to the CA. The CA checks the application for completeness and all relevant technical issues. The application is forwarded to the Technical Committee (see 5.2.2) which examines the technical aspects and then forwards its opinion and recommendation to the Ministry (MANRE) for the final decision. By December 27th, 2012 all MPs were approved and permits issued.

It is mandatory to use the Commission template for the Monitoring Plan (MP). However, besides the Commission template, operators also submit a Word document which contains further descriptions on the data management and monitoring methodology. In case of changes of permit or MP, the operator has to notify the CA, which will check the request for completeness and compliance with all relevant laws and regulations and, in case of acceptance, forward it to the Technical Committee. The latter has to advise the CA for granting its written approval for the change in the case of a minor change, or the issuance of a new permit if the change is considered major. Smaller changes like phone numbers can be applied by the CA directly without consent of the Technical Committee. Significant modifications to the MP prompt a permit update and have to be reported by the operator to the CA as soon as they occur or even in advance (in case of capacity decreases). Insignificant changes are reported to the CA once per year on December 31.

Due to the limited number of stationary installations and their close proximity to the CA, good relations with all 11 operators exist and the CA can solve any issues easily by direct communication or through site visits. The same cannot be stipulated for aircraft operators, where the CA was facing problems communicating with them.

Four employees (out of 10) of the Climate Change Unit of the DoE are dedicated to the EU ETS. Certain staff received a one-day training through an EU capacity building project in early 2006. There is no national training or guidance on the EU ETS compliance related activities, but only COM guidance and guidance from the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) is used.

5.4 Reporting and Verification

5.4.1 Submission of reports

The Commission templates for annual emissions reports (AERs) and verification reports (VRs) are used. The reports are submitted both in paper form and through a web based application. The

operator has to announce his annual CO_2 emissions electronically in the national registry. The declared emissions must be verified by a verifier and again submitted electronically to the national registry. Both actions are password protected.

So far, no negative verification statements have been received in Phase 3. In case comments or non-conformities were stated in the verification report, the CA assesses the issues and asks the operator to implement corrective action by official letter. Improvement reports have to be submitted by 30 June the same year the verification report is issued.

5.4.2 Review of AERs and verification reports

The CA checks all verified AER and VR in detail, e.g. cross-checking with the permit and monitoring plan. An internal process on how to carry out the checks has been developed.

The national legislation does not contain provisions on how the CA is allowed to determine emission figures. However, the CA would determine emission figures of an installation in case that the reported data that is not plausible and the operator did not react on the CA's request for clarification or if no AER is submitted at all. In case no verified AER is handed in, the permit can even be withdrawn, which would result in the installation having to stop operations.

5.5 Accreditation of verifiers

Cyprus does not have an accreditation body, and requests foreign verifiers to submit their accreditation certificate and other documents.

According to the national law, a letter for the approval as a verifier of greenhouse gas emission can be submitted to the competent authority, accompanied by the following documents:

1) Copy of an accreditation certificate issued by another MS' NAB
2) Copy of passport or identity of the person who will undertake the work of the verification
3) Copy of a certificate from a verification body, stating that the specific verifier who will undertake the task has the appropriate experience (Copy of certificate of experience)
4) Copy of company's registration certificate (where applicable).

While all verifiers accredited for the EU ETS can apply and no application fee is required, this process is not in line with the AVR. Instead, any verifier accredited by a relevant NAB should be automatically be accepted without having to apply for it.

The CA has not received any work programme from the NABs that have accredited those verifiers active in Cyprus. Yet, there is some information taking place whenever an issue with a verifier arises. In Phase 3, the CA has been informed about one suspension of a verifier but who was not verifying in Cyprus. Hence, the formal information exchange requirements of the AVR are not sufficiently met.

5.6 Inspection and Enforcement

Environmental inspections can be carried out by MANRE quarterly to twice a year, depending on the timing the installations are in operation. The inspections can be with or without previous announcement. All 11 installations have been inspected in Phase 3 already. In case of any non-conformities the operator is asked by the CA to take corrective measures in order to solve the issues before a second inspection is carried out. The Inspectors of the installations come from a central inspectorate unit of the DoE that carries out not only EU ETS inspections, but others such as IED and IPPC inspections. EU ETS issues are only one of many environmental issues checked in these inspections.

5.7 Good Practices

- Inspections are undertaken in frequent intervals and result in a concrete list of issues that operators need to address until the next inspection.

6 Czech Republic

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Reviewers of Document: Jan Tůma and Eva Hejralová (Ministry of Environment)

6.1 Main changes compared to Phase 2:

- The Czech Republic now makes use of the European Commission's templates for the monitoring plans (MPs), annual emission reports (AERs), verification reports (VRs) and improvement reports (IRs). Previously made use of member state-specific templates.
- The Ministry of Environment now makes use of an electronic service ("data box") for the submission of permit applications and Monitoring Plans (MPs).
- The Ministry of Environment requires the AERs and VRs (Excel templates) to be submitted on CD along with a hard copy of the verification statement signed by the verifier.

6.2 Short description of authorities involved, their responsibilities and how they work together

- There is no change in the authorities involved in the implementation of the EU Emissions Trading System (EU ETS) in the Czech Republic or their principal responsibilities.

The Czech Republic has a centralized competent authority's system. Basically one party, the Ministry of Environment, is responsible for permitting, approving the MP and reviewing the emission report. Inspection is carried out by another party. Figure 7 outlines the different parties involved and their relationship between each other.

Organisational chart national EU-ETS implementation Czech Republic

– illustrating the hierarchy and/or relations between the actors -

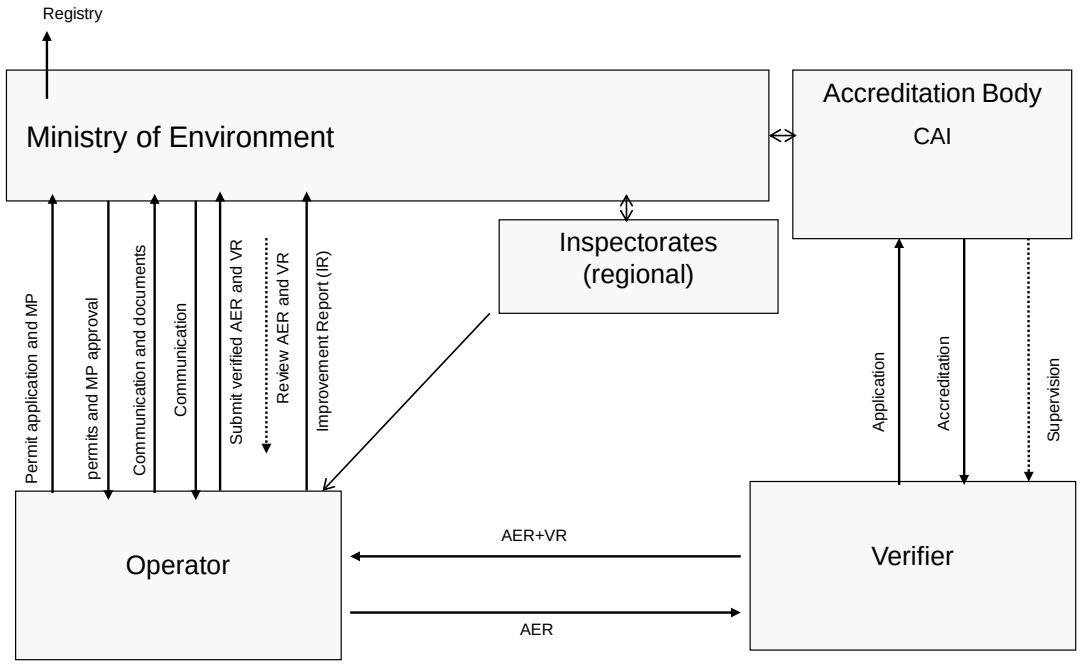

Figure 7 Institutional Structures of the EU ETS in the Czech Republic

6.2.1 The Ministry of Environment (MZP)

The Ministry of Environment has the overall responsibility for EU ETS administration and drafting legislation. It also has the following executive powers:

- Determining of allocation of allowances
- Approving the MP and issuing and cancelling ETS permits
- Updating permits, approving or accepting notification of changes
- Reviewing emission reports and verification reports (VRs)
- Administration of EU ETS in the aviation sector
- Coordination of auction processes
- Approving of the project activities (CDM, JI...)
- Carrying out state supervision on compliance and enforcement
- Article 21 reporting.

6.2.2 Czech Environmental Inspectorate

The Czech Environmental Inspectorate acts as inspection body for enforcement of obligations imposed on operators.

6.2.3 Energy Market Operator (OTE, a.s.)

The Energy Market Operator acts as the national administrator for the Union Registry for GHG ETS.

6.2.4 Czech Accreditation Institute (CAI)

In the Czech Republic verifiers are accredited by an accreditation body, the Czech Accreditation Institute (CAI), which is a member of the European co-operation for Accreditation for EU ETS.

6.2.5 Verifiers

A list of accredited verifiers is published on the website of the CAI.

6.2.6 Information exchange

Information is frequently exchanged between the Ministry of Environment, the verifiers and accreditation body (see under point 2 and 5).

6.3 Permitting and monitoring, including notification of changes

Each operator needs to have an ETS permit to emit GHG emissions. As part of the permitting procedure an application of a permit has to be submitted which is first assessed by the Ministry of Environment on its admissibility (i.e. whether the installation is indeed a new entrant). In the permit application data on capacity, ETS sources and source streams need to be filled in. The permit has no specific validity date by law and is valid until the permit is revoked or no longer applicable. It is not connected to other permits such as IED permits.

The MP is part of the permit and has to be completed as part of the permitting procedure. There is an excel template for filling in the MP, provided by the European Commission.

The excel template meets the requirements in Annex I, MRR. There is no specific template for small installations emitting less than 25,000 tCO_2. Parts of the MP excel template that are not applicable are simply not filled in. With respect to ETS sources and source streams, some overlap exists between the permit and the MP. The installation boundaries are defined in the MP and are interpreted as broadly as possible, including small combustion units.

Both the permit application and the MP are submitted on paper or through a special electronic service ("data box") which requires an electronic signature. This special electronic service allows effective and speedy communication between the operator and the Ministry of Environment. Communication with the operator is also carried out by phone and by post.

When assessing the MP the Ministry of Environment checks the completeness of the MP and does plausibility as well as consistency checks between the permit and the MP and within the MP itself. Basically all data in the completed MP template are checked against national legislation and the guidance developed by the European Commission. For complex issues the hydrologocial and metrology institute and other experts are asked to give technical advice.

As a small number of staff are involved in the approval of MP process, the administrative burden is considered quite high.

Most MPs were approved by the CA in the latter half of 2013, with the last MPs approved in January of 2014.

Once the MP is approved a copy is sent to the Energy Market Operator and to the Inspectorate so that they have the latest version of the MP. Monitoring plan data and permit data is stored in an internal database of the Ministry of Environment.

In general, there are only few cases in which the MP can be changed without changing the permit. An operator shall notify the Ministry of Environment without undue delay of any intended change in the use, method of operation, or capacity of the installation which could require a change in the conditions for the monitoring or reporting of emissions. Furthermore, the operator must notify the Ministry of Environment of any changes to the permit within one month after that change occurred. Significant changes to the MP (especially changes listed in the Article 15 of the MRR), changes in the capacity and in the installation arrangements require an update of the permit. Notification procedures lead to high administrative burden since many changes need an update of the permit and an official decision from the Ministry of Environment. Closure of an installation is reported by the operator or noticed during verification or inspection.

Notifications are done by inserting the changes in the excel template of the MP (sheet A) and by describing the changes in a cover letter. There is no specific guidance on the notification of changes. When reviewing the notifications the same completeness checks, consistency and plausibility checks are performed as when assessing the MP.

6.4 Reporting and Verification

6.4.1 Submission of Reports

An operator has to submit an emission report and VR by the 15th of March each year. The AER and the VR are submitted in electronic soft copy (both XLS templates are on a CD) and sent by post together with a hard copy of the "verification statement" signed by the verifier and operator. The reporting template contains all data required by Annex X of the MRR.

The CAI is a member of the European co-operation for Accreditation of EU ETS. This means that the EA 6/03 is applicable. The requirements laid down in the EA 6/03 have been further defined in national legislation. Some additional requirements compared to EA 6/03 are the following:

- Site visits are always required when verifying the AER of the installation;

- The Ministry of Environment provides an expert in the technical committee that supervises the quality of verification (see section 5).

If the verifier finds deviations from the MP, they will instruct the operator to go to the Ministry of Environment to update the MP. Three documents are sent to the operator for further submission to the competent authority: a verification statement signed by the verifier and operator (a hard copy) as well as a verified AER and a VR containing more detailed information on the verification activities carried out and verification procedures followed (both on a CD). All three documents are submitted to the CA.

Three sorts of verification statements (included in the VR) exist: a positive verification statement with or without comments, where comments may relate to non-material misstatements, non-material non-conformities or recommendations in some cases, and a negative statement.

Non material misstatements and non-conformities are identified in the VR. The extent to which verifiers describe these misstatements and non-conformities can differ between verifiers. The misstatements and non-conformities will be checked by the Ministry of Environment. Depending on the sort of misstatements and non-conformities the Ministry of Environment will follow up on these by requiring the operator to update the MP or by solving this directly with the operator concerned.

6.4.2 Review of AERs and VRs

When the Ministry of Environment receives the AER, the verification statement and the VR, a completeness check and an overall check on whether the VR contains uncorrected misstatements, non-compliances, non-conformities and/or recommended improvements is performed on all reports. Depending on the complexity and size of installation, the nature of verifier comments made and whether installation changes occurred during the year, more thorough checks are made on a selection of reports.

This detailed check includes cross checks on the emissions data in the AER, a check on the comments made in the VR and other plausibility and consistency checks between the reports and the MP as well as inspection data. All reports are also checked by the Czech Hydrometeorological Institute since that institute is responsible for national inventory reporting to UNFCCC. The latter check mainly concerns the amount of emissions submitted in the emission report.

If the Ministry of Environment finds errors in the emission report or the VR, the operator is asked to correct the emission report and to have this re-verified. The re-verified emission report and a new verification statement should subsequently be submitted to the Ministry of Environment. There is no deadline for identifying errors in the emission report and correcting them. Even if the error is identified after 30 April, the deadline for surrendering allowances, the emission data can still be corrected.

Negative statements have not yet been given by the verifier since all efforts are directed to correcting errors between the verifier, the operator and the Ministry of Environment before a statement is issued. Where there is a negative statement the emission report would have to be corrected and re-verified. Official determination of the emission figure by the Ministry of Environment has been

completed only once in a case when no report was submitted and the operator didn't reply to requests from the competent authority. In case of not submitting the AER, sanctions will be imposed.

The Ministry of Environment is part of the technical committee that advises CAI, the accreditation body. In case of errors identified during the review of emission reports and VRs, CAI is informed whereupon CAI can decide to impose sanctions on the verifier.

6.5 Accreditation of verifiers

As the Czech Republic has signed the Multilateral Agreement of the European co-operation of Accreditation for EU ETS, CAI is required to comply with EN ISO/IEC 17011 and the requirements which have been imposed by EA (e.g. EA 6/03). CAI uses the accreditation standard ČSN EN ISO 14065:2013 and AVR as main documents to accredit verifiers. Furthermore verifiers need to comply with other documents and standards e.g. ČSN ISO 14066:2012, ČSN EN ISO 14064-3:2012, MRR, Commission Guidance documents and IAF MD6.

Verifiers are not allowed to verify before they are accredited. The accreditation process for an initial and reaccreditation consists of several steps that are applicable to all EA members: pre-assessment (where the verifier applies for accreditation and the AB selects its team and prepares for the assessment); drafting of the accreditation plan (which consists of the activities to be performed during the assessment related to specific elements in the ISO standard); office audit (which involves a document review of mainly quality manuals, procedures, documentation on competence of a (lead) auditors and internal verification documentation); witness audit (which means assessing the performance of a auditors at site); issuing the accreditation certificate and annual surveillance. A mandatory part of the surveillance visit is the witness audit.

The accreditation team should consist of a lead assessor, which is an employee of the accreditation body, a technical assessor, which is a contracted external person, and experts.

The lead assessor's duties include selecting the team of technical assessors and technical experts, planning the assessment, leading assessment visits, assessing the verifier according to all clauses in ČSN EN ISO 14065:2013, AVR and EA 6/03, preparing the technical and final report, managing correct reporting of the scope of accreditation, preparing surveillance plans and presenting the assessment results to the accreditation decision board. The competence requirements for lead assessors are having experience with the accreditation process, being trained and approved as a lead assessor for ČSN EN ISO 14065:2013 and having completed an annual training on EU ETS.

The technical assessor's responsibilities are assessing the competence of auditors to carry out verification within the requested accreditation scope, preparing the technical report, assessing whether the required scope of accreditation is covered by the auditor's competence and assessing selected clauses of ČSN EN ISO 14065:2013, ČSN ISO 14066:2012, ČSN EN ISO 14064-3:2012, MRR and other documents. The competence requirements of a technical assessor are understanding of emission sources, calculation of greenhouse gas (GHG) emissions, having the ability to assess the competence of people and being respected, reputable persons in the field. These technical assessors have to be approved by the technical committee consisting of among other things representatives from the competent authority (Ministry of Environment), Ministry of Industry and Trade, operators,

verifiers and experienced technical assessors. They also have to follow a training by the accreditation body on accreditation procedures, ČSN EN ISO 14065:2013 and other documents. Technical assessors are evaluated by lead assessors.

Experts in the team are accountant experts and if necessary IT experts. IT experts support the lead assessor and technical assessor in computer information system environments. Accountant experts enable the lead assessor and the technical assessor to assess the legal status of the verifier, covering of liability, financial stability, evaluation of business risk of verifier, qualification of auditors for knowledge financial/economic accounting tools and practices. Periodical training is organised to ensure continued competence of the accreditation lead assessors and technical assessors.

During the office audit and witness audit, all elements in ČSN EN ISO 14065:2013 are checked including the actual performance of a verifier on the job. As a minimum, one witness audit is carried out for a reassessment. Primarily, a witness audit is planned for new categories (e.g. in 2013, for nitric acid production or primary aluminium production).

Whenever non-conformities are detected by any member of the accreditation team, these are reported to the verifier. The assessment shall not be completed until all the nonconformities are solved. The non-conformities are related to the specific clauses of ČSN EN ISO 14065:2013 or AVR. A distinction between two kinds of non-conformities can be made: non-conformities type 2, which shall be closed as soon as possible (e.g. systematic non-compliance with existing procedure); non-conformities type 1 which shall be closed within 10 working days. How these non-conformities should be corrected is not mentioned to the verifier since this would be a conflict of interest and have a detrimental effect on the impartiality and independence of an accreditation body.

After the verifier has corrected the non-conformity, the accreditation body will see how this correction has been implemented as part of the assessment. If the non-conformities are not corrected or not corrected in the right manner, sanctions can be imposed by CAI.

Before an accreditation certificate is issued by CAI a final report has to be drafted which includes dates of visits, scope of accreditation, standards against which the accreditation was checked and a list of other documents which were used. The accreditation certificate is valid for three years in the case of initial accreditation and for five years in the case of reaccreditation.

To monitor the verifier after CAI has issued an accreditation certificate, surveillance is carried out once a year. Verification companies are selected for surveillance based on several factors (e.g. the complexity of the verification body, the results from the last surveillance, the accreditation scope for that verifier and the difficulties/problems related to the verification body). The first part of this surveillance is an office audit and the second part is a witness audit. During such a witness audit, the whole verification team is assessed including the technical assessor and experts.

When the accreditation certificate expires or the verifier applies for an extension of the scope for his accreditation, a reassessment takes place. This means that the whole accreditation process takes place along the same lines as an initial accreditation. Depending on the situation, some steps in the reassessment can be carried out more quickly than an initial accreditation since the accreditation body is already familiar with the verification company. The process can be expedited more quickly in certain circumstances, particularly where there is an extension to the scope.

The sanctions that CAI can impose on verifiers are similar to the sanctions that other EA ABs impose: suspension of the accreditation, narrowing the scope of accreditation and as a last resort withdrawal of the accreditation certificate. In most cases a suspension precedes the withdrawal of an accreditation certificate and where the verifier has taken no action to take corrective action. Only in cases of a serious breach of legislation will immediate withdrawal occur.

There are currently few foreign verifiers operating in the Czech Republic.

Accreditation evaluation is carried out in the form of a peer review performed by EA (European Accreditation) members. The process of accreditation for verifiers as performed by CAI was evaluated in the summer of 2013. This evaluation was completed and did not raise any non-conformities or concerns, which needed to be solved by the CAI. The evaluation process led to the signing of the EA MLA (EA Multilateral Agreement) for verification by the CAI. This MLA was signed during the EA GA, which was held by CAI in Prague, 27-28 May 2014. In addition, the technical committee ensures that technical expertise is provided in the accreditation process. The Ministry of Environment is represented on the technical committee. If the Ministry detects errors in the verified emission reports or the VRs, it informs CAI of this. Furthermore, there is a regular contact between the Ministry of Environment and CAI on issues that influence each other's work. This gives both parties the opportunity to share information about the quality of verification and the improvements to be made. Last but not least, CAI has adopted tools as described in the AVR for information exchange between itself and several Member State competent authorities. Reports were sent to the CZ, PL, SK, BG and HR competent authorities.

As CAI is already a member of the EA for EU ETS and it is already the only accreditation body appointed by the Ministry of Industry and Trade to perform accreditation activities, only minor changes were needed as a result of Accreditation Regulation 765/2008.

6.6 Inspections and enforcement

Inspection of operators is carried out by the regional inspectorates. There are currently 10 regional inspectorates. EU ETS is only one of the activities the inspectorates check during an inspection and, it is thus difficult to check all the details of the MP during an inspection. A typical infringement found by the inspectorates is the failure to report changes to the installation (i.e. reduction and increase of capacity). Every inspectorate has its own inspection guidelines, which outlines the frequency of inspection and steps to be carried out during the inspection.

These inspection guidelines can differ between inspectorates, which could sometimes also affect the quality of inspection. EU ETS workshops were organized for inspectors in the first trading period to assist in harmonising the approach.

The Ministry of Environment is still responsible for checking compliance with the requirement to surrender sufficient emission allowances. Penalties relating to a failure to surrender sufficient allowances can only be imposed by the Ministry of Environment. Most other sanctions are imposed by the inspectorates. In general, information is exchanged on compliance between the inspectorate and the Ministry of Environment.

Administrative fines can be imposed on the operator if they are not in compliance with the ETS requirements. The following fines exist relating to specific infringements:

- Up to 5,000,000 CZK for emitting emissions while not having a valid ETS permit or for operating of an installation contrary to a valid ETS permit
- Up to 500,000 CZK for not notifying changes in operation installation and capacity that would lead to changes in monitoring and reporting emissions
- Up to 100,000 CZK for not notifying changes in permit
- Up to 2,000,000 CZK for monitoring and reporting contrary to national ETS requirements
- Up to 2,000,000 CZK for failure to submit verified "application form for amending amounts allocated free of charge" to the Ministry of Environment in case of a partial cessation/cessation
- 100 € per CO_2eq for each not surrendered allowances.

6.7 Good Practices

- There is frequent communication and information sharing between CAI and the Ministry of Environment on the results of the AER and VR review as well as findings encountered by CAI during surveillance. This gives both parties the opportunity to share information about the quality of verification and the improvements to be made.
- A technical committee has been set up to help CAI assess the technical aspects of verification. The Ministry of Environment is part of the technical committee that advises CAI. In that respect, it informs CAI of findings encountered during the review of AER and VR. The committee consists of representatives from the Ministry, CAI, verifiers and operators to ensure complete information exchange.
- The Czech Hydrometeorological Institute also checks the emission report when the emission report is submitted to the Ministry of Environment. This review of emission data in the report ensures that accurate EU ETS data is incorporated in UNFCCC reporting.

7 Denmark

Author of Document: Richard Eaton (Ricardo-AEA)
Reviewers of Document: Niels-Christian Dalstrup (DANAK) (on section 1 and section 4), Anita C. Jakobsen and Maria Hagen Jørgensen (The Danish Energy Authority)

7.1 Main changes compared to Phase 2

- The Danish Energy Agency, Energistyrelsen, (hereinafter the DEA) is in the process of updating its electronic reporting system for the requirements of Phase 3. Whilst the update takes place, the DEA has required operators to use, for 2013 annual emission reports (AERs), either:
    - The Commission's AER template
    - A simplified AER where the operator meets specific conditions (see section 3)
- The DEA has developed its own procedures and checklists for the checking and approval of monitoring plans (MPs) – in combination with the Commission's checklist.

7.2 Short description of authorities involved, their responsibilities and how they work together

Denmark has a centralised competent authority system. One authority, the DEA is responsible for permitting, approving the MP, reviewing the annual AERs and verification reports (VRs), reviewing improvement reports (IRs) and supervision. Figure 8 outlines the different parties involved and their relationship between each other.

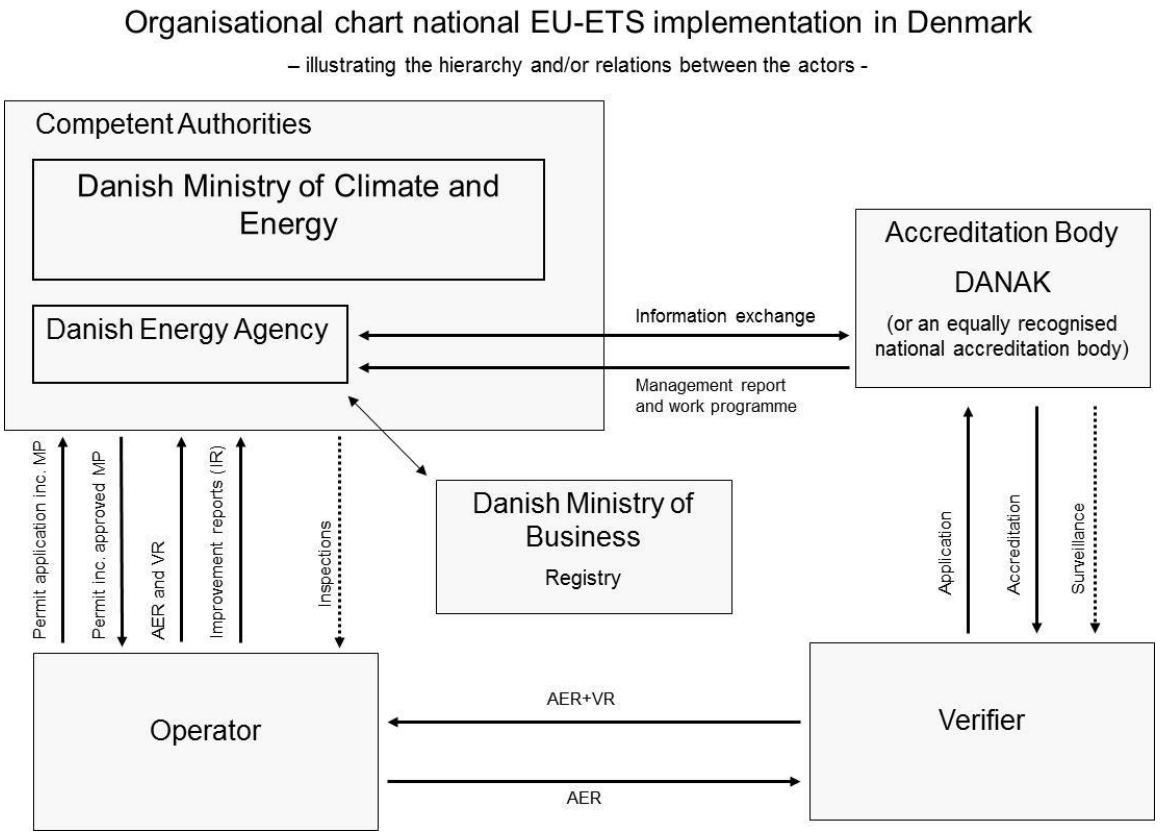

Figure 8 Institutional Structure of the EU ETS in Denmark

7.2.1 Danish Energy Agency (DEA)

The DEA is the sole competent authority (CA) in Denmark and has executive power for the implementation of EU ETS (expect for registry matters). It is responsible for:

- Allocating emission allowances in accordance with the national allocation plan
- Approving the MP and issuing ETS permits
- Reviewing and approving/rejecting notifications of changes to MPs and updating permits
- Deciding on closures of installations
- Reviewing AERs and VRs
- Reviewing IRs
- Reviewing and accepting applications to waive verification site visits
- Supervision and enforcement.

7.2.2 DANAK

DANAK is a business fund, appointed as the national accreditation body in Denmark by The Danish Safety Technology Authority, which is part of The Danish Ministry of Business and Growth. In Denmark verifiers must be accredited by DANAK or an equally recognised accreditation body, which has signed the European co-operation for Accreditation's multilateral agreement on mutual recognition.

DANAK is a service company dealing with the administration of accreditations and metrology in Denmark based on a contract with the Danish Safety Technology Authority which is part of The Danish Ministry of Business and Growth.

DANAK was founded in 2002 as an independent private business-oriented non-profit fund by stakeholders from industry and public authorities.

7.2.3 Verifiers

There are currently[8] four verification bodies accredited by DANAK to undertake the verification of AERs under the EU ETS and one verification body accredited to also undertake the verification of tonne-kilometre reports for aviation operators (AOs). Three further verification bodies, accredited by accreditation bodies other than DANAK, have undertaken verifications in DK for the 2013 compliance year.

A list of accredited verifiers is published on DANAK's website at www.danak.org.

7.3 Permitting and monitoring, including notification of changes

An installation undertaking an Annex I activity in Denmark must apply to the DEA for a permit to operate. A MP must accompany the application for a permit. Aircraft operators do not need to apply for a permit from the DEA, but must submit a MP for approval.

For installations, MPs must be made through Denmark's electronic reporting system. Through the electronic system the DEA makes available Member State specific MP templates for installations. The templates contain all of the requirements outlined in the European Commission's MP template (templates no. 1).

Not all Phase 3 MP applications were made through the electronic reporting system, as it is not cost-effective to develop a solution in the electronic reporting system to accommodate the nine operators using measurement based monitoring methodologies (CEMS). The installations in Denmark using CEMS were required by the DEA to use the European Commission's MP template for installations (template no. 1).

Aircraft operators are also required to use the European Commission's MP template for the monitoring of aviation emissions.

The DEA utilises and makes available to operators the Commission's guidance documents on monitoring (Guidance documents 1 and 2). Operators are referred to this guidance and the DEA provides links to the guidance from its website.

[8] As of August 2014

The DEA has produced some guidance to operators/AOs regarding monitoring. The guidance was limited to practical examples on; completing the sections on management control/procedures; how operators should complete the MP when biomass is being used, and; how to complete the fields in the MS-specific electronic MP template.

Once an MP and permit application are received, they is assigned to a case worker for review. The case worker uses a checklist, developed by the DEA, to check all the appropriate details in the MP. Case workers are given specific training on how to review and approve MPs, e.g. through side-by-side learning, sessions where complex cases are discussed and examples of typical cases are worked through, providing checklists for the caseworkers in reviewing a case and peer assessments of their case determinations before final approval of the MPs.

All Phase 3 MPs were approved by the 31 March 2014. Under Danish law, the Phase 2 permit remained in force until the new permit was issued following approval of the MP.

The DEA came across a number of issues in reviewing and approving Phase 3 MPs:

- Management control/procedure descriptors – A large proportion of Denmark's 360 installations are installations with low emissions (<25,000 tCO_2 annual emissions) that have limited resources. It proved difficult for the DEA to get these operators to describe their procedures. It transpired in many cases that operators already had adequate procedures in place, but the DEA had to work with operators to present them in the correct format or amend them to ensure they covered all the requirements of the Regulation on Monitoring and Reporting under the EU ETS, Commission Regulation No. 601/2012 (MRR).
- Biomass in waste streams – Denmark includes operators incinerating municipal waste within the EU ETS. The DEA has encountered difficulties in determining the correct carbon content of biomass in waste source streams due to disparities in the two applicable analytical techniques.

The DEA prescribes the list of significant changes to the MP that require approval as per Article 15 of the MRR, without additions or exceptions. The DEA does not prescribe a timeframe for the notification of significant changes by operators/AOs but follows the principal of "without undue delay" as outlined in the MRR.

When a significant change occurs to an operator's/AO's MP, they must submit a new MP (for installations, through the electronic reporting system). The case worker assigned to that installation or aircraft operator receives a notification of the submitted MP, which initiates the review process.

Case workers follow a checklist developed by the DEA for the review of the MP in combination with the Commission's checklist. As part of the review the case worker may exchange emails and telephone calls with the operator/AO to clarify or discuss certain aspects of the MP, dependent on the complexity of the change being requested.

Approval of a significant change to the MP is provided through a status update in the electronic reporting system. An operator's permit is also updated automatically by the system as part of the approval of the revised MP. For AOs a new approved MP is uploaded to the aviation data online system where it can be accessed by AOs and the DEA.

Other changes, not requiring approval by the DEA, are reported to the DEA by email or a telephone call. The DEA will then make the necessary changes to the database. The DEA also prompts operators/AOs once a year to submit notifications of non-significant changes.

7.3.1 Monitoring

The DEA has applied a broad definition of combustion since the start of Phase 1 of the EU ETS. As such, the broadening of the definition of combustion in the 2009 revision of the ETS Directive[9] did not require operators to include new source streams within their MPs.

The DEA has not seen a change in the tiers being applied by operators and AOs through the introduction of the MRR, as almost all operators/AOs were meeting the highest tier requirements under Phase 2 already. Currently two category C and 24 category B installations are not meeting the required highest tiers. For category C installations improvement reports will be submitted each year and for category B installations the reports are scheduled to be submitted in 2015 and thereafter every second year.

Nine installations in Denmark apply a measurement based monitoring methodology (CEMS). The nine installations are all municipal waste incineration facilities where the emissions of the major source streams are measured through CEMS. Waste incineration for energy generation purposes has now been included under the ETS in Denmark for Phase 3. Previously under Phase 2 it was not included and Denmark had no installations applying CEMS.

In Denmark, the following standards, amongst others, are applicable to measurement based methodologies:

- EN ISO/IEC 14181 Stationary source emissions – Quality Assurance of Automated Measuring Systems
- EN ISO/IEC 17025 for the laboratory calibrations for the CEMS devices
- EN ISO/IEC 14789 for the determination of Oxygen in the flow
- EN ISO/IEC 14790 for the determination of water in the flue gas
- EN ISO/IEC 16911 for the velocity and volumetric flow.

As mentioned previously, the DEA has had difficulties in determining the correct carbon content of biomass in waste source streams due to disparities in the two applicable analytical techniques – namely the carbon-14 method and the mass balance method. The DEA has sought guidance on the issue through the Task Force on Monitoring and Reporting.

Excepting the nine municipal waste incineration installations, most other operators using biomass in Denmark have not generally encountered difficulties with the introduction of the preliminary emission factor (PEF) for biomass source streams. Based on the reporting for the 2013 compliance year, in all cases where bioliquids were used and the emission factor set to zero, the verifier has confirmed that compliance with the sustainability criteria according to the RES-Directive was documented and the criteria met. In line with guidance document no. 3, the whole source stream is treated like a fossil

[9] Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009

source stream if the sustainability criteria are not met. However, there were no such cases in Denmark in 2013.

In Denmark the Danish government has implemented a tax regulation where tax relief is given to energy producers using biomass waste where the fossil fraction can be proven to be less than 1%. As such, most operators only procure biomass where the fossil fraction is less than 1% or more likely 100% bio-degradable (without any fossil fractions).

There have only been a few cases where the operator had to determine the PEF of a mixed fuel containing solid biomass (and where the mix is not 100% bio-degradable). In line with guidance document no. 3, in such cases the emission factor is the preliminary emission factor multiplied by the fossil fraction.

7.3.2 Aviation

The monitoring process for aviation operators has many similarities with the installations in Denmark including the same regulatory bodies. This sections describes any discrepancies with the stationary market description.

In accordance with the EU-Directive permitting is not applicable for aircraft operators in Denmark. Therefore DEA does not issue a permit under the EU ETS.

Operators are required to submit a MP using excel templates provided by the European Commission. These are reviewed manually by the DEA caseworker in close correspondence with the AO by telephone or e-mail. After approval by the DEA, the MP is uploaded to the aviation data online system (ADO). ADO has been developed by the DEA specifically to handle the annual emissions reporting and to give access to the latest approved MPs for AOs. The aviation online system is, at the moment, under adjustment to the new temporarily reduced geographical scope for the period 2013-16.

Within the DEA, two to three employees (not full time) are assigned to the administration of aircraft operators.

7.4 Reporting and Verification

For the 2013 compliance year, the DEA required operators in Denmark to submit their annual emission reports (AERs) using the European Commission's template (template no. 4). Previously under Phase 2, operators completed their AERs using the DEA's electronic reporting system. However, the system was not updated in line with Phase 3 requirements in time for the submission of 2013 AERs.

Use of the Commission's template in Denmark is considered temporary and the DEA is currently working to update the AER template within its electronic reporting system for the submission of 2014 AERs (except for the installations using CEMS and for AOs).

As part of the change to using the Commission's AER template for the 2013 compliance year, the DEA developed and published guidance to operators required to use the template. The 10-page guidance document focussed on practical and administrative guidance to operators on how to complete the Commission's AER template.

The DEA also makes available to some operators a simplified AER template, in Microsoft Word format. The Word template is pre-populated, by the DEA, with information obtained from the operator's MP. The form is sent out to operators meeting the following conditions:

"This report form is forwarded to - and must be used by - units:

- If CO emissions are less than 50,000 tons/year (Category A)
- The sole CO_2 emissions are from fuel combustion
- Which calculate CO_2 emissions
- Using the calorific values, emission factors and oxidation factors for 2013 developed by the DEA according to the regulation".

The DEA wished to pre-populate data for such operators, to minimise the number of errors being made by these operators and to reduce the administrative burden on small installations.

When the electronic reporting system is updated, it will be able to pick up information from the Commission template to pre-populate information into the system's AER templates.

For 2013, the DEA also required verifiers to complete their VRs using the Commission's VR template.

AERs and VRs in Denmark had to be submitted to the DEA by the 21 March 2014 and at the very latest the 31 of March 2014 following the end of the 2013 compliance period.

Once AERs and accompanying VRs are received, all (100%) are checked by the DEA case workers. The DEA has developed its own procedures for the checking of AERs and VRs, based on the Commission's guidance and checklist. A DEA case worker will check for; consistency between the AER and VR; consistency between the AER and approved MP; and consistency within the AER itself.

The DEA does not formally approve AERs and VRs, but does reply to operators stating that the AER/VR has been received and that the emissions figure will be transferred to the Registry.

Danish law contains provisions that allow the DEA to determine the emissions figure of an operator should they fail to submit a suitably verified AER. Danish law also allows the DEA to charge operates for the time DEA staff spend on such determinations. There were two such cases relating to the 2013 compliance period; one case where the verifier claimed a lack of funds to contract a verifier to verify the AER and the second case where the AER was "not verified" by the contracted verifier.

In these cases, the DEA approached the determination of a conservative emissions estimate on a case-by-case basis and using the guidance published by the Commission. In one of the two cases, the DEA contracted an independent expert to assist in the emissions determination.

In line with Article 31(2) of the Regulation on Accreditation and Verification under the EU ETS, Commission Regulation No. 600/2012 (AVR), installations with low emissions do not need to submit a simplified verification application to the DEA for approval. The DEA notified all Danish verifiers regarding the rules around simplified verifications in the AVR, however, no simplified verification application were received relating to the verifications of 2013 AERs.

The DEA is aware that a number of verifications of AERs for installations with low emissions (as defined by Article 47(2) of the MRR) were undertaken remotely, in contravenence with Article 31(3c) of the AVR.

If DEA receives a future application for a simplified verification for approval, the DEA will require the outcome of the verifier's risk analysis and evidence that data can be accessed remotely before granting approval, in line with the requirements of the AVR (Article 31).

Improvement reports outlining possible improvements to an operator's/AO's MP (in line with MRR Article 69(1-3)) must be submitted to the DEA by the 30 September. Where the VR states outstanding non-conformities or recommendations for improvements, the operator/AO must submit an improvement report to the DEA by the 30 June (MRR Article 69(4)). These reports are submitted separately in Denmark, although the DEA allows for combined reports provide all deadlines are adhered to.

The DEA has developed a simplified template in Microsoft Word specifically for improvement reporting in line with Article 69(4) (outstanding non-conformities or recommendations for improvements) based on the Commission's template. However, it is optional for operators to use the Commission's template or the DEA's Word template.

7.5 Accreditation of verifiers

DANAK is the national accreditation body (NAB) of verifiers located in Denmark and has been appointed since the start of Phase 1 of the EU ETS. DANAK has signed the Multilateral Agreement (MLA) of The European co-operation for Accreditation (EA).

DANAK outlines the general accreditation process, applicable to many forms of accreditation in Denmark, on its website pages. DANAK also makes available the 'Step by Step' document that verifiers can read for further information on the accreditation process. DANAK's 'accreditation rule' on EU ETS outlines details specific to GHGs and the EU ETS.

The accreditation process in Denmark, for an initial accreditation and re-accreditation, consists of several steps that are applicable to all EA members:

- Pre-assessment (where the verifier applies for accreditation and the NAB selects its team and prepares for the assessment)
- Drafting of the accreditation plan (which consists of the activities to be performed during the assessment related to specific elements in the ISO14065 standard and the AVR)
- Office audit (which involves a document review of mainly quality manuals, procedures, documentation on competence of a verifier and internal verification documentation)
- Witness auditing (which means assessing the performance of a verifier at site)
- Internal review, decision and issuance of the accreditation document.

The accreditation process undertaken by DANAK has not changed through the introduction of the AVR, as DANAKs accreditation process was already in accordance with the requirements of Regulation 765/2008, EN ISO/IEC 17011 and EA 6/03 under Phase 1 and 2 (and prior to the introduction of the AVR).

An accreditation certificate issued to a verifier by DANAK is valid for 4 years.

As part of the accreditation document review, DANAK requires that verifiers submit the documentation outlined in AVR Article 45 and Annex III.

DANAK continues to actively engage and exchange information with the DEA and verifiers located in Denmark through regular meetings. DANAK and the DEA hold formal meetings at least twice per year and a meeting with verifiers is usually held in the autumn to relay any important findings from the previous verification cycle before the next cycle starts.

DANAK received 2013 verification plans from all verifiers undertaking verification activities in Denmark by the 15 November 2013, with only a small delay by one verifier. DANAK requested that verifiers provide further updates on their verification plans by the 15 December 2013 and the 15 January 2014. DANAK also requires that verifiers provide update if they take on new clients within the compliance period.

DANAK undertakes routine surveillance of verifiers in its role as Denmark's NAB. Office visits of all verifiers were undertaken in the first half of 2014. Witness audits of verifiers were also undertaken, with some verifiers receiving one audit and others received two or more audits to check a number of accreditation scopes. Verifiers were selected based on what DANAK considered the most important scopes to check and knowledge of previous work.

DANAK uses technical experts when undertaking surveillance assessments of verifiers. An assessment team will always consist of a lead assessor and a technical expert, with the technical expert assisting the lead assessor during office visits and witness audits.

Technical experts used by DANAK are typically drawn from consultancy companies working in energy and GHG related fields of work. DANAK requires all technical experts to demonstrate impartiality before being accepted onto the assessment team for a particular verifier.

DANAK provided internal training for technical experts and lead assessors up until the 1 January 2014 regarding the requirements of the MRR and AVR, as well as the Commission's guidance. DANAK also provides regular updates to all lead assessors and technical experts as and when required.

In Denmark, accreditation certificates expire (after 4 years) mid-year, and DANAK requires verifiers to inform DANAK at least 6 months before expiry if they do not want to renew the accreditation. Otherwise, the reassessment process commences. The reassessment follows exactly the same process and standards as an initial accreditation assessment.

DANAK is aware, through the submission of verifier verification plans, that some Danish verifiers are conducting verifications in other Nordic Member States. DANAK has duly provided the relevant parts of its work programme and management report to these Member State competent authorities and asked the CAs to come back to DANAK if they had any specific questions.

DANAK maintains a database of verifiers accredited by DANAK on its website, which is updated every three hours. Access is also available through the EA website where the status of EA peer evaluation of DANAK is also available.

DANAK has, to date, received no complaints regarding verifiers accredited in Denmark and has therefore not been required to withdraw, suspend or reduce the scope of accreditation of any verifier.

7.6 Inspections and enforcement

Inspections of operators and AOs are not carried out in Denmark, since the DEA relies on verifiers to supervise compliance with ETS requirements and on DANAK, or other recognised national accreditation bodies, to oversee the quality of verifications.

Fines may be imposed on the operator, if the AER and VR review shows that the operator is not in compliance with the ETS requirements.

The following infringements exist:

- Emitting emissions while not having a valid ETS permit
- Violation of the permit conditions
- Violation of the MP requirements
- Violation of reporting requirements by not submitting an AER/VR or not reporting correctly
- Withholding information or giving false or misleading information of significance to the DEA's functions or decisions
- Not surrendering emission allowances equivalent to the emissions reported.

The DEA believes that the improvement reporting requirements outlined in the MRR (Article 69) has formalised and strengthened the follow-up of recommendations and minor misstatements and non-conformities by operators/AOs.

The DEA would follow-up directly with an operator in cases of a serious non-compliance. If the operator fails to respond or take the appropriate actions following informal and then formal communications from the DEA, then the DEA can report the operator to the Danish police. The police will investigate before a court decides on the case and whether any sanctions, including the type and level of sanction, can be brought against the operator.

7.7 Good Practices

- As the electronic reporting system has not been functioning for the compliance period 2013, the DEA provided specific installations with less than 50,000 tCO_2 emissions with a simplified AER, which was pre-populated by the DEA with information drawn from the operator's MP. This standardised approach has reduced the administrative burdens for the operators and the

DEA. However when the new electronic reporting system (expected to be functioning by 2015) is in place there will be no need for the simplified AER template.

- The DEA has annual verifier meetings in which verifiers and the national accreditation body (DANAK) are requested to provide input to discuss specific cases or new topics.
- There is frequent communication between DEA and DANAK which has a positive effect on the quality of verification.
- The quality of accreditation by DANAK is very high.
- DANAK uses technical experts when undertaking surveillance assessments of verifiers. Technical experts used by DANAK are typically drawn from consultancy companies working in energy and GHG related fields of work. DANAK requires all technical experts to demonstrate impartiality before being accepted onto the assessment team for a particular verifier.
- The DEA is actively engaged in the Compliance Forum Task Forces on Monitoring & Reporting and Accreditation & Verification, where it shares experiences and seeks solutions to MS-specific issues.

8 Estonia

Author of Document: Mandana Hazrat, Ecofys Germany GmbH
Reviewer of Document: Annika Konovalov, MoE

8.1 Main changes compared to Phase 2:

- Use of Commission template for monitoring plans and verifications reports (from next year also for improvement reports)
- Change from acceptance procedure to accreditation based system for GHG verifiers
- Expansion of the online reporting system for other airborne emissions to CO2 emissions (system currently in testing phase, expected to be in place for use next year)

8.2 Short description of authorities involved, their responsibilities and how they work together

Key responsibilities:
Since the beginning of Phase 3, the competent authority (CA) functions as defined by Directive 2003/87/EC have been centralised with the Ministry of the Environment. Figure 9 shows all authorities and stakeholders involved in the implementation of the European Union Emissions Trading Scheme (EU ETS) and the communication between them.

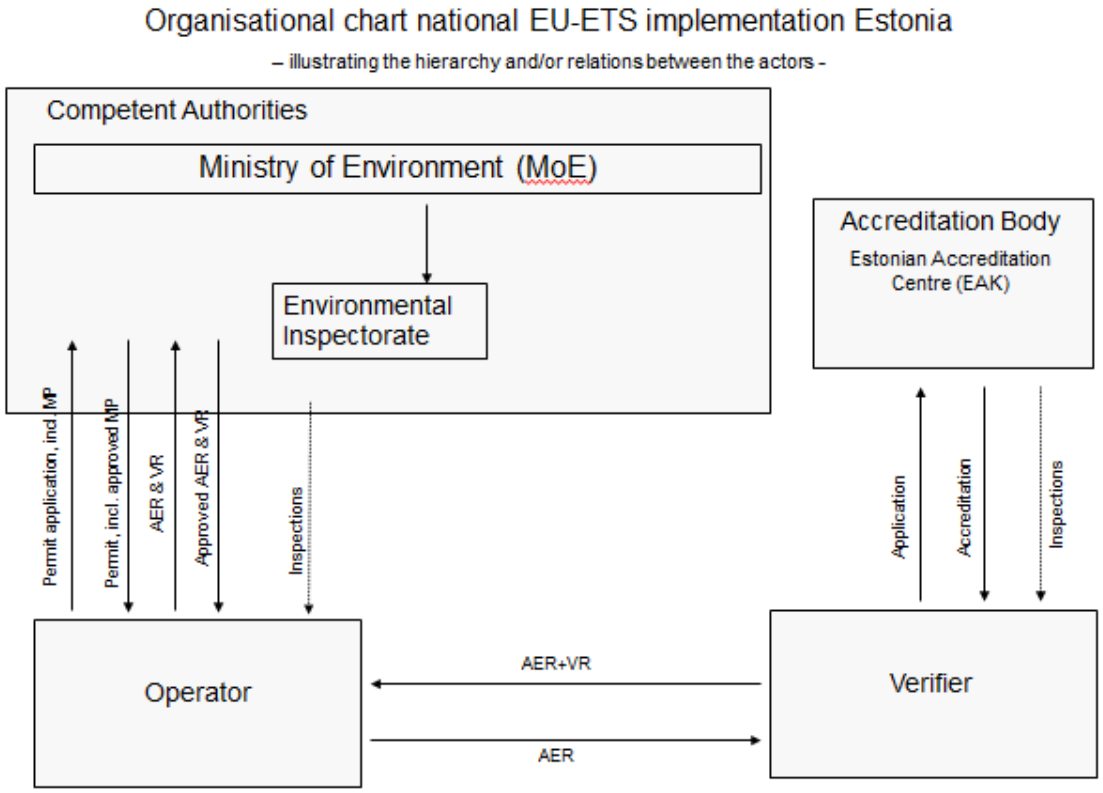

Figure 9 Institutional Structure of the EU-ETS in Estonia

8.2.1 Ministry of the Environment (MoE)

The MoE sets the legal basis for all EU ETS activities. Furthermore, by being responsible for all main compliance tasks (issuance of permits, MP approval, review of AERs and VRs), MoE acts as the central competent authority in Estonia. Basically one person is responsible for all ETS-installations (about 44) in Estonia. Her work is reviewed by the manager.

8.2.2 Estonian Environmental Inspectorate (EEI)

The EEI is responsible for inspection of installations and sanctioning and is working under the supervision of the Ministry of Environment. They conduct inspections annually together with inspection of other environmental issues and on an ad hoc basis if requested by any of the authorities, especially the CA. The EEI is centrally coordinated and also locally organised. The inspectors within the 15 counties are also in close contact with the operators and know the installations very well.

8.2.3 Estonian Accreditation Centre (EAK)

Since 2013, the Estonian Accreditation Centre acts as the appointed national accreditation body. EAK is working under the supervision of the Ministry of Economic Affairs.

8.3 Permitting and monitoring, including notification of changes

8.3.1 Permit application and monitoring plan

Operators of installations, covered by the EU ETS, have to apply for a permit to emit CO_2 with the Ministry of Environment. The implementation of the IED (IPPC) and the ETS involve separate permits in Estonia.

It is obligatory to use the Commission template for the monitoring plan (MP) application in Phase 3. MPs are submitted via digitally signed email to the CA. An electronic signature system is widely introduced in Estonia. This is commonly used for communication with and between authorities and regulated entities. It also facilitates the communication between stakeholders in the EU-ETS. It replaces the submission of signed hardcopies by submitting documents attached to emails which are signed digitally. Although it is not obligatory within the ETS reporting system it is used by all stakeholders. The Commission's guidance on monitoring plans has been used a great deal for reference by the CA and also by many operators. No additional guidance has been provided by the CA.

The use of simplified or standardised MPs (according to MRR Art 13) is not allowed in Estonia.

The CA is carrying out checks on all MPs. In general, quantitative checks are performed (completeness, all source streams and activities described? any deviation from last year's MP?). But in case that any issue is identified, a deeper qualitative check is done on the MP and the operator is contacted in order to provide further clarification.

No guidance or checklist is provided to the CA staff on reviewing and approving MPs. The staff is gaining its expertise through on-the-job learning and through the participation in workshops on EU level. To date, only one person at the CA is mainly responsible for the compliance review for all ETS installations in Estonia. Her work is reviewed by the manager.

While, all permits were issued beginning of 2013, all MPs had been approved only by October 2013.

8.3.2 Notification of changes

The CA has no list of significant changes but informed the operators that all changes that relate to the monitoring of emissions have to be reported to the CA. No specific template is provided for the notification of changes. Changes are reported via digitally signed email. No specific timeframe was set for the notification of changes but the CA communicated to the operators that significant changes should be reported before they come into effect, if possible, otherwise as soon as possible. The CA's interpretation of "with undue delay" (MRR Art 15 (1)) is a period of a maximum of a few weeks. In general, changes to the MP do not require an update of the permit.

8.3.3 Monitoring of emissions

Checks on whether the broadened definition of "combustion", as outlined in directive 2003/87/EC Art 3 (t), has been applied correctly by operators were performed by the CA for all installations as part of the MP approval process. The CA expressed that the definition is clear and made the monitoring and reporting of emissions less burdensome. However, the CA indicated that there was a discussion about the respective understanding of the definition between the CA and the NAB in which the NAB agreed on the CA's interpretation and hence, an agreement was found in the end.

Only a few installations applied fall-back methodologies in Estonia. In these cases the CA contacts the operator and organises meetings together with technical experts in which operators have to explain why applying tiers would cause unreasonable costs or would be even technically unfeasible.

Only one installation from the energy sector is using measurement-based methodologies (CEMS) and only for parts of its source streams. The operator was required to submit the accreditation certificate of its laboratories according to the EN ISO 17025 standard.

8.3.4 Aviation

Three aircraft operators are active in Estonia. As all of them had been active in Phase 2 already, the CA is not familiar yet with the procedure of identifying and contacting new aircraft operators.

Aircraft operators meeting the requirements of MRR Art. 54 (small emitter status) are allowed to use simplified monitoring requirements or Eurocontrol's small emitter's tool to estimate their fuel consumption.

8.4 Reporting and Verification

8.4.1 Submission of AERs and VRs

Operators of installations are required to submit an annual emission report (AER) and a verification report (VR) from an accredited verifier by 31 March each year to the CA. The Commission template for AER was not used but the CA developed a MS specific template in xtml format. The reason for deviating from the Commission template is that Estonia already has an online reporting system for other air pollutants in place. This system was expanded to include also CO_2 emissions and is currently in testing phase. The CA expects to be able to use the system from next year onwards for the CO_2 emission reporting too. All CA departments as well as the Environmental Inspectorate have access to the database of this reporting system and use it widely for different purposes, e.g. cross-checking data indicated in the emission report. Yet, some AERs were found to miss the EPRTR code, which indicates non-compliance with other reporting systems.

8.4.2 Determination of emission figures

The national legislation contains provisions on how the CA is allowed to determine emissions figures based on conservative estimations. The determination by the CA would take place in case that the operator has not submitted a verified AER at all, or the submitted AER is incomplete, or contains mistakes that could not be corrected during the approval process. CA determinations would be based on historical emission data and/ or other emission data from the online reporting system on other air pollutants than CO_2. However, no emission figure was yet determined by the CA in Phase 3.

8.4.3 Improvement reports

Where verification reports outline outstanding non-conformities or recommendations for improvement, operators are required to submit improvement reports to the CA by 30 June of the same year. As there was no Estonian translation of the Commission template for improvement reports yet, operators were allowed to use any other template too. However, as the template has been translated now, from next year onwards the use of the Commission template for improvement reports will be mandatory.

8.4.4 Aviation

To date, no AERs regarding 2013 emissions were received from aircraft operators as the CA had advised them to submit the AERs for 2013 and 2014 together in 2015.

8.5 Accreditation of verifiers

The Estonian Accreditation Centre (EAK) is the appointed national accreditation body and responsible for the accreditation of the EU ETS verifiers in Estonia, working under the supervision of the Ministry of Economic Affairs. EAK has been a full member of EA since June 2000 and has been a signatory to the EA MLA in the field of accreditation of GHG verifiers since 10 April 2014.

The accreditation process starts with the application for accreditation by the verifier. The next steps are the review of the application documents followed by the appointment of the assessing team and the preparation of the witness audit. Afterwards, audits are carried out in the office of the verification body as well as onsite. In case of any non-conformities identified during the audits, the verifier is requested to take corrective measures and the NAB checks again whether the issues have been solved. EAK uses two types of (external) experts for the review of the verifiers: ETS experts from the CA and technical experts which mostly come from universities. Based on the experts' assessment the decision is taken and the accreditation certificate issued.

The competence of verifiers is checked during the audits through the review of relevant documents, interviews and witnessing. In order to ensure also the impartiality of verifiers, the NAB performs checks on the commercial register data of the verification body.

The accreditation certificate is valid for five years. During the last annual surveillance audit EAK reminds the verifier that it is time to apply for reaccreditation.

Four verification bodies had been accredited in Phase 3 but the accreditation of two verifiers was withdrawn in 2014, i.e. two accredited verifiers remain. In both cases, the verifiers had requested EAK do so given that their market share was too small and hence, it was no longer interesting for them to be active on the verification market.
No complaints with respect to a verifier have been received in Phase 3 so far. All verifiers had provided verification plans in time (by 15 November 2013), however many of these verification plans were blank as verifiers did not have their contracts signed at that time. Hence, the NAB received many changes to the verification plans afterwards. No deadline was set by the NAB for the notification of changes, however it is laid down in the general rules of EAK that verifiers should notify any changes "immediately".

EAK maintains a database of accredited verifiers which is published on their website. In case of any changes regarding the accreditation of a verifier (extension or reduction of accreditation scope, suspension or withdrawal) the database is updated within a maximum of 2 days.

Even though no regular meetings are held, good personal contacts have been established between EAK and the CA. Whenever issues arise they can be addressed quickly via email or phone calls. Furthermore, it was well perceived by EAK that the CA approached them actively from the very beginning when EAK was appointed NAB for GHG verifiers. As the accredited verifiers are mostly working in Estonia, no regular active information exchange with other MS NABs is taking place. However, EAK perceives the meetings of the EA working groups as a good platform for the exchange of information and experience with NAB colleagues from other MS.

8.6 Inspections and enforcement

Inspections are performed by the Estonian Environmental Inspectorate (EEI), which is working under the supervision of the Ministry of Environment. Inspections are carried out on an annual inspection plan of the Environmental Inspectorate or on an ad hoc basis on request of the CA. In general, around half of the installations are inspected on annual basis. The Environmental inspectorate is requested to write reports on every inspection carried out, but only informs the CA when any issues have been identified during the inspection. However, the offices of the CA and the Environmental Inspectorate are nearby and good personal contacts have been established between the two. There is no formal procedure to ensure the competence of the EEI staff but their expertise is still guaranteed as most of them are environmental engineers. In addition, the EEI staff can ask the CA for advice at any time if needed.

The Environmental Inspectorate is also responsible for imposing sanctions whenever necessary. This includes sanctions with regards to the general violations of permit conditions and requirements as well as sanctions in case of non-compliance regarding timely surrender of allowances. Several sanction types are laid down in the national legislation.

To date, no sanctions have been imposed on operators in Phase 3.

8.7 Good Practices

- A comprehensive web-based database which enables different entities involved to cross-check data with other permits is under development at the moment.
- The digital signature system in Estonia is efficient and minimises bureaucratic barriers during the process.

9 Finland

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9.1 Main changes compared to Phase 2

- The Energy Authority's FINETS electronic reporting system has been extended to incorporate the electronic submission of improvement reports and applications to waive verification site visits

9.2 Short description of authorities involved, their responsibilities and how they work together

Key responsibilities:

- The Ministry of Employment and the Economy: Has overall responsibility for the EU ETS
- The Ministry of Transport and Communications: Is responsible for the EU ETS legislation in relation to aviation.
- Energy Authority (EA): Since August 2004 the Energy Market Authority has been the National Emissions Trading Authority in Finland. The Energy Market Authority grants the emissions permits, pursuant to which the installations have right to emit carbon dioxide into atmosphere. The Energy Market Authority also supervises the monitoring and reporting of emissions data and maintains the Finnish part of the Union Registry. The EA organises allowance auctioning in Finland for both installation and aircraft operators. The EA reports to the TEM.
- Government of Åland authorities: The Åland region manages the EU ETS separately, using partially the same instruments as EA. Aland is an autonomous region in Finland with its own parliament, government and a mandate for own legislation concerning the issues of the Economy and the Environment in the region. There are 9 EU ETS-installations with a total emissions of about 6,800 tCO2/a under the control of the Åland authorities.
- Finnish Transport Safety Agency (Trafi): Since 2010 the Finnish Transport Safety Agency has been the National Emissions Trading Authority in Finland for the enforcement of the aviation section of the EU ETS directive. Trafi is responsible for the allocation of emission allowances to the aircraft operators which will be registered by the EA. Trafi also approves aircraft operators' monitoring plans, receives and inspects annual emission reports and approves aviation verifiers. Trafi is an independent agency, which arose from the fusion of the Civil Aviation Authority, the Maritime Authority and the Road and Railway authorities of Finland. Trafi has about 2 staff members working on EU ETS, roughly 1 Full Time Equivalent.
- FINAS: Is the national accreditation body (NAB) in Finland. FINAS is a department in the Finnish Centre for Metrology and Accreditation.

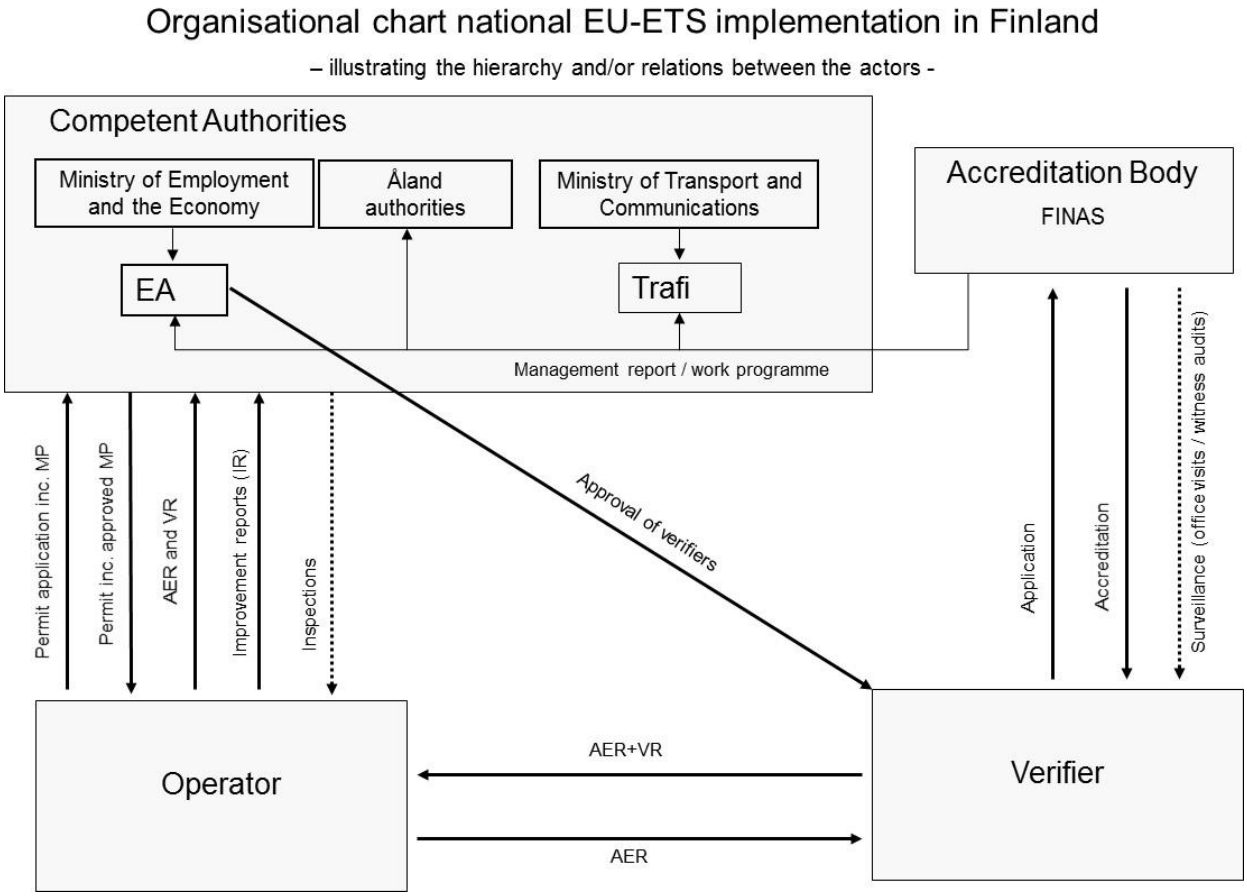

Figure 1 Institutional Structures of the EU-ETS in Finland

The Emission Trading Law concerning the Isles of Åland (Åland) was passed by the Parliament of Åland (PA). It is a so called "blanket-law" simply stating that "what is in force regarding EU ETS on the main land (continental Finland) is also in force in Åland." The exception being that the Competent Authority in Åland – which issues Permits and receives and reviews annual emission reports (AERs), verification reports (VRs) and improvement reports (IRs) – is the Government of Åland (GA).

The registry for Åland is maintained by the EA. The verifiers for Åland are the same verifiers as for the main land and they are accredited by FINAS. GA is co-operating with the EA in permitting and inspection of reports (AERs/VRs/IRs). The same Guidance documents for the operators and the verifiers are applied in Åland as on main land. The inclusion of Aviation in to EU ETS in 2010 has not changed any policies of Åland as the Government of Åland does not regulate any aviation operators.

9.3 Permitting and monitoring, including notification of changes

In Finland, the EA is the competent authority (CA) for installations and so is responsible for permitting and assessing the accuracy and implementation of, as well as changes to, the monitoring plans (MPs). Trafi is the CA for aircraft operators and so, with the exception of permitting, assumes similar responsibilities in assessing the accuracy and implementation of, as well as changes to, the MPs of aircraft operators.

9.3.1 Installations

9.3.1.1 Permitting

The submission of permit applications and MPs (including an application to update a MP) are all made through Finland's electronic reporting system – FINETS. In Finland, a significant update to the MP also requires an update of the permit; thus an application to update a MP also constitutes a permit application.

In 2011, in preparation for Phase III, the Ministry of Employment and Economy reviewed the revised list of Annex I activities and the EA issued temporary permits to new installation operators.

The EA provides operators will a Member State (MS) specific MP template, which includes all the requirements of the European Commission's template.

The EA has not received uncertainty assessments from operators in support of the Phase III MPs. Responses from operators regarding missing uncertainty assessments indicated that operators lacked the knowledge/understanding on how to complete the uncertainty assessment. To assist operators in completing the MP, the EA published guidance to operators on the preparation of uncertainty assessments. The EA has approved MPs and issued permits in lieu of the submission of uncertainty assessments by operators. The EA has implemented a deadline of the 30 June 2014 for operators to submit their uncertainty assessments.

The EA has developed its own completion checklists for the checking of received uncertainty assessments, risk assessments and documented procedures. All uncertainty assessments, risk assessments and evidence of commensurate procedures are retained by the EA in its FINETS system.

The EA does not provide a simplified or standardised MP and operators are required to use the version within the FINETS system.

The EA performs thorough checks on submitted MPs, checking all elements. EA staff use a MS specific checklist, developed by the EA, to guide these checks. No formal training has been provided to EA staff on how to assess MP applications. Staff learn from more experienced colleagues whilst undertaking their tasks and assigned duties.

All installation MPs were approved by the EA in March 2014.

In line with Finland's Emissions Trading Act, operators must notify the EA of significant changes to the MP before the change takes places, where possible. An application must be made electronically through FINETS where, subject to the satisfactory assessment of the application, the MP and permit are also updated.

The EA prescribes the changes, as per the list in Article 15(3) of the MRR, as significant changes to the MP requiring submission of a new MP for approval by the EA. Other changes not outlined in Article 15 of the MRR are considered on a case-by-case basis regarding significance and whether the

change requires the operator to submit a new MP application for approval. The EA does not define a list of significant changes additional to the list in Article 15.

The EA uses the same checklist used for the initial assessment and approval of MPs, as an application to update the MP in relation to a significant change requires the submission of a new MP in its entirety.

Other changes to the MP not requiring approval by the EA must be submitted to the EA, by email, without undue delay.

9.3.1.2 Monitoring

Currently a small number of installations (3 or 4 out of 581 installations) are not meeting the tiers required in line with Article 26 of the MRR. In all such cases, the justification for not meeting the required tier is based on unreasonable cost. All such claims have been reviewed by the EA and were found to be justified.

There is only one case in Finland where an operator is currently applying the fall-back methodology. The EA approved the use of the fall-back methodology for the installation for the 2013 compliance year and the operator is working to implement a tiered methodology for 2014.

In total five installations in Finland monitor their emissions using the measurement based methodology (CEMS). All five installations are either category B or C installations, and constitute: two nitric acid production facilities, two refineries and 1 coal-fired power station. The introduction of the MRR has increased the number of installations using CEMS, as previously under Phase II only the two refineries were included in the EU ETS and using CEMS. The standards applicable to measurement-based methodologies regarding quality assurance and measurement requirements in Finland are EN 14181 and EN 15259.

In Finland, compliance with biomass sustainability criteria is demonstrated by using a voluntary national system that the Commission has recognised for the purpose. The requirements of this national system are defined in national legislation (Act on Biofuels and Bioliquids (393/2013) and Emissions Trading Act (311/2011)). In 2013, the compliance with sustainability criteria was demonstrated through a specific form approved by the verifier. From the 1 January 2014, compliance with the sustainability criteria for bioliquids has to be demonstrated by a sustainability certificate or by the operator's own approved system in accordance with national legislation.

The EA has seen a rise in the number of operators submitting unreasonable cost claims in relation to meeting the tier requirements outlined in the MRR. Although the EA does not make use of the Commission's unreasonable cost determination tool, it did assess all claims and believes the process of assessing claims is more harmonised now under Phase III, compared to the situation in Phase II.

Finland has its own system for demonstrating that laboratories not holding an ISO17025 accreditation are considered equivalent. Under the system, a non-accredited laboratory has to obtain an 'expert opinion' from FINAS (Finland's NAB). FINAS undertakes checks of the laboratory's documentation, procedures, personnel and any applicable certifications/accreditations (e.g. ISO9001) and makes a determination regarding equivalence. If deemed equivalent, a certificate is issued to the laboratory

by FINAS, which in turn can then be provided to operators wishing to use that non-accredited laboratory.

As per the requirements of Article 34 of the MRR, the operator must first prove unreasonable cost or technical infeasibility in using an ISO17025 accredited laboratory, before any request to the EA to use a non-accredited laboratory will be approved. As such, it is believed that the requirements of Article 34 of the MRR have led to a decreased in the number of application to FINAS for equivalence.

There are two cases of the transfer of inherent CO2 in Finland. In both cases the transfer is of CO and CO2 arising at a steel plant, which is transferred to a power station. In both cases, both entities are installations covered by the ETS Directive. As such, the transferring installation subtracts the emissions equal to the amount of inherent CO2 transferred.

9.3.2 Aviation

The submission of MPs by aircraft operators (AOs) in Finland is done using the European Commission's monitoring plan template for AOs (template no. 2). Trafi uses the English language version of the template, as most of the AOs assigned to Finland are not Finnish.

Trafi makes extensive use of the Commission's *general guidance for aircraft operators* (guidance document no. 2). Trafi considers this guidance to be extensive and so Trafi has not seen the need to produce additional guidance AOs in Finland.

As part of the submission of Phase III monitoring plans, Trafi received all required uncertainty assessments, risk assessments and evidence of commensurate procedures from AOs. Electronic copies of all such documents are retained by Trafi on its secure server.

Trafi allows a simplified monitoring approach for small emitting aircraft operators, under the provisions in Article 54 of the MRR. As such, Trafi does not require small emitters to submit a risk assessment when submitting the monitoring plan for approval by Trafi. Trafi evaluates the risks associated with simplified MPs, mostly using the historical emissions data from the Eurocontrol Support Facility, and the Commission's guidance document No. 6.

Small emitters (as per the definition in Article 54) are required to use the Commission's standard MP template for aircraft operators, taking into account simplified requirements allowed for small emitters.

Once submitted, Trafi performs a full check on submitted MPs. All elements of the MP are checked by a member of Trafi staff. Given the relatively small number of AOs in Finland (7), no checklist is used in the assessment of aviation MPs.

All aviation MPs were assessed and approved between October and December 2012.

Trafi prescribes the changes, as per the list in Article 15(4) of the MRR, as significant changes to the MP requiring submission of a new MP for approval by Trafi. Significant changes always require an update of the MP. Approval of a significant change to the MP is communicated to the AO by email correspondence.

Trafi requires that other changes to the MP, which do not require approval, are notified once per year by the end of the year (31 December).

Trafi retains the current and all previous versions of aviation MPs in its database and changes are noted within the database.

9.4 Reporting and Verification

9.4.1 Installations

The EA provides installation operators with a Member State specific annual emission report (AER) template within the FINETS reporting system, which has been based upon and includes all the requirements of the Commission's template (No. 4).

The EA also provides a Member State specific verification report (VR) template for use by verifiers operating in Finland.

AERs and VRs must be submitted to the EA by the 31 March following the end of a compliance year. Submission is done through FINETS and use of this electronic reporting system is mandatory.

The EA has not provided any additional guidance, beyond the Commission's guidance, regarding the completion of AERs and VRs by operators and verifiers.

Once received, the EA checks all AERs where the accompanying VR outlines either non-conformities or recommendations. Each year the EA checks around 10% of submitted AERs/VRs for consistency, where the AER, VR and MP are compared. The EA does not prescribe a checklist or other tool for staff to use as part of such checks. AERs / VRs are selected for checking based on several parameters including sector, installation category and previous history of issues.

The FINETS system has an in-built completeness checking function, so incomplete AERs / VRs cannot be submitted to the EA.

The EA provides operators with a Member State specific template for improvement reporting. The EA provides two separate templates, one for cases where the VR identifies outstanding non-conformities or recommendations for improvements (Article 69(4)) and a second template for reporting on improvements to the monitoring methodology (Article 69(1-3)).

Improvement reports required in accordance with Article 69(1-3) had to be submitted by category C operators in 2014, with the deadline set as the 31 May 2014.

No requests for simplified verifications were received from installation operators for 2013 and, therefore, the EA did not approve any such verifications.

9.4.2 Aviation

As yet there has been no reporting by AOs in Finland under Phase III requirements. However, Trafi will use the Commission's AER template for AOs when reporting recommences. Reporting in Finland has been postponed to 2015 and Trafi received no AERs for the 2013 compliance year.

Trafi will permit simplified verifications for small emitter AOs once reporting recommences. Trafi does not permit simplified verifications for 'large' aviation operators.

9.5 Accreditation and acceptance of verifiers

FINAS is the appointed national accreditation body (NAB) in Finland.

FINAS is actively engaged in cooperation with both the EA and Trafi in implementing the requirements of the AVR in Finland. All parties meet around 4 or 5 times per year and actively communicate on a less formal basis by email and telephone, as required.

The FINAS website contains information about the accreditation process in Finland and this is publically available for verifiers to view. Verifiers can also attend an annual verifier workshop run by the EA and involving Trafi regarding verification and accreditation.

Verification bodies (VBs) seeking accreditation by FINAS must first submit an application for accreditation. FINAS then requests all relevant documents from the VB in line with Article 45 of the AVR but does not request anything additional. FINAS undertakes a document review of the submitted documentation. FINAS undertakes checks on the VBs procedures, documentation and personnel – including the competence and impartiality of verifiers. FINAS will then undertake an office assessment and also witness auditing of a sample of scopes being applied for. The lead assessor and the technical assessor will then report on the outcomes of the assessments. If there are any corrective actions required these will be communicated to the VB. Subject to the satisfactory close out of any corrective actions, FINAS then reports on the status of accreditation for that VB and this report includes the accreditation decision by FINAS.

An accreditation provided by FINAS is valid for 4 years.

At the point of accreditation or re-accreditation, a four year plan is developed regarding surveillance of the VB. Annual surveillance of VBs is undertaken through both office assessments and witness audits of verifiers. As part of an office assessment, FINAS checks verification reports to check that verifiers are allocating sufficient time to verifications. The re-accreditation process typically will start six months prior to the end of the current accreditation period.

In undertaking surveillance, FINAS uses technical assessors that have a deep knowledge in environmental and fuel science, drawn from industry and also the competent authorities.

FINAS received verification plans from all VBs accredited and operating in Finland. In 2013, there was some delay in obtaining the verification plans, as verifiers were not able to finalise contractual arrangements with operators due to a delay in the approval of the operators' permits. Most verification plans were received by the 31 December 2013.

FINAS has started to investigate some complaints made by operators in 2014 regarding verifiers. Feedback from operators is also always discussed with the CAs (EA and Trafi) as part of their regular meetings.

FINAS has been required to reduce the scope of accreditation of one VB under the requirements of the AVR, as the VB could not demonstrate the appropriate competence for the full-scope following staff changes. The VB was only operating in Finland, so FINAS did not need to inform other MS NABs, although it is aware of its responsibility to do this if there was cross-border verification activity. FINAS maintains a database of accredited verifiers in Finland, including their scope of accreditation, and this database is undated on an on-going basis (instantaneous as any change is made).

9.6 Inspections and enforcement

Inspections of operators and AOs under Phase III requirements have not yet taken place and both the EA and Trafi plan to start inspections in 2015. Due to limited resources within the EA, it intends to inspect around 2 or 3 installations each year. As there are only a small number of AOs assigned to Finland, Trafi will only undertake 1 or 2 inspections each year.

Neither the EA or Trafi has defined inspection procedures yet, but these will be in place before inspections commence in 2015.

Both CAs will adopt a risk based approach to selecting candidates for inspection. Trafi proposes to select its largest AO (Finnair, Finland's national carrier) first due to the AOs sizeable emissions.

In Finland, installation operators are required (by law) to provide the EA with documentation on request, so the EA does not believe it will be a problem to obtain documentation when inspections start.

Inspection teams undertaking inspections of installation and aircraft operators are drawn from within the EA and Trafi (respectively). Trafi prescribes that a team of two people will carry out inspections, including the person that approved the MP and an independent person not related to the particular case.

Enforcement processes have not changed significantly under Phase III in Finland. The EA is aware of its additional roles to approve applications for simplified verifications and approval of improvement reports. However, there have not been many other changes.

The EA continues to rely of verifiers to notice instances of partial or full cessation of Annex I activities at installations. The EA does not prescribe evidential requirements in cases of partial or full cessations and evidential requirements are determined on a case-by-case basis. In recent years, the EA has found it difficult to enforce in cases where an operator has filed for bankruptcy.

9.7 Good Practices

- Finland continues to be very transparent regarding the implementation of the EU ETS. All permits, MPs, AERs and VRs are publicly available on the CA's (EA's) web pages. Only those details relating to confidential process information are blanked out.

- In Finland, compliance with biomass sustainability criteria is demonstrated by using a voluntary national system that the Commission has recognised for the purpose. The requirements of this national system are defined in national legislation (Act on Biofuels and Bioliquids (393/2013) and Emissions Trading Act (311/2011)). In 2013, the compliance with sustainability criteria was demonstrated through a specific form approved by the verifier. From the 1 January 2014, compliance with the sustainability criteria for bioliquids has to be demonstrated by a sustainability certificate or by the operator's own approved system in accordance with national legislation.

- Finland has its own system for demonstrating that laboratories not holding an EN ISO/IEC 17025 accreditation are considered equivalent. Under the system, a non-accredited laboratory has to obtain an 'expert opinion' from FINAS (Finland's NAB). FINAS undertakes checks of the laboratory's documentation, procedures, personnel and any applicable certifications/accreditations (e.g. EN ISO/IEC 9001) and makes a determination regarding equivalence. If deemed equivalent, a certificate is issued to the laboratory by FINAS, which in turn can then be provided to operators wishing to use that non-accredited laboratory.

10 France

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Reviewers of Document: Christophe Ewald, Florence Berho & Jérôme Lesourd

10.1 Main changes compared to Phase 2

The main changes from the Phase 2 to Phase 3 are as follows:

- In Phase 2, the national legislation contained provisions on how a Competent Authority (CA) was allowed to determine emissions figures for installations. Such provisions were not maintained for Phase 3 and are not currently in place, as the EU regulation no longer needs transposition into the French regulation.
- Before introduction of the Regulation on Accreditation and Verification under the EU ETS, Commission Regulation No. 600/2012 (AVR) accreditation of verifiers was a two-step process, where verifiers had to be accredited by the National Accreditation Body (NAB) and approved by the national commission. An official list of verifiers then needed to be produced. Accreditation is now carried out by Cofrac (Le Comité français d'accréditation), in line with the AVR.

10.2 Short description of authorities involved, their responsibilities and how they work together

In France, there are several authorities involved in the implementation of the EU Emission Trading System (EU ETS), each with separate responsibilities. Figure 10 outlines the organisational structure of ETS in France.

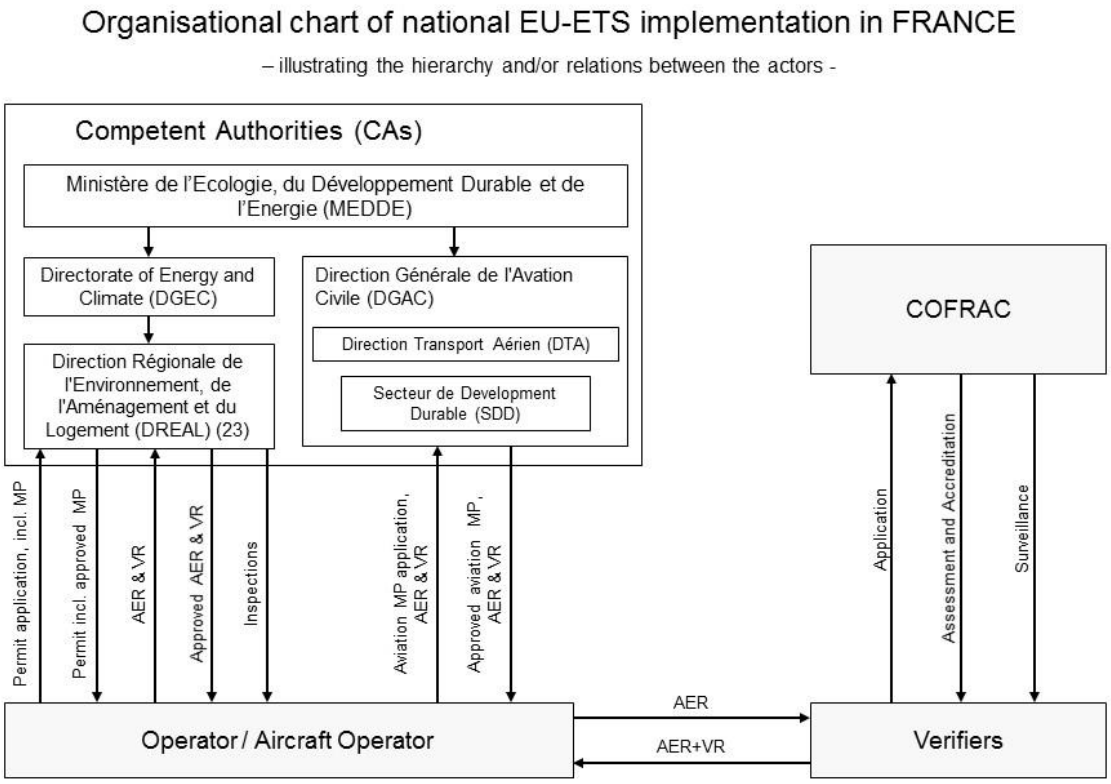

Figure 10 Organisational chart of EU ETS implementation in France

10.2.1 Directorate of Energy and Climate

The Directorate of Energy and Climate (DGEC), a unit in the Ministère de l'Ecologie, Développement Durable et de l'Energie (MEDDE – the Ministry), acts as the competent authority (CA) with overall responsibility for EU ETS and greenhouse gas (GHG) emissions in France.

10.2.2 Ministère de l'Ecologie, Développement Durable et de l'Energie

MEDDE is involved in the preparation of French versions of Ministry decrees and orders, following discussions with representatives from industry, non-government organisations (NGOs) and ministries. They also liaise with the 23 local authorities (Direction Régionale de l'Environnement, de l'Aménagement et du Logement (DREALs)) and the prefects. MEDDE provides instructions to the DREALs on implementation of EU ETS.

10.2.3 Direction Régionale de l'Environnement, de l'Aménagement et du Logement

A prefect is a representative of state at the local scale (there are several prefects in each region). The DREAL can be considered as the technical services of the prefect.

At the local CAs for EU ETS, the prefects are responsible for all aspects relating to installations, including:

- Issuing permits to emit GHG emissions
- Approval of monitoring plans (MPs)
- Changes in permits and notification of changes of the MP.

As the local CAs for EU ETS, the DREAL are responsible for all aspects relating to installations, including:

- Performing the technical analysis of all documents dealing with permits, MP and sending their conclusion to the prefect
- Receiving and reviewing annual emission reports (AERs) and verification reports (VRs), including confirming the correctness of the data contained
- ETS inspections.

10.2.4 Direction Générale de l'Avation Civile

Direction Générale de l'Avation Civile (DGAC) is a unit in the MEDDE and, within this, the Direction Transport Aérien (DTA) is responsible for air transport. Secteur de Development Durable (SDD) is the sub-unit of DTA that is responsible for EU ETS aviation.

10.2.5 Cofrac

The French committee for accreditation, Cofrac, is the national accreditation body (NAB) for France, according to Art. 4(1) of Regulation (EC) No 765/2008.

10.3 Permitting and monitoring including notification of changes

10.3.1 Permitting

Operators of installations have to apply to the relevant prefect for a permit to emit GHG emissions. Operators also have to apply for an operational permit, which is granted when a site starts its operations and contains a general reference to the EU ETS. The documents sent to the prefect are analysed by the DREAL.

The MP is a stand-alone document and is not integrated into the ETS permit. The local CA (DREAL) is responsible for review and acceptance of MPs, as well as notification of changes.
There is no prescribed format or template available for installation MPs. However, there is a list of mandatory content of MPs, which is set in line with Annex I of the MRR. The Ministry has stated that the reason for not having a standard MP template is that consultation with industry unions indicated that the majority did not want to have a mandatory template.

The Commission MP template is suggested to operators, with approximately 40% using this. The remaining 60% of operators use a free format for their MPs. DREALs have accepted harmonised free format MP from companies with multiple installations or industrial federations with very similar processes (e.g. tiles and bricks). The Ministry has noted that this has reduced the preparation work from individual sites.

Commission guidance on MPs is not specifically used by the CA(s) and operators, although the DREALs may refer to general Commission guidance to ensure they are in line with Commission views. The Ministry has sent the DREALs a French-specific guidance document explaining MPs and their assessment. This document has been produced to help DREALs understand quickly and focus on the core points of the MP, such as uncertainty analysis, application of tiers and data management.
Simplified MPs are allowed to be submitted by operators. The Ministry has provided DREALs with instructions outlining criteria for where a simplified MP is allowed. They have also provided them with a template for simplified MP, which is a simplified version of the Commission template. However, use of this template is not mandatory. Operators are also asked to complete a simplified risk assessment.
To assist in the review and approval of MPs, the Ministry has published national guidelines and FAQs on critical issues. They have also provided DREALs with a checklist that covers the requirements of the MRR and guidance document that outlines areas of focus. The Commission's Exemplar checklist for assessing installation MPs is not used.

The Ministry provided training for DREAL staff in 2013 on assessing Phase 3 MPs. They have bi-annual meetings that can be attended by DREALs and a helpdesk is manned by a Ministry staff member.

The DREAL check aspects of the MP in line with the guidance provided by the Ministry. Where issues occur, the DREALs will seek advice or assistance from the Ministry. The conclusions of the approval process, including any issues identified, are included in a letter sent to the operator by the DREAL. If no letter is issued by the DREAL, the MP is considered to be accepted two months after application.

DREALs have had issues with operators in updating MPs to the requirements of Phase 3. A number of operators ignored the changes in legislation and wanted to continue to monitor and report in line with the Phase 2 MP. The Ministry had to assist the DREALs to ensure that operators adhered to the requirements for Phase 3.

All the Phase 3 permits and MPs have been approved. The majority were approved by May 2013. Approximately 20 MP needed long discussions with the operators and the lasts ones were only approved in December 2013. The CA had difficulties with two sectors in particular, refineries and cement (clinker).

10.3.2 Notification of changes

MPs can be renewed annually, but this is not mandatory. Operators are expected to notify the prefect, by registered mail, as soon as possible where there is a significant modification to its MP. The issues that are listed as significant modifications to the MP requiring approval by the CA are set out in a national decree from 31st October 2012, which covers the requirements as per Article 15 of the MRR.

When a notification of change is received, an inspector will be assigned to analyse the change(s) reported and prepare an inspection report. The inspection report is reviewed as part of the approval process, so, as in the approval process of the MP, the inspector is not alone in assessing/approving the change to the MP. The report proposes outcome to the Prefect of the DREAL. Once changes have been assessed and approved, the DREALs will issue an official letter of approval, signed by the Prefect.

Non-significant changes must be reported to the prefect by the 31 of December at the latest (also by registered letter).

10.3.3 Monitoring of emissions

In France, interpretation of the broadened definition of 'combustion' (as outlined in Directive 2003/87/EC Art. 3(t)) has resulted in the inclusion of particular installations, such as road installations and electric motors in informatics centres. DREALs have checked that the perimeter of the installation matches the perimeter as per benchmarking.

The Ministry has highlighted that the requirements for backup units, such as backup generators in data centres, is not specifically clear in Annex I. The Ministry should confirm whether data centres are included in France. They have also highlighted some issues with special installations used to pave roads (they have twenty such installations covered by EU ETS). These installations make asphalt for the road and it is unclear as to whether they should have been included under EU ETS. The main issue is that the installations are fixed, but only temporarily in the region (usually 2-3 months) and then move to another. This makes reporting difficult as they only remain a few months in each region.

The Ministry has also highlighted a difficulty in defining a 100% biomass installation, as a fossil fuel is typically used for start-up. They have therefore chosen to use a 1% fossil fuel interpretation, but have experienced difficulty in having this accepted by industry.

The Ministry is not aware of specific monitoring experiences for French installations, as consultation with the local CAs has not been carried out. A national study of the 1,102 installations is currently being undertaken. This study will provide the Ministry with information on aspects such as Category B and C compliance, use of the fallback and CEMs.

Global warming potentials in the monitoring of installation emissions have been applied in nitric acid installations and aluminium plants. CA did experience an issue with this as the more recent global warming potential for PFC of primary aluminium was higher than that for 1996 GWP, but the issue was resolved through discussion at the European level.

10.3.4 Aviation

Aircraft operators (AOs) falling under EU ETS are regulated by SDD unit within DTA (under DGAC). A permit is not required for AOs in France.

For the submission of MP, aircraft operators are required to use the Commission template. Small emitters are allowed to use simplified monitoring requirements and a Commission approved tool, the Small Emitter's Tool.

DTA has a checklist, which provides them with a focus for identifying typical mistakes made by AOs. DTA carry out crosschecks between updated versions of the Commission EU ETS Operator List and previous versions, in order to identify changes and new AOs.

When a new AO is identified, DTA will contact Eurocontrol in order to obtain contact details. If contact details are not available via this route, DTA will try contact with the CA in the member state (MS) of registration or with the Civil Aviation Authority in the country of registration. There has sometimes been difficulty in contacting new AO, but these tend to be operators with very low emissions.

The requirements for fuel density measurement and identifying sources of uncertainty and determining fuel uplift, as outlined in the MRR, are considered clear by DTA.

DTA uses Eurocontrol Support Facility (SF) to check annual emissions reports (AERs).

For submission of 2013 AER, DTA has contacted AO by email and made information available on their website that informs AOs that they can submit their 2013 AER along with their 2014 AER by the 31 March 2015. A note was added that earlier submission would be welcome.

At the time of interview, DTA has received about 10-15 AERs based on the new scope. For those that were received before the changes to the regulation, they have gone back to the operator to thank them and to inform them where an adjustment to the submitted AER was required. In these instances, DTA has asked verifiers not to charge for second verification.

10.4 Reporting and verification

10.4.1 Submission of AERs and VRs

Submission of installation AERs and VRs for EU ETS is carried out in a structured predefined format in the web-based database GEREP. This database has basic prefilled information identifying the installation and its operator. GEREP is not only used for ETS, but also for EPRTR report. This reporting system has been used since 2005. The reporting system is not ETS-specific, although the CA has stated that the requirements, as set out in Annex X of the MRR, are covered by the AER. Operators are required to submit their AER by 28 February each year.

National guidance is available to operators on completing the AER in the GEREP. There is also some training by CITEPA (the French Interprofessional Technical Centre for Studies on Air Pollution) for operators and inspectors and where to complete information.

Verifiers have no access to GEREP but use a printout provided to them by the operator.

For aviation, Reporting is managed by DTA and is not part of the GEREP system. AERs and VRs are completed using the Commission templates for AOs. French translations are available and DTA accepts templates used in both languages. AOs are required to submit a verified AER and the accompanying VR before the 31 March each year.

10.4.2 Review of AERs and VRs

The DREALs are responsible for the review, acceptance and approval of AERs and VRs, which must be submitted by 15 March each year. The Ministry will then perform a final review of the consistency and

completeness of the AER information in GEREP and will compile a full list of verified data in Excel to send to the Registry. Registry staff will then upload the numbers in the CITL.

The Ministry has provided guidelines on the review of AERs and VRs to the DREALs, which highlights the core areas to be focussed on. Each year, all AERs are reviewed for completeness. Content related checks are carried out on the AERs. Approximately 10% of VRs are checked to determine whether a site visit has been carried out (or, if not, whether waiving the site visit had been approved by the CA) and the verifier comments. DREALs select VRs to check by taking 50% of category C installations, 25% of Category B installations and 25% of Category A installations each year. Where possible, different reports would be checked each year to those checked previously.

With aviation AERs, a check is carried out against Eurocontrol data on 100% of reports.

If material misstatement were identified in an AER, the CA would first go back to the operator and ask them to complete. If operator does not then complete the report, a formal notice would be issued. If reports are not completed by May, the DREAL would then determine the emissions.

If mistakes were identified in the AER, the DREAL would suspend the AER and ask the operator to modify the AER, get it re-verified and resubmit. If errors were found in a VR, the CA would report these to the NAB.

10.4.2.1 Determination of the emissions figure

In Phase 2, the national legislation did contain provisions on how a CA is allowed to determine emissions figures for installations. However, these provisions were not maintained for Phase 3, although re-setting of these for Phase 3 is being looked at. These would be set in such a way that estimated emissions would be higher than reality, providing operators with the incentive to report themselves.

The Ministry has send guidance on determination of emissions to the DREALs. The current process is to estimate the fuel used and apply the standard emission factors for the fuel from the National Inventory.

Emissions would need to be determined in instances where no AER was submitted or where a mistake had been identified, but not corrected. There were around four cases where an AER was not submitted in 2013. There were no instances where determination was carried out due to an uncorrected error in the AER.

Operators who do not submit their AER tend to be those in bankruptcy and, with these, it can sometimes be difficult to obtain fuel consumption. In some instances a pro-rata of previous years' verified emissions may be used. Can still be difficult in determining emissions when there is no data available to do so.

For aviation, there is a decree that states that DTA can use Eurocontrol Support Facility data for determination of emissions.

10.4.2.2 Improvement reports

Operators are required to submit an improvement report (IR) to the DREALs by the 30 June each year. There is no specific template provided for IRs. The Ministry has sent guidelines and instructions to the DREALs to inform them to check that IR being submitted on time.

The Ministry has sent the Commission template to the DREALs, who have sent to operators. However, there is no obligation to use this template. IRs relating to Article 69(2)(3) and Article 69(4) are not required to be combined. Operators are left with a choice of how they wish to submit their IR.

To date the most common improvement requirements identified by verifiers and operators are:

- Improvements to the MP, many lack on several points, such as around minor sources
- Recommendations on where tier level not respected (the Ministry noted that significance of some of these seems to be up to around 5% and they believe those AERs shouldn't have been given positive verification)
- Incorrect tier applied, particular the EF for natural gas. Operators can't use the one that was used in Phase 2, but some operators continue to do so
- Improvements relating to improved quality checks on data and control and management of data flows.

10.4.2.3 Electronic reporting

In France, there is no IT system in place covering and storing all information gathered through monitoring and reporting for EU ETS.

Submission of AERs for EU ETS is carried out in the web-based database GEREP, and is combined with reporting for EPRTR.

Use of electronic reporting for EU ETS in the future is a question that the Ministry may consider for the future.

10.5 Accreditation of verifiers

Accreditation of verifiers is carried out by the French committee for accreditation, Cofrac, which is the NAB for France.

Before introduction of the AVR accreditation of verifiers was a two-step process, where verifiers had to be accredited by both the NAB and the national commission. An official list of verifiers then needed to be produced. Accreditation is now carried out by Cofrac, in line with the AVR. Cofrac has noted that some of the key improvements made by the AVR are the focus on verifier team competences and information exchange (between verification bodies, CAs and NAB).

The introduction of the AVR has improved and strengthened the relationship between the NAB and the Ministry (who acts as the focal point for the CAs), particularly through information exchange. Two meetings are held between the NAB and the Ministry each year and informal communications are carried out through the year. The bi-annual meetings predominantly focus on:

- Report and exchange information on specific cases regarding verifiers (including issues around accredited scope and complaints)
- Technical discussions around monitoring and reporting, particularly on aspects which are not clear
- Points of focus for assessments of verification bodies for the coming year.

Information and reports are also exchanged on issues, such as mistakes made by verifiers in AERs.

The Ministry has submitted some complaints, regarding a verifier, to the NAB that has accredited that verifier. These are predominantly regarding benchmarking issues, but some monitoring and reporting issues have also been identified. These are likely to be raised to the NAB in a report planned for September. Any large complaints would be reported to the NAB as soon as possible.

The Ministry has also received information from the UK NAB, UKAS.

The process for accreditation of verification bodies by Cofrac follows a number of steps:

- A written request is sent to Cofrac, which must specify the requested accreditation scope
- An agreement is then signed between Cofrac and the verification body
- An initial document review is performed to define whether the applicants' system meets the requirements of accreditation and takes the AVR into account
- An initial assessment is then performed, which includes a head office visit and 1-3 witness audits. These initial assessments are typically longer than surveillance reviews
- Cofrac will outline findings of the assessment. There is then an opportunity for the verification body to address and rectify and non-conformities before a decision on accreditation is made. The verification body needs to provide an action plan within 15 days and then provide proof of corrective actions taken once actions are complete. Cofrac specifies two types of non-conformities:
    - Critical non-conformities, which the verification body needs to rectify within three months
    - Non critical non-conformities, which the verification body needs to rectify within six months
- If there are many non-conformities, Cofrac can do a complementary assessment (after resolution of those non-conformities by the verification body) to ensure all issues from non-conformities are addressed
- An accreditation decision is taken by Cofrac's General Director or his deputy, based on the notice submitted following the assessment process
- An annual surveillance is performed, consisting of:
    - One assessment at the verifier head office (to check that verifier operates in conformity with EN ISO 14065 and Commission Regulation (EU) 600/2012)
    - One or more witness assessment (depending on the accredited scope and activities), where a technical assessor witnesses the verifier conducting a verification
    - The surveillance team is composed of a quality assessor in charge of examining organisational provisions and one or more technical assessor to examine the technical competences and implementation of verifications process through records.

The accreditation certificate is valid for five years.

Cofrac provides verification bodies with an elaborated guidance document (also available on their website) with specific requirements for the verification of GHG or tonnes-kilometre reports. Use of this document is mandatory and is part of the accreditation.

Cofrac has established procedures to withdraw, suspend or reduce the scope of an accreditation of a verifier not meeting the AVR requirements, which is included as part of their general procedures (GEN PROC 03: suspensions, terminations and withdraws). Cofrac has carried out some reductions in scope in Phase 3, some due to verification bodies not demonstrating adequate technical competences and others due to the verification body not wishing to be accredited for specific groups anymore.

10.6 Inspections and enforcement

10.6.1 Inspections

Inspections of installations are performed by inspectors from the DREALs, usually as part of ongoing environmental inspection activities, such as IED inspections. Inspections are therefore not EU ETS specific.

Approximately 10% of EU ETS installations are inspected per annum. The inspection frequency and schedule is determined by each DREAL, using local information and procedures rather than information from the Ministry. This may lead to inconsistency from one region to another. Following inspection, the inspector will produce a report with recommendations from the DREAL. Installation level or overall findings related to EU ETS are not reported in a structured manner to the Ministry. Operators are also informed for any actions required and timescales for resolution.

Each local CA is in charge of its own inspection policy, which may lead to inconsistency from one region to another. However, MEDDE considers developing additional guidance as a result of a recent internal evaluation project. Reasons for changes are the perceived variance in local approaches, which works satisfactory for integrated permitting.

Sanctions are in accordance with general environmental legislation and no specific sanctions for non EU ETS compliance exist, apart from late surrendering in which case a procedure with fines exist. Since 2013, a new penalty has been set for operators who do not comply with obligations of submitting information on activity related to article 24 of CIMs (decision 278/UE of 27 April 2011 on free allocation)

10.6.2 Enforcement

The enforcement process in France has been developing in Phase 3. By 2015 the Ministry intend to have national actions and objectives set for DREALs, to assist them in checking and verifying implementation of MRR. There will be stricter consequences when issues are raised by verifier in a VR.

Currently a formal notice, with an administrative penalty, can be issued in the case of no AER submission. For aviation, the penalty for not submitting a MP or AER (or an unverified AER) is up to 7,500 €.

10.7 Good Practices

- The Ministry provided training for DREAL staff in 2013 on assessing Phase 3 MPs. They have bi-annual meetings that can be attended by DREALs and a helpdesk is manned by a Ministry staff member.
- DTA has a checklist for the checking of MPs and AERs submitted by AOs, which provides them with a focus for identifying typical mistakes made by AOs.
- National guidance is available to operators on completing the AER in the GEREP.
- The Ministry has provided guidelines on the review of AERs and VRs to the DREALs, which highlights the core areas to be focussed on.
- Cofrac has carried out some reductions in scope in Phase 3, some due to verification bodies not demonstrating adequate technical competences and others due to the verification body not wishing to be accredited for specific groups anymore.

11 Germany

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11.1 Main changes compared to Phase 2

- Responsibility for MP approval has been shifted from regional CAs to the national CA
- MPs are developed based on XML instead of Word-based template
- the route for certifying verifiers through the German Chamber of Commerce (IHK[10]), which are natural persons, has been closed
- Verifiers that are natural persons can only be certified through DAU, which is no longer a common accreditation route as currently only one verifier has been certified as single person verifier
- Inspection is an upcoming task for the national CA rather than the regional CAs and in each case performed by staff that is also responsible for approving the MP and reviewing the AER and VR.

11.2 Short description of authorities involved, their responsibilities and how they work together

In Germany there are several authorities involved in the European Union Emission Trading Scheme (EU ETS) which execute functions of the Competent Authority (CA) as defined by Directive 2003/87/EC. Figure 11 shows all authorities and stakeholders involved and the communication between them.

[10] Industrie- und Handelskammer

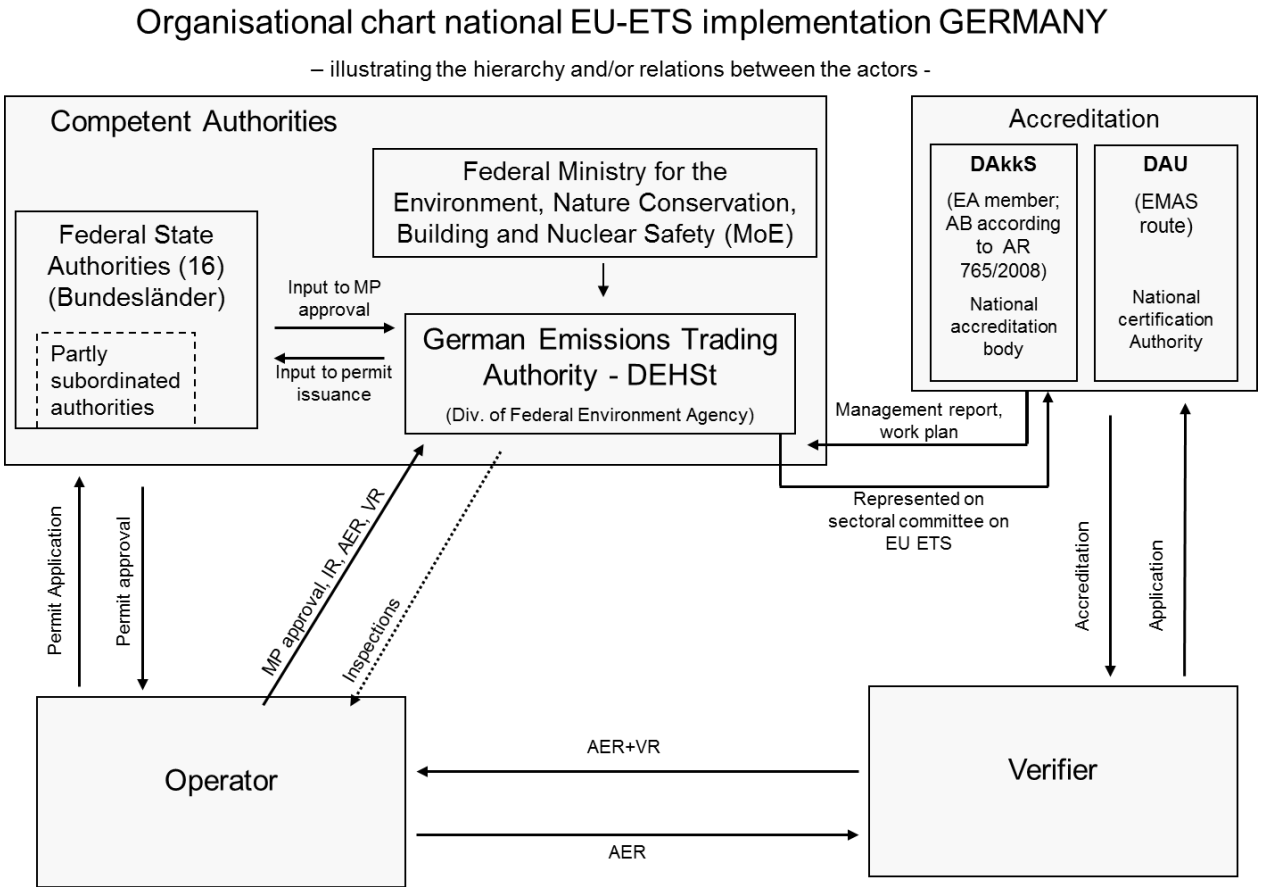

Figure 11 Institutional Structures of the EU ETS in Germany

11.2.1 German Emissions Trading Authority (DEHSt)

The main authority for the EU ETS in Germany is the German Emissions Trading Authority (DEHSt). The DEHSt is a division within the Federal Environment Agency (UBA) which operates under the supervision of the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety (MoE). The national competent authority (CA) is with respect to the EU ETS - apart from permitting for stationary installations - responsible for all administrative and implementing tasks including annual emissions reporting and the registry.

11.2.2 Federal State Authorities (Regional Regulators)

At the regional level, the environmental authorities of the 16 federal states are responsible for issuing GHG permits to installations. Since the start of Phase 3 of the EU ETS in 2013 they are no longer in charge of approving monitoring plans (MP) for installations or of undertaking inspections. Within the various federal states differing approaches exist in terms of which authority is responsible for the issuance of permits. However, by law the DEHSt shall be asked for input before a permit is being issued in order to ensure that the boundaries of the permit are in line with the MP and the MRR. Similarly, the federal state authorities can comment on the MP before the final approval. In addition to this process, the federal states and the national CA have established a national working group to

ensure a continuous exchange of information and a harmonised nationwide implementation e.g. matters such as installation boundaries. It is a voluntary group and not all federal states participate.

The inclusion of aviation into the EU ETS did not result in the involvement of additional authorities for the administration of the EU ETS. In Germany the administration of the aviation operators is organised centrally and the sole responsibility of the DEHSt. Federal State Authorities are not involved.

11.2.3 National accreditation body and national certification authority

Germany is the only country that has, next to its national accreditation body (NAB), also nominated a national certification authority (NCA) for the EU ETS.

The Deutsche Akkreditierungsstelle (DAkkS) is the nominated NAB and is responsible of accrediting verification bodies, which are legal entities, i.e. corporations or partnerships. It fulfils the requirements set out by the accreditation regulation 765/2008 and is a member of the European co-operation for Accreditation (EA). The Deutsche Akkreditierungs- und Zulassungsgesellschaft für Umweltgutachter mbH (DAU) is nominated as the NCA and provides for the certification of single person verifiers. The DAU has already been part of the EU ETS recognition scheme for verifiers in Phase 2 in Germany.

11.3 Permitting and monitoring including notification of changes

No changes applying to the permitting process have resulted from the introduction of the Monitoring and Reporting Regulation. The EU ETS permit is connected to the already existing permit under the Federal Emission Control Act (Bundesimmissionsschutzgesetz) and is thus granted by the regional competent authorities. For installations that had received a permit under the Federal Emission Control Act before 15.07.2004, no new permit was granted except where operators explicitly applied for one. This means that the installation boundaries of the EU ETS installations are within or identical to the installation boundaries as defined in the permit under the Federal Emission Control Act. In the case of new entrants, the EU ETS permits are issued together with the permits under the Federal Emission Control Act. The EU ETS permits do not have a maximum duration.

MPs are separate documents and not part of the permits since both are granted by different authorities, permits by regional authorities and MPs by the central authority.

Since 2013 the approval of the MPs is the responsibility of the national CA. At the time of writing all but one MP plan have been approved. The remaining one was expected to be approved with concessions within four weeks' time.

Since the start of Phase 2, operators are obliged to use the electronic MP template in xml-language provided through Germany's reporting tool Form Management System (FMS). It is an intelligent user interface which includes all information required by the MRR with many predefined dependencies, e.g. the rationale for the choice of tiers, including information about the characteristics of measurement equipment, QA/QC procedures. Next to simple guidance contained in the form, an elaborate guidance

document is available. This guidance also addresses more sophisticated issues, e.g. sector specific guidance and guidance on uncertainty assessment. Operators are explicitly asked to apply only this national guidance, which is consistent with Commission guidance (except for uncertainty assessment), but in some cases tailored to the national template or complemented with further details. In addition, the frequently asked questions (FAQ) section on the CA's website is consistently updated and provides additional clarifications and explanations on monitoring requirements, which are often triggered through questions by operators or verifiers.

Since, with the start of Phase 3, MPs of both installations and airline operators are integrated into an existing database system (ADB[11]), in which automated checks both in terms of completeness and consistency with other available data, e.g. with the submitted annual emissions and tonne-kilometres reports, are performed on every submission. However, manual checks are performed on every MP as well. Inspectors are assigned to each installation or airline operator and are in charge of reviewing the respective MP, improvement reports, annual emissions reports (AER) and verification reports (VR), as well as undertaking the inspections on site. These inspectors are trained and provided with internal procedures to guide each process. Automated checks based on database tools and written instructions help inspectors to focus on most critical cases first.

Ensuring a harmonised implementation at national level:
Different approaches for issuing permits for the EU ETS remain at the regional level. In some federal states, there is one central authority, others have numerous sub-regional authorities or the responsibilities are divided between regional and sub-regional authorities. This allocation of responsibilities at federal state level can be subject to change whenever the administrative organisation in one federal state changes. While at the regional level there continues to exist this variance in approaches, the risk of inconsistencies in monitoring plans has been decreased considerable by assigning the MP approval process to the national CA. Also, the national compliance forum (LAI - AISV - expert group "technical information exchange MRG") continues to exist in order to harmonise approaches of the national CA and regional CAs, e.g. on issues such as the boundary of installations. Regular communication allows the national CA to voice an opinion on the issuance of permits and vice versa in the approval process of a MP.

Improvements over time:
The existing guidance, templates and support functionalities (IT) have been improved and extended, e.g. through integrating the MP template for installations into the national IT system as well, based on the experiences made and the more defined requirements provided in the MRR. Existing guidance documents (incl. FAQs) are also checked and updated regularly. In the meantime, some issues are corrected or clarified when necessary based on findings from research projects commissioned by the national CA. A stakeholder working group with representatives from industry and authorities ensures that a continuous exchange of opinions on the EU ETS implementation takes place. But most importantly, the DEHSt's helpdesk, which is the direct communication channel between operators and the CA, allows the DEHSt to continuously identify areas that require responses, e.g. individually or through further guidance and FAQ.

[11] Anlagendatenbank (ADB)

11.4 Reporting and Verification

The national CA provides operators with FAQs on emissions reporting, verification and other related topics. Elaborate and national specific guidance is provided in the guidance document, which also addresses monitoring aspects.

11.4.1 Submission of reports

The basis for the AER is FMS provided by the national competent authority. Its use for reporting purposes is obligatory since the start of Phase 3 and the provided form covers the minimum requirements of the MRR. This system is based on xml-language and is accessible via internet for the public. FMS works with assigned roles for operators and verifiers, i.e. depending on who logs in certain fields are blocked, and through that effectively combines the AER and verification report into one report. The operators include all required information and generate the annual emission report as an xml file, whilst the software automatically calculates the annual emissions based on the operators' input. The system also offers the option to attach different annexes to the reports by the operator and the verifier (e.g. risk assessment, uncertainty assessment, procedures, confidentiality declaration and further explanations). If the report is complete and finished, the operator transfers the rights to modify the report to the verifier. The electronic signing of annual emission reports is communicated via the electronically secured email system (VPS) provided by the national CA. The written form requirement makes it in Germany necessary, to use FMS and VPS (prescribed federal solutions), and thus the functionalities of FMS and ADB must be kept separate. Electronic submissions and signatures of documents are accepted and entirely replaced submissions of signed hardcopies.

The verification report is an integrated form within the AER form. When an operator or a verifier receives the rights to modify the report, he/she is only enabled to modify fields which belong to his/her role. Further information is visible but not modifiable. During the verification process the verifier reviews the information included by the operator and adds his comments and his verification opinion to the verification parts of the AER. If the emissions report is approved by the verifier, the verifier gives his/her verification statement in the same template used for the emissions report to verify, again signing it with a qualified electronic signature, and sends it back to the operator. The operator has to sign the report and then to forward the verified report, relevant documents and verification statement to the national CA before 31 March via the VPS.

If the verifier finds, during verifications or site-visits, deviations to the MP, he has to raise the operator's attention to it. The operator has the opportunity to correct mistakes, if possible. Remaining mistakes and findings will be included in the verification report by the verifier. In the verification report, the verifier has to confirm if the AER contains material misstatements and non-conformities or misstatements and non-conformities below the materiality levels or is free from any misstatements or non-conformities. In the case of reported findings or other comments or recommendations for improvement included to the statement by the verifier, the national CA starts a follow up procedure which may include decisions on potential corrective measures or sanctions.

A waiver of site visits is possible if justified in accordance with the conditions laid down in the AVR. The verifier has to provide justification for his decision to waive the site-visit in the verification report. However, during the first reporting year of Phase 3 no approval was granted for waiving site visits

and verifiers as well as operators were made aware of this. Whether site visits have been waived nevertheless is going to be checked during the review of the verification reports.

11.4.2 Review of AERs and verification reports

Each report (stationary and aviation) is checked by the national CA. This is done electronically in a first step through automated completeness and consistency checks based on predefined criteria, plausibility ranges for certain values and already included information about the installation (e.g. annual emission reports of previous years). If findings occur, warning messages are generated for the respective staff member ('inspectors'). It is also tracked that a follow-up of all findings takes place. Additional to the automated system, the national CA aims at checking all AERs, at a minimum level, on completeness, consistency and plausibility. Furthermore, detailed checks are randomly performed or when previous checks resulted in findings, i.e. outstanding non-conformities or recommendations by the verifiers. The database includes official procedures which need to be followed by the national CA's experts for checking the AERs. Additional to the procedures, the experts have to fill out a protocol for each performed AER check, which will be checked and evaluated by a control entity. The current staff of the national CA receive annually updated procedural and material instruction, regular training and capacity building measures to ensure a similar level of knowledge and harmonised decisions within the authority.

The CA does not officially accept the reports. Operators will only be contacted in case of findings, if additional information and clarifications are required or if emissions will be determined. Verifiers as well do not get feedback on their findings, which have been included in the verification report. In case a verifier gives a negative verification statement, the operator has to correct his report or the DEHSt will estimate the installation's emissions adhering to the existing provisions under the EU ETS as far as possible. If the check of verified AERs results in findings, which challenge the competence of the verifier, the DEHSt will inform the National Accreditation Body, which has accredited this verifier, and the verifier. Depending on the severity of the issue identified, the DEHSt will decide whether the NAB will be informed instantaneously or whether it will do so through the annual communication to its NAB.

Germany provides a mandatory template for improvement reports limited to information that is not already provided through FMS. Both types of reports are due by 30 June. At the time the interviews were held no reports had been received yet.

11.5 Accreditation of verifiers

Germany is the only country that has, next to its national accreditation body (NAB), also nominated a national certification authority (NCA) for the EU ETS. Both bodies have been involved in Phase 2 in the certification or appointment of verifiers. The practice of using sworn experts ("öffentlich bestellte und vereidigte Sachverständige") for verification under the EU ETS, which have been previously approved by their local chamber of commerce (IHK) has been abandoned.

The Deutsche Akkreditierungsstelle (DAkkS) is the nominated NAB in accordance with accreditation regulation 765/2008 and is responsible for accrediting verification bodies, which are legal entities, i.e. corporations or partnerships or legal persons. It is a member of the European co-operation for

accreditation (EA) and undergoes the EA's peer review. A close cooperation has been established between the central CA and the DAkkS, through, for instance, the DEHSt being represented in the DAkkS' sectoral committee on EU ETS and the DAkkS participating in a workshop for verifiers organised by the DEHSt in December 2013. It is intended to organise common workshops regularly at the end of each assessment period.

Under the DAkkS accreditation process, witnessing activities are carried out during the initial accreditation of verifiers. The actual approval of the accreditation is provided by an independent Accreditation Committee ("Akkreditierungsausschuss") of the DAkkS, whose members have not been involved in the accreditation assessment. If appeals are raised on the performance of verifiers the DAkkS will check the respective verifier and can impose disciplinary sanctions up to a withdrawal of the accreditation certificate. Surveillance audits concerning the 17 verification bodies are scheduled by DAkkS and will start at the end of June 2014.

The Deutsche Akkreditierungs- und Zulassungsgesellschaft für Umweltgutachter mbH (DAU) is nominated as the NCA and provides, next to the licensing of EMAS auditors, certification of single person verifiers that are natural persons in accordance to the German GHG-emissions-trading law and emission trading regulation, and the AVR. With the application for certification applicant verifiers need to present their methodology on how annual emission reports and tonne-kilometre reports are being verified. The DAU has made available a checklist for the assessment of whether the presented methodology is in line with requirement of the AVR[12]. Competence of applicant entities is assessed based on the submitted documentation accordance to the AVR, including the methodology and references to relevant experiences in regards to verifications of GHG emissions. Additionally, the competence and expertise can be tested during the assessment through an oral exam, which entails EU ETS specific questions.

Currently 17 verification bodies are accredited under the DAkkS and one single person verifier was accredited for the EU ETS through DAU, compared to around 200 experts during Phases 1 and 2. Partly because the certification system was implemented by the DAU only in November/December 2013, most verifiers that had been certified previously have joined a verification body as auditors or founded a partnership, which is now accredited as a legal entity by the DAkkS, for Phase 3 in order to be able accredited in time for the first verifications in Phase 3.

There are no coordinated control activities of the two accreditation/certification bodies since the DAU is supervised by and primarily reports to the Federal Environment Ministry, while the DAkkS participates in the EA peer review process. However, both bodies need to report to the DEHSt in line with the AVR and have done so by submitting the work programmes as this was the only requirement at the time the interview was being held. While there is regular information and expertise exchange between the DAkkS and the DEHSt outside of the official channels, i.e. the verification plan and the management report, there is no such communication taking place between DAU and the DEHSt.

[12] http://www.dau-bonn-gmbh.de/mddload.htm?id=2162

11.6 Inspections and enforcement

Regular inspections which include site visits of installations are scheduled to be undertaken by the staff, inspectors, of the national CA. These inspectors are the same staff that have approved the MPs and reviewed the annual emission reports and verification reports of the installations they are inspecting. These inspections have not started yet since the review process of the 2013 AERs and verification reports has not been completed yet.

Currently, penalties are imposed by the national competent authority if surrendered allowances are insufficient or too late according to Article 16 (3) EU ETS Directive. In the case that the national CA detects mistakes in the annual emission reports, the CA tries to correct the mistakes, based on available information, or requests the operator to deliver additional information or justifications. If the operator does not react appropriately, the CA determines the emissions in a conservative but realistic way. If corrections lead to higher annual emissions, the CA requires the operator to surrender additional allowances and applies penalties according to Article 16 (3) EU ETS Directive regardless of culpability. Since the review of the emission reports has just been started at the time of the interview no emissions figures have had to be determined at that point in time. General fines independent of surrendered allowances can be applied as well but have been rare in practice. The CA also frequently blocks registry accounts for operators if no AER is submitted in time. The national CA is imposing penalties on airline operators, which do not react to the national CA's request to submit monitoring plans.

11.7 Good Practices

- Templates for monitoring plans, emissions and verification reports within the electronic reporting system provide intelligent user interfaces which include all information required by the MRR and AVR with many predefined dependencies. Up to date guidance allows for comparability, transparency and highly efficient processes for all stakeholders.
- The MS' central CA allows on the one hand operators to receive timely answers to their questions, while on the other hand helping the CA identify problems and open questions that might require further clarification that can be shared through the FAQ section on its website.
- The MS' central CA provides practical up to date information through its website, guidance, FAQs and organises feedback presentations for operators and verifiers. Furthermore, a stakeholder working group, with representatives from industry and authorities and the national compliance forum, supports exchange of information and opinions.
- The MS' central CA has at its disposal a database software containing automatic checks (e.g. completeness and plausibility of reported data, consistency of calculation, and comparison with data from previous years), which reduces the potential for errors on the side of the operator and considerably improves the review process of reported data, as it better allows the comparison of data from different sources.
- Inspectors are assigned to each operator/aircraft operator, who are in charge of approving the monitoring plan, reviewing annual emissions reports and verification reports, and undertaking inspections, which promotes continuity and allows a comprehensive assessment process. It allows each inspector to become very familiar with each installation/aircraft operator she/he is responsible for.

- Clear internal procedures, templates and checklists allow for a harmonised and transparent review process.

12 Greece

Author of Document: Erika Rankin (Ricardo-AEA)
Reviewer of Document: Georgios Zisis-Tegos

12.1 Main changes compared to Phase 2

The main changes from Phase 2 to Phase 3 are as follows:

- The team at the ETO is a relatively new team that have been working on the European Emission Trading System (EU ETS) only in Phase 3.

12.2 Short description of authorities involved, their responsibilities and how they work together

In Greece, there are several authorities involved in the implementation of the EU ETS, each with separate responsibilities. Figure 12 outlines the organisational structure of the EU ETS in Greece.

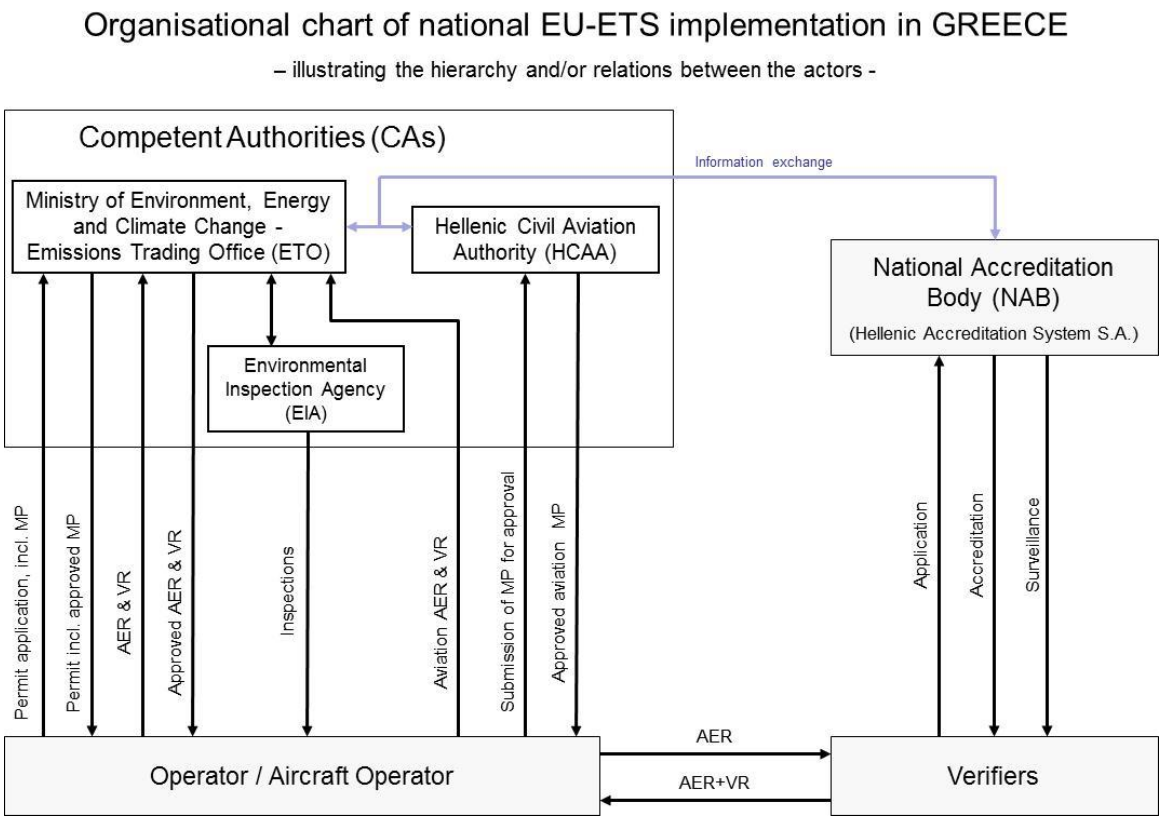

Figure 12 Organisational chart of EU ETS implementation in Greece

These organisations execute the functions of a Competent Authority (CA) for the EU ETS, as defined by Article 18 of Directive 2003/87/EC and by Article 10 of Regulation 2012/601/EU.

12.2.1 Hellenic Ministry of Environment, Energy and Climate change – Emissions Trading Office

The Emissions Trading Office (ETO) at the Ministry of Environment, Energy and Climate change (the Ministry) is the main competent authority (CA) for the implementation of the EU ETS in Greece. The Ministry and ETO are also responsible for:

- Allocation and issuance of allowances and free allowances from the special reserve
- Administration of new entrants (for installations)
- The legislative framework of the implementation of EU ETS
- Enforcement
- Reviews of permit applications for installations
- Approval of monitoring plans (MPs) for installations
- Review of annual emission reports (AER) and verification reports (VRs) for both installations and aviation
- Exchange information on AERs and VRs with HCAA.

The greenhouse gas (GHG) Registry, which belongs to an independent body of the Ministry, is responsible for opening and maintaining registry accounts for operators and verifiers.

General environmental inspections are carried out by the Hellenic Environmental Inspectorate (HEI), which is also part of the Ministry, although these have a wider focus that EU ETS. Procedures for EU ETS-specific inspections have not yet been defined, but it is anticipated that these will be carried out by the ETO.

12.2.2 Hellenic Civil Aviation Authority

The Hellenic Civil Aviation Authority (HCAA) is responsible for the approval of MPs for aircraft Operators. They will also contact new operators that appear on the Commission's aircraft operators list and act as the contact point with Eurocontrol on EU ETS matters.

12.2.3 Hellenic Accreditation System S.A. (ESYD)

The Hellenic Accreditation System S.A. (ESYD) is the national accreditation body (NAB), responsible for accreditation and supervision of verifiers. ESYD is under the supervision of the Ministry of Economy.

12.3 Permitting and monitoring including notification of changes

12.3.1 Permit application and monitoring plan

Operators of installations have to apply to the Ministry of Environment, Energy and Climate change for a permit to emit GHG emissions. The permit is not directly connected to other permits. However, the operator has to submit all the necessary environmental permits with the permit application.
Permit application forms are available to download on the Ministry website and must be submitted to the Ministry both in paper and electronic format.

With the permit application, the operator has to submit:

- Their operational permit (issued by the Ministry of Environment for installations for the Energy Sector and by the Ministry of Economy for all other sectors)
- Their environmental permit (issued by the Ministry of Environment)
- A topographical map of the installation
- Calibration certificates for all measurement equipment
- The EN ISO 17025 accreditation for any laboratories used.

Operators often include additional information in an Annex; for example, explaining monitoring approaches or quality assurance or control (QA/QC) procedures in more detail. The CA uses both environmental and operational permit for crosschecking capacity, sources and fuels/materials used.
Installation operators need to submit a MP for the EU ETS to the CA. MP are submitted in both paper and electronic formats. The monitoring plan is not included in the permit, but the permit does refer to the approved monitoring plan.

The Commission MP template, without amendments, is made available to operators on the CA website. Operators have been informed, by circular, to use this template, although this is not mandatory. Most operators have used the Commission template, with only a few submitting text MPs in work format.

Simplified MPs are not allowed to be submitted by operators of installations. Aircraft operators (AOs) who are small emitters must use the same template as other AOs, but don't need to complete all sections.

The CA has found the Commission guidance on MPs useful. No additional guidance has been produced for operators. However, the CA does provide advice by telephone to operators completing the MP templates, particularly for aviation.

When checking a submitted MP, all elements are assessed, such as completeness, risk assessments, sampling plans, tiers and frequency of analysis. Comparisons are also made between similar installations. In checking Phase 3 MPs, the CA had assistance from an external consultant, who used a checklist to assist in the review of MPs. The CA does not currently have their own specific checklist for the assessment of MPs, but intend to use the Commission checklist for review of future MP submissions.

For aviation, MPs submitted are reviewed as per guidance published by the UK.

There is currently no specific training for CA staff regarding the approval of MPs. Learning is carried out on the job.

All Phase 3 MPs were submitted by operators by October/November 2012. All permits, bar one[13], were issued by 31 December 2012.

Not all MPs were approved by 31 December 2012. The ETO sent a circular to all installations informing them that they must work to their submitted MP until it was modified (where required) and

[13] The operator had not submitted all relevant documents and had to be chased by the CA to obtain this information. The ETO had to wait for the environmental permit to be issued by the Ministry. The process was completed before the end of March 2013.

approved. All MP were approved at time of interview, with the exception of three ceramics installations. These installations have not responded to CA requests regarding changes and are also non-compliant for reporting. Operators are believed to be inactive.

12.3.2 Notification of changes

Operators are expected to notify the CA of a significant modification to its MP as soon as possible. Issues that are listed as significant modifications to the MP requiring approval by the CA are as per Article 15(3) of the Regulation on Monitoring and Reporting under the EU ETS, Commission Regulation No. 601/2012 (MRR).

Notification of significant changes is carried out by the operator submitted a new version of the MP. The CA will check this in full and, when approved, send the operator a stamped and signed version of the new approved MP.

Non-significant changes would usually be raised with the CA via written communication or queries. The operator would seek the opinion of the CA on the significance of the change and the CA would determine whether MP update required or not. Non-significant changes are also sometimes noted in the AER, or raised by verifiers in the VR.

12.3.3 Monitoring of emissions

In Greece, no specific issues with the broadened definition of 'combustion' (as outlined in Directive 2003/87/EC Art. 3(t)) have been highlighted. Checks against the broadened definition were carried out by previous staff of the ETO and no issues were highlighted to current staff.

There is one Category B installation in a transitional period and working to an improvement plan.
There are two operators applying a fall-back methodology. In these instances, the CA has checked the unreasonable cost calculations or technical infeasibility and has reviewed verification findings. All submissions are checked against the legislation and a report is produced detailing findings.

There are two installations in Greece who have adopted the use of measurement-based methodologies (CEMS) under Phase 3; one category C aluminium installation and one category B fertiliser installation. For CEMS checks are carried out against ISO standards, accreditation of laboratories used and the sampling plan of the operator. Such checks were carried out by previous ETO staff and the consultant who assisted in the review of Phase 3 MPs.

Most operators in Greece using biomass are using 100% biomass source streams. However, two installation use waste tyres as a fuel. The CA has not applied the sustainability criteria, as the installations have to have an environmental permit to use this waste product. However, discussions were required to determine the percentage of biomass in the waste tyres. Standards from Germany were used to help in this determination, and a conservative percentage used.

The CA has experienced issues around the frequency of analyses, as set out in Article 35 of the MRR, with installations with seasonal production. This was specifically noted with ceramics installations that are only operational for a month or two in the year. The CA did not approve any alternative

frequencies for analyses in these cases, but have noted that such frequency of analysis would be difficult for these installations.

The CA has had used the 1/3 rule calculator provided by the Commission for three installations. One example is an energy plant that uses large quantities of lignite. In this instance, more analysis does not give greater accuracy, so the CA has accepted the use of the 1/3 rule calculator.

12.3.4 Aviation

AOs have to complete the Commission excel template for the MP. AOs then submit the MP to HCAA, who is responsible for the approval of MPs for aviation. Other requirements and procedures are similar to those for installations.

Once review of a submitted MP is completed and HCAA is satisfied that requirements are met, the MP is approved by the HCAA Governor. Copies of approved MPs are reported by HCAA to the ETO.

AOs meeting the requirements of MRR Article 54 ('small emitter' status) are allowed to use simplified monitoring requirements and Eurocontrol's small emitter's tool to estimate their fuel consumption. The same MP template is used for normal and simplified MPs, but less detail is required for small emitters.

When updated versions of the Commission EU ETS Operator List are released, HCCA cross-check it with previous version of the list and with the central route charges office. When new AOs are identified, HCAA would request contact information from Eurocontrol. If Eurocontrol does not have contact information, an internet search would be carried out or embassies or CAAs contacted via formal letter requesting help in identifying the operator. HCAA would then contact the AO by both official letter and email.

HCAA has experienced difficulties in contacting operators, particularly from Russia, but also some eastern European MS. Difficulties are most commonly experienced with AOs from outside the EU.
HCAA does not use Eurocontrol Support Facility (SF) in the checking of annual emissions reports (AERs), as this facility requires payment. However, they do have access to Eurocontrol emissions data in excel format, so total emission in AERs can be checked against this.

For submission of 2013 AER, the Ministry asked their AO to submit both their 2013 and 2014 AERs by the 31 March 2015. At the time of interview, three or four AO had submitted AERs and had been advised that they would need to check these against the new requirements.

12.4 Reporting and verification

12.4.1 Submission of AERs and VRs

Operators of installations are required to submit an annual emissions report (AER) and VR to the CA by 31 March each year, both in paper and electronic format. The CA is considering implementing an earlier submission date to allow more time for the checking of AERs, as most operators do not submit until just before the deadline.

Operators must complete their AER in the Commission AER template. The CA also requires operators to include their activity data in the template, and this information needs to be verified.

AERs need to be accompanied by a VR, where verification has been carried out by an appropriately accredited verifier.

The CA uses the guidance published by the European Commission. No additional guidance has been produced on the completion of AERs.

No simplified verifications were approved for the 2013 reporting year.

12.4.2 Review of AERs and VRs

The CA will review each installation's AER and VR. The same staff as for permitting are involved in the review of AERs and VRs. All AERs are checked for completeness and consistency with the MP. The CA then has informal instructions with a checklist of content related checks to be carried out on AER. Information on these points are captured in an excel file, which acts as an internal control check.

In the VR, the CA pay particular attention to the findings and comments of the verifier.

If mistakes were identified in the AER or VR the operator or verifier would be contacted by the CA to determine corrective actions.

The CA does not inform the operators regarding the approval of their AER and VR, as it is not obligatory. It only communicates with them if there are specific reasons for doing so.

12.4.2.1 Determination of the emissions figure

The national legislation contains provisions on how the CA is allowed to determine emission figures, but does not specify the determination method. Determination of emissions is carried out on a case-by-case basis.

The emissions figure would be determined in cases where an AER was not submitted. To date in Phase 3, the three cases where an AER was not submitted were because the activity level was zero. Therefore, the CA did not have to estimate emissions. These installations have been marked as non-compliant in the Registry. Prior to Phase 3 and introduction of the MRR the CA involved a verifier to derive the conservative estimate of emission figures. The CA have noted that they can now carry out this activity themselves, but they have not yet needed to carry out any determination of emissions figures in Phase 3.

12.4.2.2 Improvement reports

Operators are required to submit an improvement report (IR) to the CA. as per article 69 of MRR. The CA expects each operator to submit a single combined IR. The Commission template for the IR is used.

To date the most common improvement requirements identified by verifiers and operators are:

- Provision of calibration certificates for measurement equipment, particularly for installation with low emissions, and clearer scheduling for calibration of measurement equipment
- Improvements in documentation of internal procedures
- Improvements relating to uncertainty assessments
- Inclusion of additional small sources identified during the verifiers site visit.

12.4.2.3 Electronic reporting

In Greece, there is no IT system in place covering and storing all information gathered through monitoring and reporting for EU ETS.

12.5 Accreditation of verifiers

The Hellenic Accreditation System S.A. (ESYD) is the NAB, responsible for accreditation and supervision of verifiers. ESYD is under the supervision of the Ministry of Development.

The main change since the introduction of the Regulation on Accreditation and Verification under the EU ETS, Commission Regulation No. 600/2012 (AVR) has involved information exchange, particularly between the CA and the NAB, which has been improved in Phase 3. Now two meetings are held each year, typically one following submission of AERs and surrender of allowances (May) and one in September. Informal information exchange is carried out by email throughout the year.

The NAB has also communicates with other MS, particularly in countries where Greek verifiers are operating (e.g. Malta).

The CA has not submitted any complaints, regarding a verifier, to the NAB that has accredited that verifier.

The NABs accreditation process has taken into account the relevant changes brought in by the AVR. The NAB use the guidance provided by DG Clima.

Information on the NAB accreditation process is publicly available on the ESYD website. Verifiers are also regularly informed, via website or email, of any changes to verification process, including those relating to guidance.

The accreditation process follows a number of steps, as per the AVR:

- Application for accreditation by a verification body and review of the application by the NAB
- Selection of the assessment team (and assignment by the NAB)
- Document review
- On site assessment (of the head office of the verification body)
- Witnessed assessments (separate witness audits are carried out covering different parts of scope, as required, and specifically on higher risk areas)
- Verifiers have an opportunity to respond on non-conformities found during the assessment process and propose corrective actions in an action plan

- Decision on accreditation (following close out of any outstanding non-conformities by the verifier. Documentation and evidence of corrective actions is required. A second head office visit or more witnessing may be required before a decision on accreditation is taken.
- Annual surveillance
- Reassessment.

The accreditation certificate is valid for five years.

Annual surveillance is carried out via head office visits and witnessing activities. The NAB maintains a database of all verifiers and their accredited scope. During the accreditation cycle, they will ensure all the critical sector/activity scopes of accreditation have been covered by the witness audits. According to ESYD procedures, non-conformities must be closed out a month after the surveillance assessment. Any observations noted during surveillance (or in the initial assessment) need to be taken into consideration by the verifier before the next surveillance. If they have carried out corrective actions by then, the observation might be upgraded to a non-conformity. Verifiers also often provide and action plan for observations.

The NAB has procedures defined for the reassessment of verifiers before the accreditation certificate is extended.

The NAB uses technical experts to assist in carrying out assessments. Aeronautical engineers and a representative from the Hellenic aviation authority are used for assessment of verifiers covering aviation. Other experts tend to be drawn from industry, particularly for petroleum industry and ceramics/glass.

12.6 Inspections and enforcement

12.6.1 Inspections

At the time of interview, no EU ETS specific inspections had been carried out in Phase 3. The CA intends to begin inspections in 2014, but plans and procedures have not yet been defined. ETS-specific inspections will be carried out by the ETO. General environmental inspections are carried out by the HEI, although these have a wider focus that EU ETS. However, any findings relating to EU ETS would be reported to the ETO.

The CA anticipates that around 10% of installations will be inspected on an annual basis, selected using a risk-based approach.

12.6.2 Enforcement

There are two types of penalty that can be imposed by the CA, administrative penalties and fines. Fines range from €3,000 to €15,000 for installations and €20,000 to €50,000 for aircraft operators. Enforcement can be undertaken for not submitting a MP or verified AER, failing to notify changes at the installation, failing to follow the control activities or by not surrendering sufficient emission allowances.

12.7 Good practices

- The CA requires operators and aircraft operators to use the Commission's reporting templates to ensure consistency in reporting.

13 Hungary

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Reviewer of Document: Livia Vig (National Inspectorate for Environment and Nature)

13.1 Main changes compared to Phase 2

- The responsibilities for the accreditation of the EU ETS verifiers migrated from the National Inspectorate for Environment and Nature to the Hungarian Accreditation Board (NAT) and an accreditation process was established.
- Use of Hungary's IT database for EU ETS, the HUNETD system, has been temporarily suspended.

13.2 Short description of authorities involved, their responsibilities and how they work together

In Hungary, there are three competent authorities (CAs) involved in the implementation of the in the European Union Emission Trading Scheme (EU ETS):

- The Ministry of National Development is responsible for the development of the legislation and allocation of allowances.
- The Ministry of Agriculture is responsible for the overall administration of the system.
- The Ministry of Agriculture has delegated most of its duties to the National Inspectorate for Environment and Nature (NIEN).
- The NIEN is a ministerial organisation and its budget is part of the central administration's budget. Its jurisdiction covers all of Hungary. It executes most of the functions of the CA as defined by Directive 2003/87/EC including:
    - Issuing permits to emit CO_2, including validation of installation specific monitoring plans
    - Receiving and supervising verified emission reports
    - Administration of the national registry
    - Compliance and enforcement
    - Information to the public.

Compared to the previous evaluation project, there have been changes to the key responsibilities:

- The National Inspectorate for Environment, Nature and Water has been renamed the National Inspectorate for Environment and Nature (NIEN). The organisation and duties of the EU ETS unit of the NIEN has not changed. However, high staff turnover has been observed.
- The responsibility for the accreditation of the EU ETS verifiers has migrated from the NIEN to the Hungarian Accreditation Board (NAT).

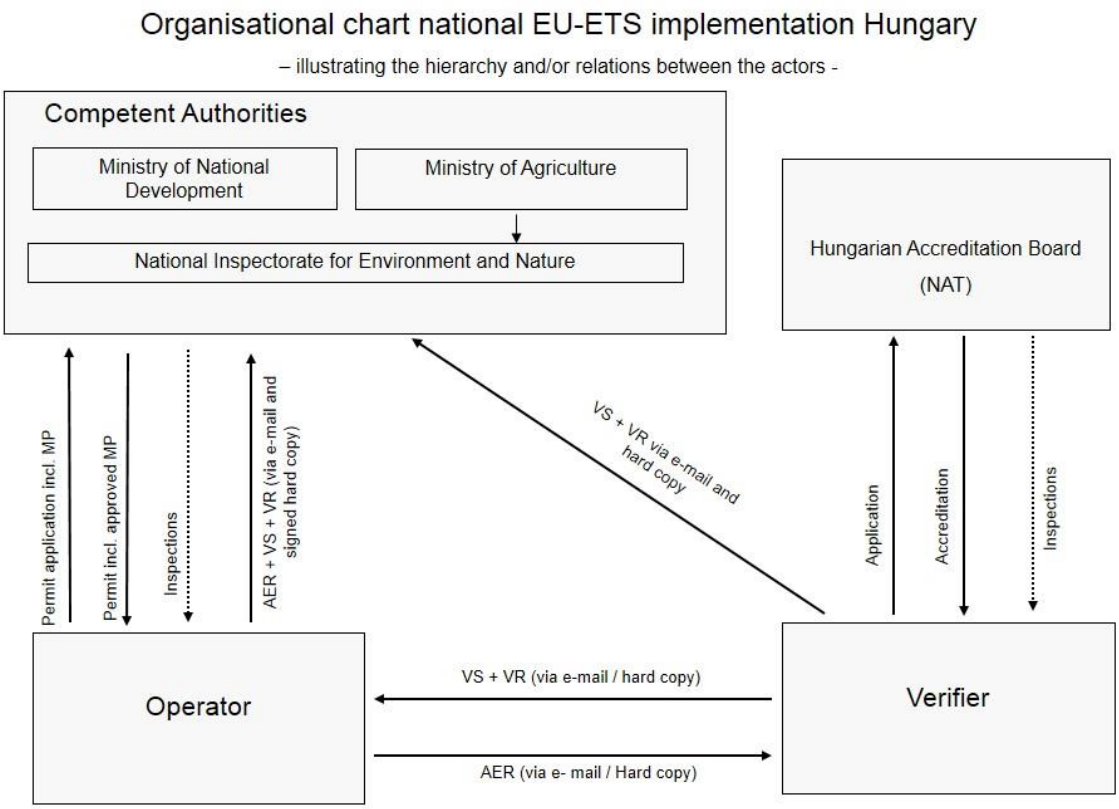

Figure 13 shows the authorities and stakeholders and the communication between them.

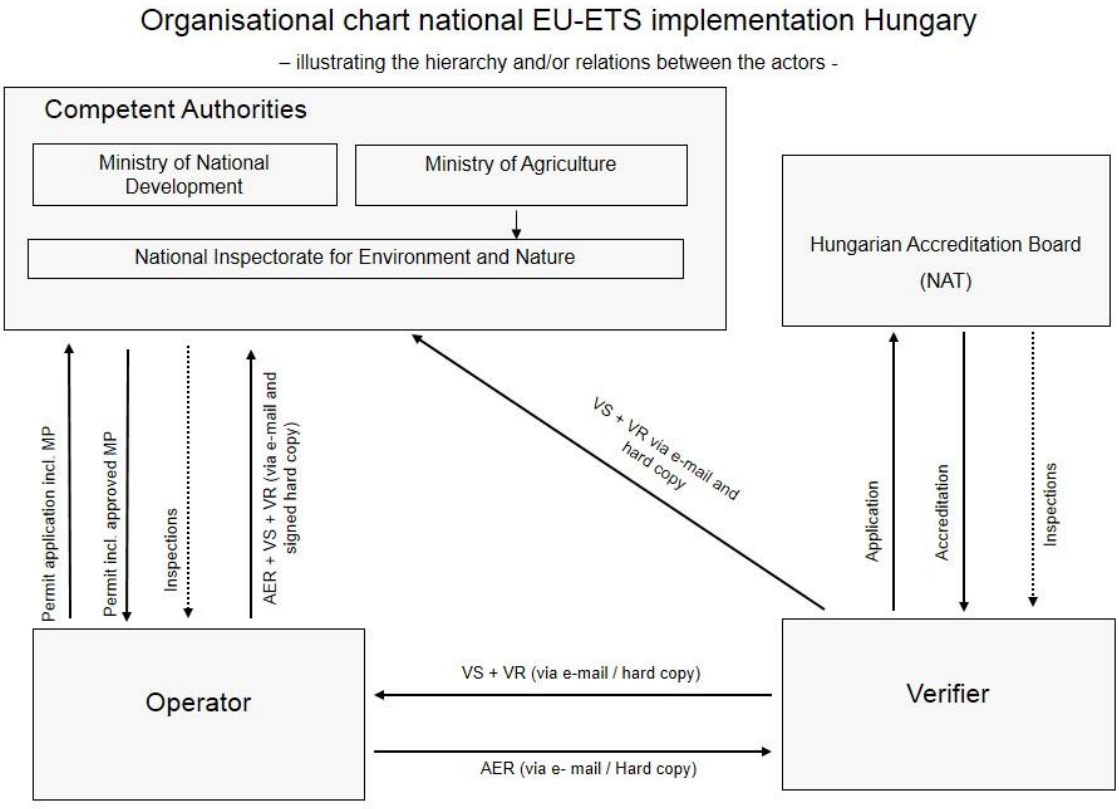

Figure 13 Institutional Structures of the EU ETS in Hungary

With the inclusion of aviation into the EU ETS, the responsibilities of the NIEN have been expanded to installations and aviation operators. No additional CA has been involved in the administration of the EU ETS for aviation operators.

All administrative tasks performed by the EU ETS unit of the NIEN are performed by only a small number of people. The competence and efficient operation of the EU ETS unit relies on the close cooperation within the team and ad hoc training from more experienced colleagues.

The Hungarian Accreditation Board (NAT) started to act as the National Accreditation Body (NAB) according to the Accreditation Regulation 765/2008 in 2013. Accreditation of verifiers by a NAB in other MS is not required. However, verifiers willing to act in Hungary need to inform NAT of their activities in Hungary. All accredited verifiers are listed on the NAT website. In 2013, four accredited verifiers operated in Hungary for installations.

13.3 Permitting and monitoring, including notification of changes

Operators of installations covered by the EU ETS have to apply for a permit to emit CO_2 with the NIEN. Together with the application form for a permit, the operator has to submit, inter alia, a monitoring plan according the MRR, evidence about historic and planned production data, and a detailed description of metering devices including calibration. After validation of the monitoring plan and the permit application, the CA issues a decision. According to the current legislation, such a decision must be issued within 21 calendar days. If the Inspectorate does not issue the decision within 21 calendar days, the administration fee should be paid back to the Operator. If the delay time exceeds 42 calendar days, than the Inspectorate has to pay back double the amount of the administration fee according to the Public Administration Law.

GHG permits are not integrated with any other permits; however, an environmental permit such as an Industrial Emissions Directive (IED), environmental operation permit, or a permit for operating an air polluting point source is a prerequisite for the issuance of a GHG permit. As harmonisation between permits is pursued, no EU ETS installation boundaries separate from the IPPC boundaries, are defined. Nevertheless, the ETS relevant units and equipment are listed and the justification section of the permit elaborates on the boundaries. Due to the introduction of the MRR, some monitoring plans (MPs) have become outdated.

A permit is valid as long as the installation does not change and the operator does not apply for a new permit. If there is no change to the permit initiated by the operator, the CA reviews the permit after 5 years ex officio.

The national legislation sets the requirements for detailed checks for the MP by the CA, and checklists are provided to the CA staff. The MP is a separate document attached to the permit application. Use of simplified monitoring plans is allowed only for installations with low emissions. The final approved MP is issued as part of the NIEN's permit decision. Apart from a small number of exemptions, the highest level of requirements is always required, and the improvement principle is implemented to achieve this, but not necessarily using a formalised improvement plan. The GHG permits issued contain the legally-binding MP requirements and a justification section. More detailed monitoring

information remains in the application form which is saved in the database system as well. The permit/MP must only be updated for significant changes to the monitoring methodology.

Aviation operators are required to develop their MPs based on the templates provided by the EU Commission. MP information for aircraft operators is not integrated into the existing database system, and is handled manually. The approval of the monitoring plans for the aircraft operators was not required in 2013. The HUNETD database system is not yet extended to cover aviation operators as well. For reporting purposes, the aviation operators are required to use the templates provided by the EU Commission.

Before Phase 3, all administrative tasks for installations, including the permitting procedure were supported by an advanced database IT system called HUNETD. However, the HUNETD system no longer conformed to MRR requirements and the ability to directly submit MP, AERs, and verification reports (VR) via the system was suspended for the 2013 reporting year. Instead, operators and verifiers have submitted their MPs, AERs, and VRs via e-mails following up with signed hard copies. The CA manually reviewed the initial applications and, if required, requested additional information from the operators. The operators also applied via e-mail and mail for permit cancelation in case of closures or for permit/MP updates (notification of changes).

For now, the CA updates the HUNETD database manually, but the system is currently being updated. By the beginning of 2015 the HUNETD system is expected to be MRR-compatible and used to the full extent. However there are serious concerns that this may be already be too late for the reporting purposes for the year 2014.

The CA has to be notified of any substantial changes (e.g. in technology and/or measuring equipment) no later than 45 days before implementation and requires an update of the permit/MP. Non-substantial changes need to be reported within 30 days. For example, a change in contact information requires update of the database information only. Changes in the basic environmental permit which also affect the GHG permit are not incorporated immediately, but during the next update of the GHG permit. Change notifications will be checked by the CA based on available information, and if required, additional evidence and justifications will be requested from the operator. Inspections initiated by a notification of change are possible.

The NIEN uses Commission guidelines as well as MP, AER and VR templates. The templates have been translated into Hungarian and are available on the NIEN's website.

The NIEN also has developed a simplified MP template, which can be used by installations of low emissions, based on the MP template provided by Commission. This simplified MP includes the relevant sections from the MP template provided by the Commission, including the MP plan version, operator and installation identification, installation description, calculation based approach, source streams, and management. However, so far only about half of the installations with low emissions have used the simplified MP template, presumably due to the lack of knowledge or lack of familiarity with the template. While no specific training is provided, operators can, at any time, directly contact the CA and ask for clarifications.

Hungary applies its own standards for the quality assurance and measurement requirements of CEMS; Hungarian Standards (Magyar Szabvány, MSZ):

- MSZ ISO 10396:1998
- ISO DIS 21258:2008
- MSZ EN 14789:2006
- MSZ 21853.19:1981

13.4 Reporting and Verification

Operators submitted verified AERs via e-mail and as a signed hard-copy to the NIEN by 31st March 2014. Next year, the HUNETD system is expected to be available to facilitate electronic submissions again.

After the verification of the AER data, the verifier sends the VR to the NIEN via e-mail as well as a signed hard copy as the HUNETD cannot currently accept submissions. Submission of some of the AER and VRs was delayed, as the NIEN informed verifiers and operators in March 2014 that the reporting could not be done via HUNETD system.

The deadline for the submission of improvement reports (IRs) is 30 June, if VRs have identified outstanding material misstatements, non-conformities, or recommendations for improvements. For some installations the deadline was extended to 30 September 2014.

Verifiers are required to perform site-visits for all installations, and waiving of site-visits is generally not allowed in Hungary. If the verifier finds deviations to the MP during the verification the operator is notified, the issue is noted in the VR, and the CA is informed. The CA decides on potential corrective measures or sanctions.

In case of new installations, permit changes or new verifiers for a specific installation, the verifier needs to perform a review. The resulting pre-verification document must be submitted along with the VR.

In case material misstatements, non-compliances, or recommendations for improvement documented in the VR, the CA directly contacts the operator to initiate a follow up procedure that may include decisions on potential corrective measures or sanctions.

The NIEN reviews all AERs for completeness and consistency using an internal checklist. Operators have to submit the AER electronically by 31 March, while hardcopy reports with a post-mark from 31 March are accepted.

Time and staff limitations constrain the NIENs ability to perform detailed in-depth reviews of all reports. Still, a share of installations is selected each year for detailed in-depth analysis (for ca. 10-20% installations). For in-depth review, roughly 50% of the selected installations are randomly sampled, and the other half are selected on the basis of the NIEN's completeness review findings; for example, if there is a significant deviation in emission reduction figures, or the installation failed the completeness check, an in-depth review is conducted. Hungary is also seeking to rotate inspections so all installations are inspected over time.

Detailed reviews include further completeness checks, consistency checks, and cross-checks with already available data from GHG permits, previous AERs, and comments from the verification reports. Findings by the NIEN's experts are documented and immediately clarified with operators and verifiers. Sanctions (penalties) with regard to non-conformities in the reports are always imposed on operators even if the non-conformity was related to the verifier's competence. Almost no direct consequences for the verifiers are currently possible. In case of a missing verified emission report the CA is allowed to assign a verifier to determine the emission figure, passing on the costs to the operator, but this has not yet happened. After positive completion, the NIEN expert fills out an acceptance report for each installation and sends an acceptance letter confirming that the reporting requirements have been met.

13.4.1 Aviation

In order to identify aircraft operators, the NIEN assessed EU ETS Operator List published by the Commission. Annual Emission Reports submitted from aviation operators are reviewed by the NIEN to the extent possible. The review possibilities are limited due to the fact that the CA has not yet access to Eurocontrol data. Tonne-kilometre (TK) reports are reviewed by the NIEN and forwarded to the Ministry of National Development. The ministry is responsible for the allocation and therefore evaluates the TK reports.

13.5 Accreditation of verifiers

Hungary is a member of the European co-operation for Accreditation (EA) and has appointed a single national accreditation body for accreditation of EU ETS verifiers – the National Accreditation Board (NAT). The accreditation certificate granted to the verifiers is valid for 4 years as regulated by the Accreditation Act 75/2005. Four verifiers are currently accredited by NAT. Natural persons (individual verifiers) are not eligible to be accredited.

The assessment phase of accreditation consists from the following main steps:

1) Application (completion of the application form and submission). Applications undergo completeness check by NAT within 15 days of submission.
2) Assignment of assessment team for the accreditation.
3) In-depth document review by assessment team. If open issues are identified, the applicant is given 30 days to address the corrective actions required by the NAT, provide documentation or to clarify open issues.
4) On-site assessment at the verifier's premises. After on-site assessment the NAT submits list of corrective actions to the verifier, as necessary.
5) Witness assessments at operator premises
6) Resolution of corrective actions requests
7) Approval of the application for the particular scope of activity by the Accreditation Committee.

Every assessment process should be completed within 5 months. According to the National legislation, NAT is to conduct surveillance and extraordinary checks of the verifiers. Until now, no surveillance and extraordinary checks of the verifiers have been conducted, since NAT started the accreditation activities only in 2013. The surveillance is a public administrative procedure and is

ordered by NAT at least 90 days before the anniversary date of accreditation. The procedure is regulated in section 6 of NAR-01 (The Rules of Procedure of Accreditation and Surveillance).

Impartiality and independence are checked for each individual and the verification body. Accreditation is restricted to specific scopes of activity.

So far, the NAT has not issued any suspension, withdrawal, or reduction of accreditation of the verifiers.

13.6 Inspections and enforcement

The NIEN is responsible for inspection and enforcement. Decree 410 /2012 regulates enforcement in Hungary and does not contain many differences in relation to Phase 2. The NIEN performs desk reviews of AERs and VRs to assess the verifiers' competence and inspects installations.

For inspections, the NIEN applies the general procedures and guidelines for authority inspections in Hungary. State administration rules and other legislation may also be applicable. EU ETS-specific guidance is not available. During the inspection, a report template is completed and signed on behalf of the operator and the authority. This report includes, general installation data, permit information, information on the purpose of the inspection, a list of participants, legal instructions, statements and findings. Inspections can be initiated for a special purpose (e.g. clarification required after regular permit review) or performed on a regular basis. In practice, the CA focuses on more complex installations. In 2014, in-depth review was conducted on 13 installations (ca. 7% of installations) so far. The annual inspection plan for 2014 is to conduct in-depth review of ca. 30 facilities. For each facility, in-depth review should be conducted at least once in five years according to regulation 217/2012. Correspondingly, the NIEN plans to conduct in-depth review for 20% of all installations each year. Aviation operators are currently not covered by the inspections. Records on inspected installations are kept by the NIEN.

Typical findings during inspections are that installations do not operate in line with their GHG permit, that operators have failed to notify changes and that tier levels have been wrongly applied. Upon these findings, corrective measures and sanctions are imposed by the CA.

Penalties range from 160 € - 1600 €. Cases subject to penalties include unapproved deviations from MP, not responding to requests from the NIEN, or significant problems with reporting documentation. Fines range from 70 € – 300 € daily for operating without the permit or for non-reporting in case of partial or full cessation of their activities.

Operators have to notify the CA in the case of cessation or reduction of their Annex I activities within 30 days, and to submit an AER within 45 days.

13.6.1 Aviation

The national legislation for the inclusion of aircraft operators into the EU ETS contains infringements and penalties which are similar to the list of fines for stationary installations. The CA had not applied any sanctions to the aircraft operators at the point of this review.

13.7 Good practices

1. The MS CA utilises external resources in the checking of complex claims regarding the technical infeasibility of implementing a specific monitoring methodology required by the MRR, improving the validity of all such claims approved or rejected by the CAs.

14 Iceland

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Iceland participates in the EU Emissions Trading System (EU ETS) through the European Economic Area/European Free Trade Association (EEA/EFTA) framework agreement.

14.1 Main changes compared to Phase 2

- Installations in Iceland are now included in the EU ETS.
- Now only one department within the Environment Agency (EA) is involved in the implementation of the EU ETS – the Department for Nature.

14.2 Short description of authorities involved, their responsibilities and how they work together

Key responsibilities:

- The Ministry for the Environment and Natural Resources holds the overall responsibility for the EU ETS
- Since 2007 the EA is responsible for the EU ETS. The EA operates under the direction of the Ministry for the Environment and Natural Resources. Its role is to promote the protection as well as sustainable use of Iceland's natural resources, as well as public welfare by helping to ensure a healthy environment, and safe consumer goods. One unit within the EA, the Department for Nature, deals with the implementation of the EU ETS.
- The Ministry of Finance and Economic Affairs is responsible for the auctioning process for emission allowances. Iceland has its own auction platform to facilitate the auctioning of emission allowances – the State Trading Centre.

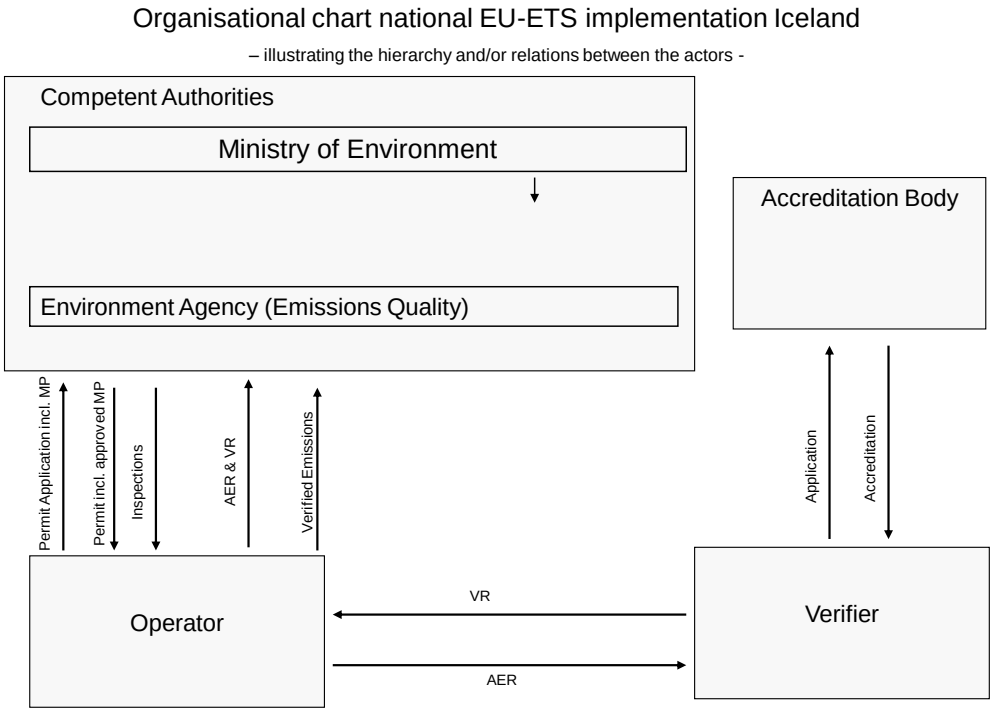

Figure 14 Institutional Structure of the EU-ETS in Iceland

In Iceland there is guidance available on the extension of the EU ETS to cover the EEA/EFTA States (Iceland, Liechtenstein and Norway) http://www.ust.is/default.aspx?pageid=8415aa3d-1eb0-4c57-98d4-0e85907d31c7.

14.3 Permitting and monitoring, including notification of changes

Operators in Iceland must apply for a separate EU ETS operating permit from the EA. The inclusion of installations in Iceland under the EU ETS is new for Phase 3. Iceland currently has five installations included in the system for 2013.

Aircraft operators assigned to Iceland have been included in the system since the introduction of aviation into the EU ETS in 2012.

The EA utilises the Commission's monitoring plan (MP) templates for installations and aircraft operators (AOs) in English, as most operators and aircraft operators are familiar with conversing in English. Use of the templates is obligatory under Phase 3.

For installations, all permits were initially issued in June 2011. These permits were valid until 15 August 2014. All Phase 3 MPs (installations and aircraft operators) were approved by the 28 December 2012. A change in the Icelandic regulations required a new permit application to be submitted by the 15 May 2014.

The EA uses the list as outlined in Article 15 of the Regulation on Monitoring and Reporting under the EU ETS, Commission Regulation No. 601/2012 (MRR) regarding significant changes to the MP that

require approval by the EA as the Competent Authority (CA). Significant changes to the MP does not require the permit to be updated/re-issued.

The CA does not prescribe a template for the notification of changes to the MP, as there are not enough operators in Iceland to warrant this level of effort.

14.3.1 Monitoring

There are two Category C, two Category B and one Category A installations in Iceland.

The EA has confirmed that the Category B and C installations are currently not meeting the highest tier requirements as laid down Annex II of the MRR. These operators have submitted Improvement Reports in 2014 and are claiming unreasonable cost in applying the highest tiers. These operators are therefore not currently working to an improvement plan.

The recent regulatory changes affecting aviation (i.e. that only emissions from flights within the EEA fall under the EU ETS) has reduced the number of aircraft operators in Iceland significantly. The EA believes there are now only four or five active aircraft operators in Iceland under the revised regulations, down from the previous total of 297.

14.4 Reporting and Verification

Operators and AOs in Iceland use the Commission's annual emissions reporting templates numbers four (installations) and five (AOs).

For 2013, AOs were given the option to either submit a 2013 AER or not to submit. Only one AO submitted a 2013 AER to the EA.

No simplified verifications were permitted for 2013 in Iceland, in line with the Commission's guidance.

AERs are submitted to the EA using the Commission's template (no. 7). Improvement reporting under MRR Article 69 (2) and (3) is combined with reporting in line with MRR Article 69(4).

14.4.1 Review of AERs and verification reports

All (100%) of AERs are reviewed on an annual basis following submission by the operator by the 31 March.

AERs and accompanying verification reports (VRs) are checked by the EA for consistency between the reports, consistency against the approved MP, internal consistency within the AER and consistency against Green Accounting reporting (specific to Iceland). The EA does not follow a specific checklist for checking AER and VRs but staff have access to a checklist developed by the Republic of Ireland and shared with the EA of Iceland. Aviation AERs are reviewed using the German Emissions Trading Authority's Emissions Report Evaluation (ERE) tool. Both are also read through thoroughly by an EA staff member.

The EA does not formally accept or approve the AER when submitted but the EA will confirm to the operator/AO, by email, that no further information is required.

14.5 Accreditation of verifiers

Iceland relies on foreign verification bodies, as the National Accreditation Body (NAB) in Iceland does not have the authority to accredit verifiers for the EU ETS.

Three verification bodies have mutual recognition from Iceland to undertake verification of AERs for operators and seven verification bodies have mutual recognition from Iceland to undertake verification of AERs for AOs.

The EA has not had any specific contact with the NABs or CAs of other member states regarding the accreditation of the foreign verifiers operating in Iceland. The EA relies on the verifiers providing their accreditation certification.

14.6 Inspections and enforcement

Only one inspection, of an installation operator, has been undertaken to date in line with the Phase 3 requirements. This inspection was undertaken in early 2013.

The EA is planning to start undertaking inspections from October 2014 onwards and will inspect two – three operators annually. Inspections will be undertaken by the EA staff members that inspect under the Industrial Emissions Directive (IED). Installations will be selected based on the details contained within the Improvement Reports. Inspections will include a review of the operator's documentation beforehand, as well as a review of its procedures when on site and a site walk around.

The EA has already undertaken office audits of its installation operators.

The introduction of the MRR has changed Iceland's enforcement regulations around the grounding of aircraft. It has also changed the fines/sanctions permitted to be brought against operators.

The EA can impose a 500,000 Krona per day fine for late reporting. Inaccurate reporting could be sanctioned using the 100 €/tCO_2 fine. The EA can also apply a maximum 10,000,000 Krona fine.

14.7 Good Practices

- The EA requires operators and aircraft operators to use the Commission's reporting templates to ensure consistency in reporting.
- The EA makes use of tools/checklists developed by other Member States and shared with the EA – such as the AER review checklist developed by the Republic of Ireland and the Emissions Reporting Evaluation tool developed by Germany.

15 Ireland

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Reviewers of Document: Annette Prendergast & Marc Kierans

15.1 Main changes compared to Phase 2

The main changes from Phase 2 to Phase 3 are as follows:

- The Emissions Trading Scheme Workflow Automation Project (ETSWAP) is now used for greenhouse gas (GHG) permit applications, submission of monitoring plans (MPs), annual emissions reports (AERs) and verification reports (VRs). Excel templates were used prior to the 2012 reporting year.
- In terms of enforcement, the Environmental Protection Agency (EPA) now has the authority to issue a Direction to operators to comply with the regulations or to take out a legal injunction where the operator has failed to comply with a Direction.

15.2 Short description of authorities involved, their responsibilities and how they work together

The two main authorities involved in EU ETS in Ireland are the EPA and the Irish National Accreditation Board (INAB).

- Under national legislation, the EPA has been designated as the competent authority (CA) since 2004 for issuing greenhouse gas emissions permits and for overseeing the monitoring, reporting and verification of emissions from operators. The current consolidated legal instrument is S.I 490 of 2012.
- The INAB has been appointed by the EPA to provide the accreditation service.

Verification is undertaken by independent verifiers.

Figure 15 outlines the organisational structure of the EU ETS in Ireland.

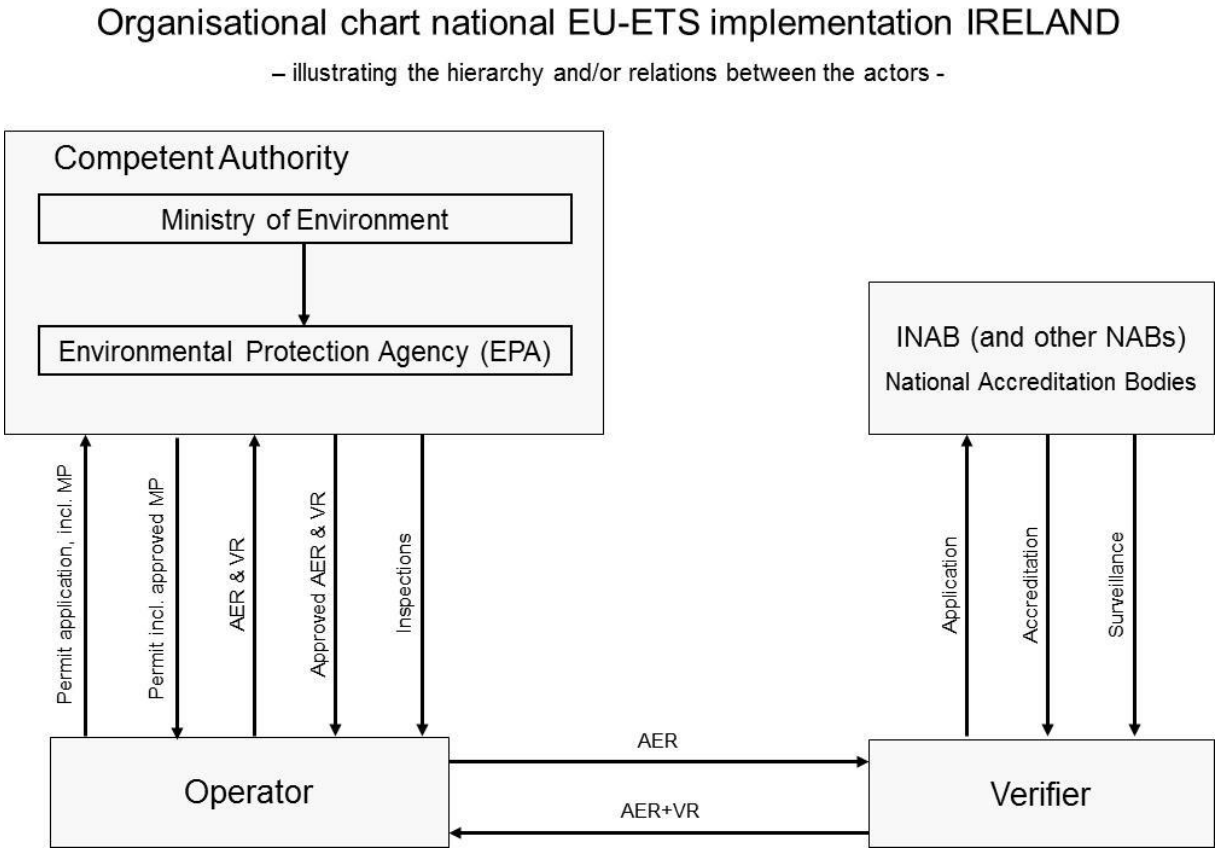

Figure 15 Organisational chart of EU ETS implementation in Ireland

In the Irish legal framework the following main documents have been developed to transpose the EU ETS Directive into National legislation:

- European Communities GHG Regulations (S.I. No 490 of 2012) setting out the main requirements for the EU ETS
- SI No.261 of 2010 and amendments to include aviation.

Reference is made in the EU ETS Directive to the Regulation on Monitoring and Reporting under the EU ETS, Commission Regulation No. 601/2012 (MRR) and the Regulation on Accreditation and Verification under the EU ETS, Commission Regulation No. 600/2012 (AVR).

15.3 Permitting and monitoring including notification of changes

15.3.1 Permit application and monitoring plan

All operators covered by the EU ETS must have a greenhouse gas emissions (GHG) permit issued by the EPA. Operators have to apply for such a permit and must submit a Monitoring Plan (MP), which is to be approved by the EPA. In Ireland, the GHG permit is separate from the IED (IPPC) permit, although crosschecks of data are often carried out.

To facilitate submission of MPs, EPA has introduced the ETSWAP system, previously used only for aviation, for the submission of GHG Permit applications and monitoring plans for installations. ETSWAP is a co-development with the UK Environment Agency and provides the IT infrastructure for the compliance cycle. ETSWAP's online MP form has the same content as the Commission MP

templates, with an additional section for the overall metering uncertainty added for the applied tiers table.

All details relating to the GHG permit and MP are held on ETSWAP, which combines the GHG permit and the MP, with the permit making up the first part of the document and the MP set out in Appendix 1.

The EPA has not had any requests for a simplified MP to date. Operators are satisfied to work through the sections as set out in ETSWAP.

Commission guidance on MPs is used by EPA and country-specific guidance has not been developed. EPA signpost operators to particular sections of the guidance, particularly on uncertainty assessments and sampling plans. The bioliquids section is also frequently used, although it is felt by EPA that this part of the guidance and the requirements around sustainability certificates are not particularly clear and this does not encourage a harmonised approach across Europe.

The EPA has provided training for operators before submission of Phase 3 MPs. In addition, training or webinars are sometimes provided when certain points require clarification. Training documents produced by the EPA are available to operators via their website.

All MPs are checked for compliance with the MRR and consistency with the GHG permit. Supporting documents are also checked by the EPA against guidance notes. For example, uncertainty assessments are given an overall sense check, with a more detailed check on a selection of calculations, and procedures are checked for completeness. Site history is also taken into consideration, with sense checks being carried out against the previous Phase and IED/IPPC licence, where available. The staff at the EPA have been working on ETS since Phase 1 and they are very familiar with all of their sites. Supporting documents received are kept on ETSWAP and referenced in the MP. Comments and results of checks are recorded in ETSWAP and followed up as required.

Once checks have been completed, the final GHG Permit and MP will be reviewed in detail by a peer reviewer.

The EPA uses a checklist similar to the Commission checklist for each section of MP, which includes checks for sampling, etc. There are also automated completion tests in ETSWAP.

The EPA regulate around 100 operators. All operators had submitted MP applications for the beginning of Phase 3. Approximately 86 MPs were approved in 2013, with 14 early in 2014. Some were delayed because they required sustainability certificates for bioliquids. However, the EPA had issued a letter to all stating that they were required to monitor emissions from beginning of Phase 3 (2013) in line with EU ETS regulation requirements. The time required to check all details of the submitted MP applications was much greater than for Phase 2 and the EPA process is to check everything to ensure it is correct before issuing an approved MP.

Aircraft operators (AOs) falling under EU ETS are also regulated by the EPA. The monitoring process is similar to that for installations, with a MP template to be completed on ETSWAP. ETSWAP also has a template for tone-kilometre data reports. In accordance with the EU Directive, AOs do not require a GHG permit.

15.3.2 Notification of changes

Operators must inform the Agency of any changes planned in the nature or functioning of an installation, the capacity of the installation, the fuels used at the installation or the range of activities to be carried out at the installation, which may require updating of the GHG permit or MP, as detailed in Condition 2 of the permit.

Condition 3 of the permit lists the situations where the operator is required to modify the MP.

As the permit and MP are linked in the same document, any updates affect both.

Operators are expected to notify the EPA of a significant modification as soon as it occurs. In cases where a change is planned, operators should inform the EPA before the change is made (e.g. operation of a new boiler). Such notifications are carried out through a permit variation in ETSWAP. The operator is required to complete relevant fields in the ETSWAP form. The EPA will then assess the permit variation and, once approved and changes finalised in ETSWAP, a status update can be seen in ETSWAP. The EPA may communicate with operators via email and agree changes before the permit/MP updates are finalised in ETSWAP.

For changes that do not require approval by the EPA, the approach is that operators notify the EPA of all changes without delay. This notification can either be via ETSWAP or email, and the MP can be modified as required.

Temporary deviations from the MP are looked at on a case-by-case basis and the EPA will assess the materiality and uncertainties associated with this. Operators need to justify the reasons for the temporary deviation and that they are doing all they can to get it back on track. The EPA pushes operators to get back to required tiers ASAP. However, installations such as refineries can have difficulties in getting back on track quickly, as a change in meters can require shutdown, with significant financial implications.

15.3.3 Monitoring of emissions

In Ireland, there have been no issues with the broadened definition of 'combustion' (as outlined in Directive 2003/87/EC Art. 3(t)), as the EPA always applied a broad definition for combustion. The inclusion of acetylene was the main difference for Phase 3. In addition the calciners in the Alumina plant have been included in Phase 3. These were included in Phase 1, but excluded in Phase 2. The EPA checked MPs were in line with the broadened definition of combustion and verifiers were made aware of the requirement to check it in verifier training. As a result, verifiers picked up some excluded sources when carrying out site visits. The EPA also carries out site visits, where staff can check for any excluded sources.

The MRR has not had an impact on the number of installations meeting the highest tier requirements, as, where possible without unreasonable cost, installations were meeting highest tiers in Phase 2. There are therefore no installations in a transitional period working to an improvement plan.

There are no operators in Ireland applying a fall-back methodology and this approach is actively discouraged by the EPA. There are predominantly combustion installations in Ireland, so application

of a fall-back methodology should not really be necessary. If the EPA were to receive an application where a fall-back methodology was applied, the uncertainty assessment and detailed approach would be checked, along with the justification for applying.

The EPA has not come across instances where an operator was not able to achieve the minimum tier requirements for a natural gas source stream, linked to its exclusion as a Commercial Standard Fuel.

The EPA has not had any instance where they have been notified that an installation with low emissions has exceeded the low emitter threshold.

No operators in Ireland use measurement-based methodologies (CEMS) for reporting.

The EPA has had a number of experiences of applying the new definition of biomass in line with the RES Directive. There have been some complexities in its application, particularly relating to tallow, where operators are using this in-house waste product as a fuel. The EPA requires all relevant operators to have sustainability certs, which need to be renewed each year. The EPA have noted that, due to this interpretation of the requirements, one operator has opted not to use bioliquids (tallow) and has moved instead to using fossil fuels and disposing of the tallow as a waste. In addition, an operator using a bioliquid generated as a by-product on-site has opted to report the fuel as fossil as he is having difficulty obtaining a sustainability cert for this by-product. The process would be simplified if the material were classed as a waste rather than a by-product). There are also two cement plants using solid recovered fuel. Both installations use EM15440/2011 to determine biomass content. The EPA is expecting additional installations in future to use such mixed waste fuels.

The EPA and operator approach to uncertainty assessments has not particularly changed since the introduction of the MRR, as the EPA has worked closely with operators on uncertainty assessments in Phase 2. The majority of operators use fiscal meters, which are under control of Bord Gais, the national gas network operator, (they are measurement instruments under "type-conform" conditions). The EPA has data on the maximum permissible error in service of such meters, as well as justification of the values. Figures used in uncertainty assessments would be sense checked and compared to values used in Phase 2 and a selection of calculations checked.

Some of the examples in the Commission's guidance on Uncertainty Assessment have been found useful, although others were not as clear and created confusion amongst operators. There was also some confusion amongst operators about uncertainty assessments for installations with low emissions and whether they were required to submit these or not. The EPA did check any assessments received from installations with low emissions to ensure they could meet their tiers.

The EPA has found the new determination method for unreasonable costs clear and the example in the guidance note particularly helpful. The Commission's tool to determine unreasonable cost was not available when the EPA was checking unreasonable cost claims, so they are not able to comment on its usefulness. The EPA has budget set aside each year to get assistance from an industry or other technical expert if needed to help assess “technically not feasible” claims. The EPA has not had any claims to date in Phase 3 that that a specific monitoring methodology is technically not feasible.

All required sampling plans have been submitted by operators using analysis to determine calculation factors and the EPA has assessed these against Article 33 of the MRR and the guidance document. To

assist with the production of sampling plans, the EPA converted the Commission example of a sampling plan into MS Excel and sent this to operators.

Requirements of the MRR have not really changed the frequency of analysis by operators, as there are mainly natural gas operators carrying out continuous sampling. All operators are meeting the minimum frequency for analysis.

All operators in Ireland are using EN ISO 17025 accredited laboratories, so the EPA has had no applications for use of a non-accredited laboratory.

The EPA has had no cases where an installation-specific emission factor had to be developed taking into account inherent CO_2.

Temporary changes are covered in condition 3.3 in permit (for regulation). All temporary changes need to be agreed and reported ASAP to the EPA, including detail on how the operator plans to monitor during the deviation and restore to normal operation.

Data gaps are covered in a section in the AER and verifiers are required to confirm compliance with Article 65. The EPA has asked operators to include a procedure for detailing missing natural gas hours into their procedures. If the EPA is not satisfied with a conservative estimate submitted by an operator they would ask them to re-submit. The EPA typically agrees methods to estimate data gaps on a case-by-case basis, taking account of Commission Guidance on Making Conservative Estimates.
There are no instances in Ireland where an operator has applied a global warming potential in the monitoring of installation emissions. Scheduled activities covered by Irish operators include only emissions of CO_2.

15.3.4 Aviation

Aircraft operators (AOs) meeting the requirements of MRR Article 54 ('small emitter' status) are allowed to use simplified monitoring requirements and Eurocontrol's small emitter's tool to estimate their fuel consumption. The same ETSWAP template is used for normal and simplified MPs, but less detail is required for small emitters.

When updated versions of the Commission EU ETS Operator List are released, the EPA would compare to the previous list to identify changes and new AOs. When new AOs are identified, the EPA will send out a letter to them. If no address is provided by Eurocontrol or other sources, the EPA will perform web searches to try to find owners of the tail registration. Once operators have been contacted, details will be updated onto ETSWAP and workflows started. If it is found that they are not valid operators, the EPA will inform the Commission to update the list.

The requirements for fuel density measurement and identifying sources of uncertainty and determining fuel uplift, as outlined in the MRR, are clear and straightforward.

The EPA uses Eurocontrol Support Facility (SF) in the checking of annual emissions reports (AERs). Everything is checked in the AERs, using the ERE-tool developed by Germany.

For 2013 AERs, ETSWAP has allowed AO to report full scope and filter by intra and extra European. Those that have submitted AERs have, by and large, reported full scope. The EPA advised operators to report for now, but not to submit to the Registry.

15.4 Reporting and verification

15.4.1 Submission of AERs and VRs

Stationary installations submit a verified AER to the EPA, via ETSWAP, no later than 31 March each year. Before submission to the EPA, the operator submits their AER to their selected verifier, who completes the VR on ETSWAP.

The verifier will carry out a site visit, where required, as part of their verification activities. For 2013 AERs, all operators required a site visit for 2013, so no simplified verifications were carried out. This is because it was the first reporting year of Phase 3, with significant changes to the MP, so a site visit was required under Article 33. In the future, the EPA plan to take into account Article 31 of AVR and guidance document on site visits when reviewing an application for a simplified verification.

Any misstatements or non-compliance found by the verifier should be corrected by the operator prior to submission of the AER. Reporting is consistent with other reporting schemes as per Article 73 of the MRR.

The reporting process for AOs is the same as for the installations, with AER and VR being submitted through ETSWAP.

The AER templates on ETSWAP cover the exact requirements of the Commission AER templates. Commission guidance on AERs is used. There is also procedural guidance in ETSWAP on filling in the AER.

15.4.2 Review of AERs and VRs

The EPA checks AERs and VRs using the comprehensive checklist and review workflow in ETSWAP. The EPA also keeps a spreadsheet of findings for each operator and tracks any verifier issues for information exchange with the NAB.

ETSWAP ensures 100% completeness of AER and VR, as incomplete reports cannot be submitted. Checks are also made on content, such as:

- Consistency of the AER with permit and MP
- Comparison of data with previous years
- Emission factor trends compared to previous years
- Information from site visits or inspections[14] (if these have been carried out)
- Checks against other data received from site.

[14] The same staff that are involved in assessing permits, MPs, AERs and VRs are involved in inspections of the operator's installations.

Up until 2012 (end of Phase 2), EPA reviewed all AER and VR. Now these are reviewed on a risk basis. Approximately 70% of 2013 AERs were reviewed on this basis. EPA has an AER review decision flowchart, which is used to determine whether review is required.

If material errors or issues are found when checking the AERs the operator will be required to revise the AER, have it re-verified and resubmit it as soon as possible.

ETSWAP does not send a notification to the operator when the AER workflow is completed by EPA. However, the status does change and operator can see this when they log in.

15.4.2.1 Determination of the emissions figure

The national legislation in Ireland has a legal requirement that the MRR has direct effect in Ireland. Therefore, the national legislation does not contain specific provisions on how the CA is allowed to determine the emissions figure. Determination of emissions figures would be carried out in accordance with the MRR if an AER was not submitted, or if material misstatements were not corrected.

To date, the EPA has never needed to determine emissions for an installation or AO.

15.4.2.2 Improvement reports

EPA follows up the verifier comments outlined in the AER/VR by asking the operator to submit an improvement report (IR) by June 30 for the recommendations made by the verifier in the VR. The IR is completed in ETSWAP and will be followed up during inspections. The ETSWAP template meets the requirement of article 69 of the MRR. The obligation for reporting on improvements is covered in Condition 3.8 and 3.9 of the permit and ETSWAP automatically sends out reminders at the beginning of June to operators who have not yet submitted their IR.
To date the most common improvement requirements identified by verifiers and operators are:

- Recommendations for inclusion of additional de-minimis source streams (particularly acetylene)
- Changes/improvements required to operator's procedures.

15.4.2.3 Electronic reporting

As discussed, a localised Irish version of ETSWAP[15] is used for submission of permitting, MP, AER and VRs. Additional documents, including email correspondence, can be saved on ETSWAP as attachments. Electronic reporting through ETSWAP is mandatory.

ETSWAP carries out completeness checks on mandatory fields and that correct type of data is completed in certain fields. Some calculation checks are carried out in the AER template.

[15] ETSWAP is XML compatible. Developers of ETSWAP ensure the requirements of Article 75 of the MRR are met.

15.5 Accreditation and acceptance of verifiers

The Irish National Accreditation Board (INAB) is the appointed NAB for accreditation of verification bodies for EU ETS in Ireland, in accordance with ISO and European Standard. They are entrusted with the authority of accreditation as a public authority activity.

EPA has appointed INAB to supply an accreditation service for ETS verifiers in 2004 and have since worked in close collaboration to build the verification capacity for EU ETS in Ireland. There have therefore been few changes with the introduction of the AVR, as INAB already had many of procedures in place. Although there have been some minor procedure changes in response to the AVR.

Information exchange is a new requirement. While EPA and INAB already had a strong working relationship and have always exchanged information, EPA now receive work plans from NABs of MS, who have verifiers working in Ireland.
One change noted by INAB is that they have seen an increase in time spent with the verifier during their head office visits. This is because there is a lot more guidance and so a lot more to check. INAB spend a lot of time discussing guidance documents with verifiers, so that verifiers understand the requirements and can show they are in line with the requirements.

When applying for accreditation from INAB, a verification body is offered the option of a pre-assessment visit at their head office. This visit is designed to help identify gaps; e.g. in operating systems, procedures, etc. This is a voluntary step, but is often taken up by verification bodies that are completely new to the process.

The first formal stage of assessment by INAB is the initial assessment. This assessment would involve a lead and technical assessor, who would go through all documentation and records provided. A head office visit and a minimum of two witnessed audits (more depending on scope) would then be carried out. At the end of the assessment, a list of any non-conformities would be produced by INAB and the verification body would present the actions they intend to take to resolve these. Once issues are closed out, a decision would then be made on accreditation. Once accredited, information on the accreditation body is made available on the INAB website. The accreditation certificate is valid for five years.

Annual surveillance is carried out by INAB, with a minimum of one head office visit and one witnessed audit each year. The first surveillance visit will be carried out six months after accreditation. There are four surveillance visits in total, with the last one six months before expiry of the accreditation certificate. This is to ensure time to close out any issues before expiry. Once all non-conformities are closed, an internal review will be carried out in INAB and a decision made on re-issue of the certificate.

A technical expert will be present on all surveillance visits. Technical experts are required to complete a form to ensure technical expertise in EU ETS. INAB do tend to rotate experts and would typically use consultants, other verifiers or those from other accreditation bodies in the area.

15.5.1 Information exchange

The EPA has a signed agreement with INAB on information exchange for EU ETS. Periodic meetings are held with INAB (as per Phase 2), with additional meetings being held early in Phase 3. INAB are also invited to attend various training sessions with operators and verifiers. INAB provides EPA with the work programme, management report and any updates on verifiers.

The EPA has not submitted any complaints, regarding a verifier, to a NAB, as there have been no significant issues identified to date in Phase 3. If a significant issue were found with a verifier, the relevant NAB would be reported as soon as possible. Only some minor queries on 2013 AER have been identified.

15.6 Inspections and enforcement

15.6.1 Inspections

EU ETS staff at the EPA are also trained to carry out inspections for GHG permits. The staff are trained GHG verifiers (one week course) and trained environmental auditors (ISO 14001 based), with previous experience in IPPC licensing and enforcement.

The EPA have a site inspection protocol, which follows the same overall process as Phase 2, but has been updated with specific references to the Phase 3 MP.

An inspection programme is developed every year, with around 13 inspections carried out for Phase 3 (at the time of interview). These were a mix of cement and combustion installations (including some data centres). The plan is to inspect approximately 20% of installations each year using a risk-based approach.

As the inspection programme is risk-based, an Excel tool was developed in Phase 2 to aid in priority setting. This tool has been updated to identify priority sites for Phase 3 inspections. It includes information on the date of last inspections, whether the site has new staff and Phase 3-specific risks.

Site inspections are performed in accordance with the Site Inspection Protocol. Inspectors will follow compliance with the MP and permit, check procedures and responsibilities, determine how data checks are done and conduct a site walk-around to ensure all sources are included. The inspections are therefore focussed on the installation and the monitoring instruments supporting the process. Documentation is not usually checked, as this is carried out by the verifier.

Overall operators have been found to be compliant. The inspector would go through findings with the operator at end of the site visit. A report outlining any issues or non-conformities would then be produced. This would be followed up with a letter to the operator outlining issues identified and asking operator to respond with proposed actions. Where the operator's response is not satisfactory and the operator refuses to comply, the EPA can issue a legal direction stating that the issue must be addressed and non-compliance with this is an offence for which EPA can seek injunctive relief in the High Court. There has been no requirement to issue a legal direction to-date.

The main findings of inspections carried out to date have been that some de-minimis source streams have not been included or that procedures are not being followed on site (or have not been updated for Phase 3). There have also been some issues with new staff on site who are not familiar with the requirements for EU ETS. Many of the site visits to date were carried out pre-verification, so the EPA anticipate that some of these issues would not be found in future.

The EPA view periodic site visits as necessary. These also provide a good opportunity for site staff to clarify issues and get a better understanding of some of the requirements. Inspections can also help gain staff senior management buy-in, allowing ETS staff to get resources to implement improvements or requirements of the permit.

15.6.2 Enforcement

Enforcement processes in Ireland remain similar to Phase 2. The main change is that the EPA now has the additional authority to issue a Direction to operators to comply with the Regulations or take out a legal injunction where the Operator has failed to comply with a direction. To date no such cases have occurred, as the EPA work closely with operators to help bring them into compliance.

SI No. 261 of 2010, as amended, sets out the infringement and sanction framework for aviation and S.I. No. 490 of 2012 sets out the infringement and sanction framework for stationary operators. €100/tonne penalty increased in accordance with the European index of consumer prices, a flight ban and other penalties are set out in the statutory instruments. However, none have been required to date.

The EPA prescribes evidential requirements to support the determination of the cessation of an Annex I activity. Verified confirmation or other documentation would be required to support such cessation, or a site visit would be carried out. For partial cessation, the EPA require operators to complete the Commission template for partial cessation and also to complete the relevant section on ETSWAP.

15.7 Good Practices

- The EPA checks all MPs against MRR requirements and for consistency with the GHG permit. Guidance notes are also used to facilitate checks on supporting documents. Once checks on MPs are complete these are reviewed by a peer reviewer.
- The EPA has asked operators to include a procedure for detailing missing natural gas hours into their procedures.
- The EPA checks AERs and VRs using the comprehensive checklist and the review workflow in ETSWAP. Eurocontrol SF data is used for the checking of aviation AERs.
- The EPA also keeps a spreadsheet of findings for each operator and tracks any verifier issues for information exchange with the NAB.
- The EPA has a signed agreement with INAB on information exchange for EU ETS.
- The EPA have a site inspection protocol for EU ETS inspections and EU ETS staff at the EPA are trained to carry out inspections for GHG permits.

16 Italy

Author of Document: Richard Eaton
Reviewer: Mauro Maurici (Ministry of Environment, Land and Sea), on behalf of Mr Sebastiano Serra.

16.1 Main changes compared to Phase 2

The main changes from Phase 2 to Phase 3 are as follows:

- Italy makes use of the European Commission's templates for monitoring plans (MPs), improvement reports (IRs), annual emissions reports (AERs) and verification reports (VRs).
- ACCREDIA has been appointed as the National Accreditation Body (NAB) for the EU ETS. It provides accreditation to verifiers according to the requirements of Regulation 765/2008, EN ISO / IEC 17011 and EA 6/03, and is a member of the European co-operation of Accreditation. Verifiers are accredited by ACCREDIA, and a list of accredited verifiers is published on the ACCREDIA website.
- The implementation of the Commission Regulation on Accreditation and Verification No. 600/2012 (AVR) has specifically made it possible to make direct checks on verifier competence.

16.2 Short description of authorities involved, their responsibilities and how they work together

Italy has a centralised competent authority system with all EU ETS provisions being the responsibility of the National Competent Authority, which is the "National Committee for the management of Directive 2003/87 / EC and for support in the management of project activities under the Kyoto Protocol", composed by members from the Ministry of Environment, Land and Sea, Ministry of the Economic Development, Ministry of the Foreign Affairs and Ministry of Infrastructures and Transports (only for aviation). These responsibilities are outlined in the picture below:

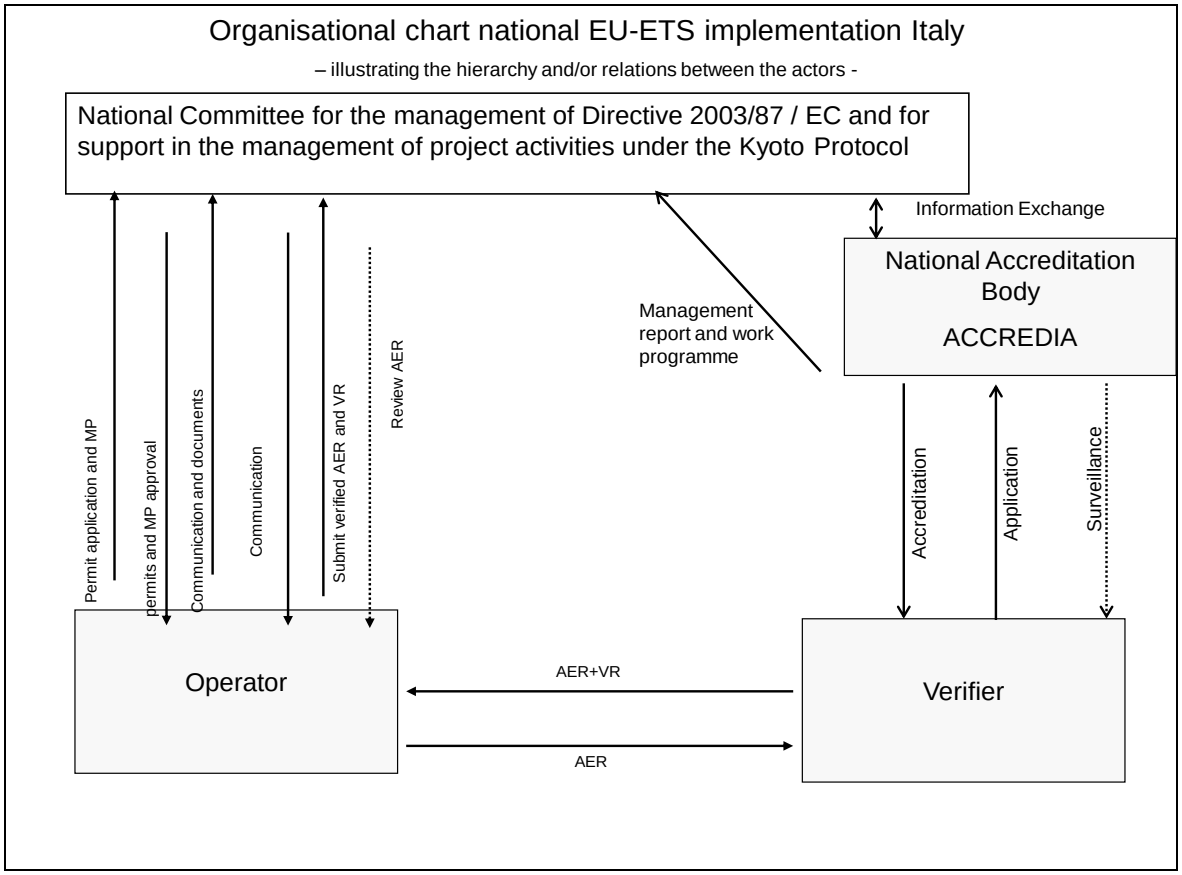

Figure 16: Institutional Structures of the EU ETS in Italy

The National Committee for the management of Directive 2003/87 / EC and for support in the management of project activities under the Kyoto Protocol has an Executive Council and a Technical Secretariat, consisting of experts that can be asked to deal with every technical issue.

The CA has the following responsibilities:

- Drafting national legislation, guidance and Frequently Asked Questions in order to implement the EU ETS Directive (2003/87/EC) and the Commission Regulation on Monitoring and Reporting No. 601/2012 (MRR) and the Commission Regulation on Accreditation and Verification No. 600/2012 (AVR)
- Issuing permits to installations falling under the scope of EU ETS and setting up conditions for the permits
- Updating the permits / MPs if necessary and dealing with notifications
- Assessing the annual emissions reports (AERs) and verification reports (VRs). Approving improvement reports (IRs)
- Applying sanctions.

ISPRA

The Institute for the Environmental Protection and Research ("ISPRA") runs and upgrades the Italian Emission Registry and oversees the link with the European Community Transaction Log.

National Accreditation Body

ACCREDIA has been appointed as the National Accreditation Body for the EU ETS. It provides accreditation to verifiers according to the requirements of Regulation 765/2008, EN ISO / IEC 17011 and EA 6/03, and is a member of the European co-operation of Accreditation. Verifiers are accredited by ACCREDIA, and a list of accredited verifiers is published on the ACCREDIA website.

Information exchange

There is direct communication between the CA, the verifier and the operator to support the efficiency of the compliance chain. There is also direct communication between the CA and the NAB.

16.3 Permitting and monitoring, including notification of changes

A web based system called AGES is used to submit permit applications and MPs to the CA. Operators apply for a permit by registering to AGES. The CA requires the use of the MP template published by the Commission, and use of this template is mandatory.

After the MP is completed, it is uploaded to AGES with an electronic signature. The final request for the permit application is send to the CA by a specific e mail service. Every permit application is registered under a unique permit code in AGES.

The ETS permit is not connected to the IED (IPPC) permit, as implementation of the Industrial Emission Directive is managed separately from the implementation of EU ETS. The validity of the EU ETS permit is connected to the trading period, and permit renewal is thus required at the beginning of each trading period.

The Commission guidance has be used by operators and aircraft operators (AOs) to provide further understanding of aspects of the MRR. There is also direct contact between the CA and operators on a frequent basis, and the CA has also developed and published a Frequently Asked Questions document.

The CA checks the completeness of the permit application and the MP as well as the consistency of information between the permit and the MP. If there are inconsistencies the CA requests the operator to solve these. When needed the CA can ask for integration of permit information and MP.

A checklist is used to assess the MP. During the approval process the CA can do cross checks with information stored in AGES by submitting manual queries. Automatic cross checks and controls are not yet possible in AGES. The IT tool is however used by the CA to extract information for a single permit, extract historical information concerning the installations, make trend analysis and reports for groups of installations or sectors as well to manage the permitting procedure. Cross checks with IED (IPPC) information are not however done on a regular basis, since IPPC permits are issued by several regional and sub-regional competent authorities, and the size of the installation and installation boundaries can differ from ETS boundaries.

The CA can approve the monitoring plan in one of three ways:

- 1) normal approval;
- 2) Approval with comments - where some element in the MP is considered not to be sufficiently described, but this does not compromise the data in the AER. These issues can be followed up through the next year's verification;
- 3) Approval with reservations – where some element in the MP is not sufficiently described, and this cannot be corrected. In this case the emissions can be overestimated next year by the CA.

All decisions are published at the website of the Ministry of Environment, Land and Sea and the Ministry of Economic Development, but these decisions only contain high level data on ETS sources and the authorization number. More detailed information is held in AGES.

Not all MPs for Phase 3 have had approval from the CA, though the MPs apply in the absence of an approval decision.

Notification of changes

AGES is also used by operators to submit the applications for a permit and / or MP update to the CA, and to submit requests for temporary deviations from the approved tier for a source stream.

Significant modifications to the MP, which require approval by the CA are as detailed in Article 15 of the MRR. The operator must notify the CA of a significant modification to a MP with 30 days of the change.

Changes to the MP which also require an update of the permit are:

- Change of the name of installation or the operator
- Variation of the activity, the installed thermal capacity or production capacity as a result of plant modifications.

In some cases the MP can be updated without changing the permit. These changes are:

- Change of the operator's representative
- Formal corrections of the monitoring methodology, the description of the sources
- Change of fuels and materials used
- Modifications to the installation that are not considered to be significant.

A temporary deviation from the MP is considered when is not feasible to apply the tier in the monitoring plan for the activity data or each calculation factor of a fuel or material stream as approved by the CA. The minimum temporary deviation is five days, and the maximum is until the conditions for application of the tier approved in the monitoring plan have been restored.

Changes to the MP and temporary deviations from the tier are submitted in the MP. As for the MP approval, communication during the notification procedure is managed through AGES, with direct communication by phone and mail. There is guidance on notifications, which outlines how and when to notify, and the same checks as for the monitoring plan procedures are done. All changes are documented in AGES.

A harmonised implementation of provisions is ensured through the use of guidance, templates and Frequently Asked Questions for operators. In addition direct communication between the operator,

verifier and CA is instrumental to a harmonized approach. There is no specific training programme set up by the CA.

Monitoring of emissions

No issues have been identified with the broadened definition of combustion as outlined in Article 3(t) of 2003/87/EC. The CA checked the implementation of the definition during the process of analysing the MPs. The definition is clear, and no further guidance was made available by the CA.

Implementation of Article 26 of the MRR has resulted in more Cat B and C at installations meeting the highest tier requirements outlined in Annex II. There are four Cat C installations in a transitional period as defined by Article 26 (1) of the MRR and 26 Cat B installations that do not apply the highest tier for all major source streams and emissions sources.

There are two installations applying a fall-back methodology as detailed in Article 22 of the MRR, and the CA takes measures to check the application of the methodology.

Four installations have adopted the use of measurement-based methodologies (CEMS) under Phase 3, with CEMS only being used for parts of the source streams. The operator is required to ensure, by the provision of appropriate evidence, that the calibration of CEMS devices is done by a laboratory that complies with UNI EN 14181.

The CA has not encountered any particular issues in applying the new definition of biomass as detailed in Article 3 (20) of the MRR, in line with the RES Directive. There are instances where the operator has claimed unreasonable cost or technical infeasibility on applying the requirements of Article 39 (1) of the MRR, and the in operator has made an estimate for the determination of the biomass fraction.

The simplification of the uncertainty assessment requirements, as outlined in the MRR and the Commission guidance on Uncertainty Assessment, has helped to reduce burden and improve the process. No issues have been identified in approving MPs with instruments under "type-conform" conditions (national meteorological control).

Aviation

Aircraft operators (AOs) meeting the requirements of MRR Article 54 ('small emitter' status) are allowed to use simplified monitoring requirements and the Commission approved tool to estimate their fuel consumption.

When updated versions of the Commission EU ETS operator List are released and new AOs identified the Ministry would first request contact details from Eurocontrol and, if contact details could not be provided via this route, would then use internet research to find contact details. It has sometimes not been possible for the CA to inform AOs as the contacts are not available, particularly as Italy is not using the Eurocontol Support Facility (SF) tool. The CA usually sends a formal letter to the new AO informing them about the ETS requirements.

The method of determining the fuel density has remained almost unchanged compared to the monitoring methodology for the previous period. In addition, many AOs apply the standard density factor of 0.8 kg/litre for cases where which actual density values are not available.

Reporting for the 2013 compliance year has been subject to amendment following approval of Regulation No. 421/2014. The changes have been notified to AOs by email through standard letters and by information posted on the CA website.

16.4 Reporting and Verification

Operators have to submit AERs and VRs by 31st of March each year using the templates provided by the Commission. All submitted AERs have been verified by an appropriately accredited verifier.

All AERs and VRs are reviewed for completeness, and where these are found to be incomplete, the CA sends a reminder to the operator to provide the required information. All AERs and VRs are also reviewed for consistency and content. The CA informs the operator where the emissions are calculated by the CA by a conservative estimate. No mistakes were identified in the review of 2013 reports.

Determination of the emissions figure

The national legislation allows the CA to determine emissions figures where there is missing or incomplete data, or issues related to communication. The Commission guidance has been used for the estimation.

The following conservative methods have been used:

- For historical installations: using the 75° percentage of the 2008-2012 emissions;
- For existing installation entered in ETS until 2013, with NIMs: using the 75° percentage of the emissions reported in the NIMs;
- For existing installation entered in ETS until 2013, without NIMs: using a methodology based on the level of the emissions reported in the MP.

Improvement Reports

For 2014 IRs relating to lower tier or fall-back methodology, as required by Article 69 (1) of the MRR, were required by 30th September from operators of Cat B and Cat C installations using the Commission template. Where VRs identify outstanding non-conformities or recommendations for improvements, as required by Article 69 (4), operators submit IRs by 30th June of the same year, even for Cat A installations.

If the operator is required to send reports in line with both Article 69 (1) and Article 69 (4) of the MRR, then these can be sent as a separate submissions in accordance with the two deadlines (30th September and 30th June respectively) or together by 30th June

The most common improvement requirements identified by verifiers/operators relate to improvements in the measurement of activity data.

16.5 Accreditation of verifiers

ACCREDIA has been appointed as the National Accreditation Body for the EU ETS. It provides accreditation to verifiers according to the requirements of Regulation 765/2008, EN ISO / IEC 17011 and EA 6/03, and is a member of the European co-operation of Accreditation. Verifiers are accredited by ACCREDIA, and a list of accredited verifiers is published on the ACCREDIA website.

The steps in the accreditation process are a review of the application and associated documentation, an initial assessment at the premises of the verifier and witness audits of verifiers. Only general information and rules concerning the accreditation process are provided by the NAB to the verifier to confirm the mandatory regulations and Commission guidance available. The accreditation certificate is valid for four years.

16.6 Inspections and enforcement

Inspections

No EU ETS specific inspections have been carried out in Phase III to date.

Sometimes non-compliance of EU ETS requirements is picked up by inspection bodies that are responsible for the inspection of IED (IPPC) permits or other permits under Environmental Legislation. In that case the non-compliance is shared with the CA. There are plans to implement EU ETS specific inspection carried out by the "Carabinieri" (Nucleo Operativo Ecologico, a special body of Carabinieri that has a task of environmental police). Part of the plans are to develop an EU ETS specific inspection checklist.

Enforcement

Administrative fines can be imposed on operators and Aircraft Operators if they are not in compliance with the ETS requirements. The following infringements exist:

- 25,000 to 250,000 € for emitting emissions from installations while not having a valid ETS permit plus 100 € for each tonne emitted without the permit, and the same penalty is for Aircraft Operators that do not submit a monitoring plan to the CA;
- 500 to 50,000 €, and 100 € for each allowance unduly released, for not declaring historical data;
- 25,000 to 150,000 € for not providing or providing incorrect information for the allocation, and 100 € for each unduly attributed allowance, even the costs deriving from the purchase of the number of allowances equal to the total amount of emissions unduly released and from their transfer into the Registry;
- 2,500 to 50,000 € for not reporting verified emissions;
- 2,500 to 50,000 € for not return emissions, and 100 € for each Tonne, even the obligation to surrender the emissions;

- 1,000 to 100,000 € for not notifying closure of the installation, and 100 € for each allowance unduly released;
- 20 to 40 € for each allowance unduly released for the verifier that had issued certificated on the bases of false information.

16.7 Good Practices

- The CA requires operators to use the Commission's reporting templates *for submission of* MPs, AERs, VRs and IRs to ensure consistency in reporting.
- All AERs and VRs are reviewed for completeness and consistency and content.

17 Latvia

Author of Document: Mandana Hazrat (Ecofys Germany GmbH)
Reviewer of Document: Helena Rimsa (MoEPRD)

17.1 Main changes compared to Phase 2

- Use of the Commission's templates for MP and improvement reports

17.2 Short description of authorities involved, their responsibilities and how they work together

Key responsibilities:
In Latvia, there are several authorities involved in the European Emission Trading Scheme (EU ETS) which execute functions of the Competent Authority (CA) as defined by Directive 2003/87/EC. Figure 17 shows all authorities and stakeholders involved and the communication between them. Descriptions of each organisation follow the figure.

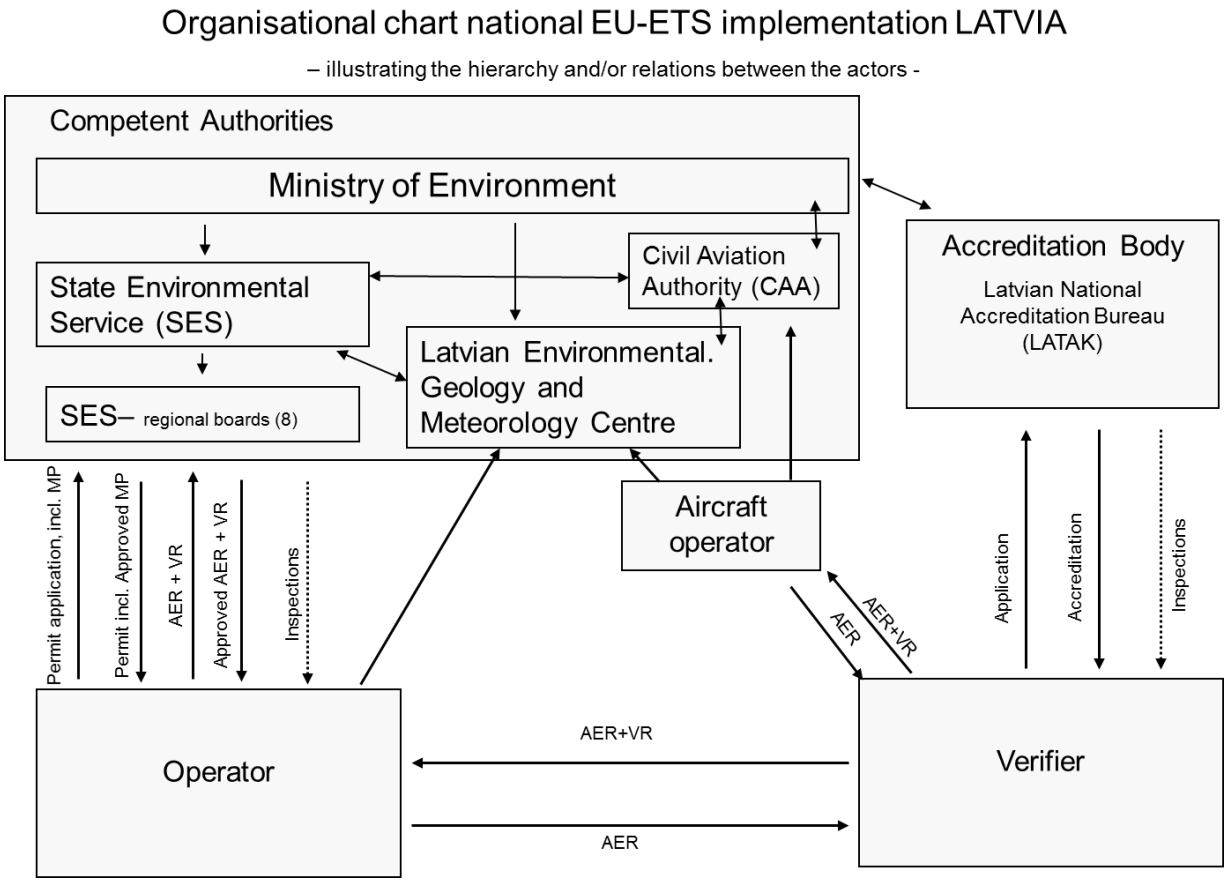

Figure 17 Institutional Structures of the EU ETS in Latvia

17.2.1 Ministry of the Environment of the Republic of Latvia:

The Ministry of Environmental Protection and Regional Development of the Republic of Latvia (MoEPRD) acts as Competent Authority (CA) responsible for the allocation and issuance of allowances, administration of the application for the New Entrants Reserve, administration of opt-ins and elaboration of National Implementation Measures (NIMs). Furthermore, the Ministry of Environment is responsible for the development of legislation, and supervises subordinated authorities.

17.2.2 State Environmental Service

The State Environmental Service (SES) acts as CA responsible for issuance of permits, validation of monitoring plans as well as the control and approval of verified emission reports. Besides being the central organisation, the SES is regionally structured. One SES regional board is responsible for each of the 8 regions. The regional SES boards perform inspections of installations and can impose sanctions.

In addition, SES is also responsible for the penalties regarding non-compliance with ETS-requirements as well as the penalties with regards to the non-surrendering of allowances.

17.2.3 The Latvian National Accreditation Bureau

The Latvian National Accreditation Bureau (LATAK) is the National Accreditation Institution, operating under the supervision of the Ministry of Economics and National Accreditation Council, is providing a common system for conformity assessment of laboratories, certification and inspection bodies, and environmental verifiers. With respect to the EU ETS, LATAK acts as accreditation body (AB) of verification bodies.

17.2.4 National Civil Aviation Authority

The National Civil Aviation Authority (CAA) is a government authority responsible for the approval and regulation of civil aviation. In regard to EU ETS, the CAA is reviewing the monitoring plans and emission reports for aviation in close cooperation with the MoEPRD.

17.2.5 The Latvian Environment, Geology and Meteorology Centre

The Latvian Environment, Geology and Meteorology Centre (LEGMC) is a state limited liability company under the supervision of the MoEPRD. Within the EU ETS LEGMC plays the role of the national registry administrator for the EU Registry for the verified emissions reporting and the surrendering of allowances. In case of non-compliances, LEGMC reports to SES (e.g. if operator fails to report its verified emissions by 31 March or fails to surrender the respective amount of allowances by 30 April).

17.3 Permitting and monitoring, including notification of changes

Operators of installations covered by the EU ETS have to apply for a permit to emit CO_2 with the regional SES boards. The application for the permit, including the monitoring plan (MP) application as an annex, can be submitted electronically by uploading them on the CA's website. It is not mandatory, operators are also free to submit the relevant documents either in paper form (accompanied by the electronic version of the document on CD-ROM) or in electronic form (electronically signed document submitted via email). It is mandatory to use the Commission template for the monitoring plan application in Phase 3.

The Commission's guidance has been published on the website of the Ministry of Environment. No additional guidance has been provided to operators on completing the monitoring plan or permit application.

The Commission's Exemplar checklist has not been used by the CA, but all MPs are checked on completeness and correctness based on an internal checklist. In addition, three meetings were organised in order to train the CA staff and to facilitate a harmonised approach for the assessment. The use of simplified or standardised MPs. (according to MRR Art 13) is allowed for small and simple combustion plants using only one standard fuel. Operators of these installations also have to use the Commission template for the MP application but can fill in less information. All installations had approved MPs and permits by March/April 2013.

17.3.1 Notification of changes

All significant changes to the MP as per Art 15 (3) of the Regulation on Monitoring and Reporting Under the EU ETS (MRR) prompt a permit update and have to be reported to the CA. Significant changes have to be reported 45 working days before the change occurs, insignificant changes 15 working days, before the change occurs. The CA has some manuals at hand to assess the changes, but no templates or guidance has been made available for the operators. They report the changes by sending the updated version via email to the CA. Once the change is reported, the CA issues a decision and sends the amendment of the permit as an electronically signed document to the operator and the Ministry of environment and publishes it on the SES website.

17.3.2 Monitoring of emissions

In Latvia, no specific issues with the broadened definition of "combustion" (as outlined in Directive 2003/87/EC Art 3(t)) have been highlighted.

All operators of ETS installations applied already in Phase 2 the highest tiers possible, with exception of one big cement producer, where it is not feasible for technical reasons and would cause significant unreasonable costs. No installation applied fall-back methodologies (as per MRR Art22) or measurement-based methodologies (CEMS) in Phase 3.

Sampling plans have been submitted by all operators using analysis to determine calculation factors.

17.3.3 Aviation

When updated versions of the Commission EU ETS Operator List are released, new aircraft operators are identified through comparison with the former list. The CA contacts the Commission for the contact details of these operators. Once identified, the CA sends emails to the aircraft operators. If the aircraft operator does not react on the CA's emails the CA asks the International Air Transport Association (IATA) for support in contacting the aircraft operator. The CA reported that they had some issues in contacting the aircraft operators.

Aircraft operators meeting the requirements of MRR Art 54 (small emitter status) are allowed to use simplified monitoring requirements or Eurocontrol's small emitter's tool to estimate their fuel consumption.

17.4 Reporting and Verification

Operators of installations are required to submit an annual emission report (AER) and a verification report (VR) from an accredited verifier by 15 March each year to the CA (SES regional board). As the European Commission templates for AERs and VRs were not yet available in Latvian language, a Latvian template for AERs and VRs was used for 2013 which was based on the minimum requirements of the MRR. From 2014 onwards, the use of the Commission templates will be mandatory. The reports can be submitted electronically by uploading them on the CA's website. But as this is not mandatory, operators are also free to submit the relevant documents either in paper form together with the electronic version on CD-ROM or in electronic form (as an electronically signed document submitted via email).

All AERs and VRs are checked by the CA, based on an internal checklist. For example, the following checks are performed:

- Check whether the information provided about the installation is correct
- Consistency check by cross-checking on the emission data provided in the AER, VR and in the MP
- Check on monitoring methodologies applied by the operator
- Completeness check on material and source streams
- Check on the frequency of measurement and sampling.

The national legislation contains provisions on how the CA is allowed to determine emissions figures by using last year's AER, IPPC info or data from the central statistical bureau. Emissions figures would be determined in case that the operator did not submit a verified AER or the CA takes the decision to reject the AER because of significant issues. However, the CA did not have to determine emission figures in Phase 3.

Where a verification report outlines major non-conformities, operators have to submit improvement reports within 10 working days, in case of minor non-conformities, an improvement report should be submitted by 30 June of the same year. The Commission template should be used for the submission of improvement reports. To date, the most common improvement requirements identified by verifiers are:

- Incorrect emission factors and oxidation factors

- Inconsistencies between the data reported in the MP and in the measurement equipment documentation.

As the CA performs checks on whether the recommendations of the verifiers are followed up and implemented by the operators, improvements are carried out more actively by operators.

17.5 Accreditation of verifiers

LATAK is the appointed national accreditation body and responsible for the accreditation of the EU ETS verification bodies/verifiers in Latvia, working under the supervision of the Ministry of Economy. LATAK is EA member and signatory of the EA Multilateral Agreement (EA MLA).

In order to ensure a proper implementation of the Regulation on Accreditation and Verification (AVR), LATAK used the Commission's guidance to develop its own procedures and has taken the following actions:

- Development of further documents on the accreditation process, e.g. a new checklist for the accreditation process or a new form for witness audits
- Description of the information exchange between the CA and LATAK
- Organisation of trainings for the LATAK
- Participation in experience exchange with the Estonian National Accreditation Body (NAB).

The accreditation process starts with the application for accreditation by the verifier. The next step is a preliminary assessment of the submitted documents followed by a meeting at the LATAK office in which the cost calculation, the accreditation team, the process steps and the onsite visits that will be performed during the accreditation process are addressed. Afterwards, an office audit at the candidate organisation is carried out followed by a witness audit onsite. In case of any issues found during the audit, the verifier should provide an action plan within one week and has then one month to resolve potential non-compliances. Based on the report of the assessor, the accreditation committee takes its decision and issues the accreditation certificate. The competence of verifiers is checked during the audits by assessing CVs, education, work experience etc. Verifiers have to sign a declaration that they are independent and free of any financial pressure in order to ensure their impartiality.

In contrast to the AVR, which prescribes that the NAB prompts a reassessment before the expiry of the certificate, LATAK's procedures of reaccreditation foresee that the verifier has to apply for reaccreditation six months before the expiry of the accreditation certificate. If the verifier did not apply by then, the NAB sends them a reminder five months before the expiration.

Two verification bodies have been accredited by LATAK in Phase 3. Annual surveillance includes a witness audit, but was not done yet, as the two verifiers were only accredited in December 2013. No complaints with respect to a verifier have been received in Phase 3.

LATAK maintains a database of accredited verifiers which is published on their website. In case of any changes regarding the accreditation of a verifier (extension or reduction of accreditation scope, suspension or withdrawal) the database is updated within 3 days.

An effective information exchange between LATAK and the CA has been established through the abovementioned guidelines. In addition, two employees of the CA support the NAB as technical experts. However, there is no active information exchange between the NAB and other MS' NABs or CAs so far, while verifiers accredited by LATAK are operating in other MS.

17.6 Inspections and enforcement

In Latvia, inspections and enforcement are performed by the regional SES boards. The SES performs spot checks during on-site assessment in combination with other environmental and IPPC related inspection activities. Spot checks are usually initiated as a response to claims addressed to operators activities, if operators had notified the CA of changes, or based routine checks. Inspections consisted of desk studies, site visits, etc., and a checklist, elaborated by SES experts, was used. Selection of sites to be inspected is risked based on the IPPC permit category. Category "A" and "B" installations are inspected once a year, "C" installations once in three years. Different checklists have been developed for the inspection of the different installation categories which take the size and complexity of the installation into account.

In 2013, about 30 inspections have been carried out, and in 2014 another 10 inspections. This means that, to date, more than half of the 67 ETS installations in Latvia have been inspected in Phase 3.

The regional SES board is responsible for sanctioning with regards to the general defence of the environment. Several sanction types are laid down in the national legislation (Latvian Administrative Violations Code). Besides the 100 €/tCO_2 fine for exceeding the reported emissions, infringements include the following:

According to section 84, "Concealing or Modifying of Environmental Information":

- The failure to notify the environmental protection or local government institutions of the release of dangerous or other harmful substances or polluting substances into the environment, as well as concealing the environmental information or its provision in a modified way
- In the case of failure to submit statistical annual reports regarding the natural resource utilisation or environmental protection or the annual reports regarding greenhouse gas emissions or the modification of data
- In the case of concealment of monitoring data or its modification a fine in an amount from 210 € and up to 1400 € shall be imposed on natural persons or a legal persons.

According to section 88, "Performance of a Polluting Activity without the required Permit and Non-compliances of Activities with the Requirements of Regulatory Enactments",

- In the case of conducting polluting activities without the required greenhouse gas emission permit: a fine shall be imposed in an amount from 140 € up to 430 € on natural persons, but on legal persons – from 280 € up to 290 €
- In the case of failure to comply with the requirements of the permit for a polluting activity involving greenhouse gas emission: a fine shall be imposed in an amount from 70 € up to 350 € on natural persons, but on legal persons – from 140 € up to 1400 €.

To date, no sanctions have been imposed on operators in Phase 3.

17.7 Good Practices

- Higher frequency of site visits through verifiers also in the course of the year and based on requests by the CA can be considered as good practice.
- The use of installation size, complexity and non-compliance as indicators for selecting installations for inspections could be considered good practice.

18 Liechtenstein

Author of Document: Cathrine Sachweh & Yuriy Lozynskyy (Ecofys Germany GmbH)
Reviewer of Document: Heike Summer (Office of Environment)

18.1 Main changes compared to Phase 2

- Monitoring plans are based on the translated Commission template provided by Austria, previously the Austrian template was used
- In previous phases also verifiers from Switzerland were accepted if they were able to demonstrate relevant qualifications.

18.2 Short description of authorities involved, their responsibilities and how they work together

Key responsibilities:
The Office of Environment is the Competent Authority (CA) in Liechtenstein and covers all legislative and implementation related EU ETS issues. Two installations are covered by the EU ETS in Liechtenstein. Verification is being done by verifiers accredited by the National Accreditation Body (NAB) of Austria, as having a national accreditation system would be inefficient due to the small size of the market.

Figure 18 shows the authorities and stakeholders involved and the communication between them.

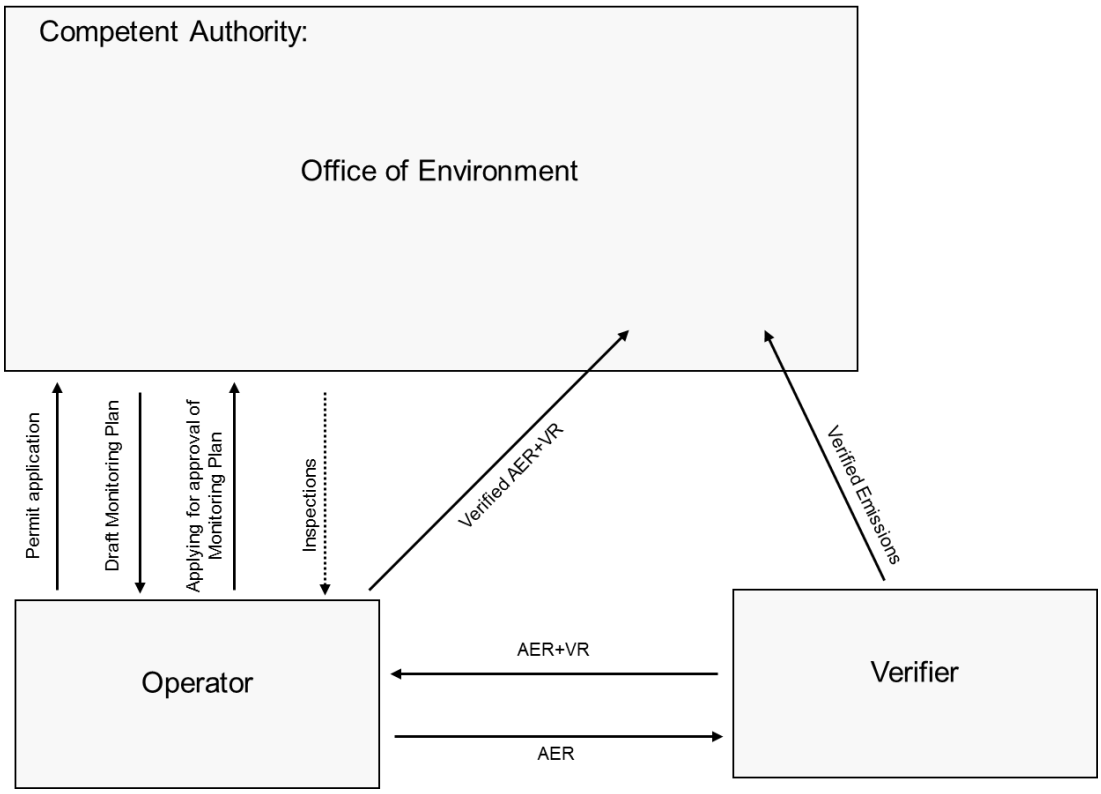

Figure 18 Institutional Structures of the EU ETS in Liechtenstein

18.3 Permitting and monitoring including notification of changes

In Liechtenstein, there are two combustion installations which are covered by the EU ETS.

As in the previous trading periods, the Office of Environment prepared the monitoring plans for the covered installations. Since the monitoring plan (MP) update in accordance with the Regulation on Monitoring and Reporting (MRR) is also done by the CA itself, no additional information was provided to operators on the new requirements other than that an update was required for Phase 3.

The Office of Environment uses a MP template, which is made available by the CA of Austria and is a translation of the Commission template. However, in order to simplify MPs in line with the provision for installations with low emissions the Liechtenstein CA amends the template by hiding relevant sections of the form that will not be required for installations with low emissions. Before the preparation the CA collects the required data and information from operators. During the preparation process the CA consults operators regarding plausibility and completeness. Therefore, once the MP is approved and the operators check for technical feasibility and hands it in for formal approval, no further assessment is required by the CA. At the time of writing the two MPs have not been approved yet since the CA was still in the midst of preparing them and in discussion with the operators.

Since both installations qualify as installations with low emissions, the CA does not require uncertainty analysis and undertakes the required risk assessment, and checks control activities to validate that simplified MPs can be used. No data gaps have been observed and sampling plans are

not needed for the installations. There are no aircraft operators in the country to be included in the EU ETS.

Significant changes to MPs in accordance to the Article 15(3) need to be reported to the Office of Environment as soon as possible. In case of significant changes to the MP no permit update is needed. Notification of changes are accepted in written form either by e-mail or by post. It is foreseen that the CA will check and accept the changes, but so far no changes have been reported. There are no checklists to be used by the CA for assessing changes to MP.

The Office of Environment has one staff member in charge of EU ETS related issues. On specific technical issues the Office of Environment staff is liaising with staff from the CA of Austria and Germany.

18.4 Reporting and Verification

18.4.1 Submission of AER

Annual emission reports (AER) have to be submitted by 31 March in the year following the reporting year. The current format of the AER follows the MP format. It is planned to use the Commission AER template in the future. Operators can seek assistance from the CA for completing the AER. Currently no template is required for the verification report (VR).

AERs and VRs can be submitted only in pdf format by e-mail. There is no IT system in place for storing and processing information of the AERs or VRs. The data is saved by the CA on the local disk.

Improvement reports should be submitted by 30 June of the same year the verification report is issued. However, no such reports are expected as installations with low emissions are exempt from this requirement.

18.4.2 Review and acceptance of AERs and VRs

There are no formal procedures for the review of AERs or VRs in place. All submissions undergo consistency and completeness checks by the Office of Environment. CA applies a plausibility check in order to cross-check the content of current AERs and VRs with AERs and VRs for the previous year(s).

If the verified AER is not available (which has not happened so far), emissions would be estimated by the Office of Environment. In doing this, the Office would contact the operators' gas and electricity supplier for activity data and emission factors.

18.5 Accreditation of verifiers

Liechtenstein has not appointed a national accreditation body (NAB) and relies entirely on cross-border accreditation. Due to the introduction of the Accreditation and Verification Regulation Liechtenstein no longer accepts verifiers from Switzerland. So far only one verifier is undertaking verification activities in Liechtenstein, which has been accredited by the Austrian NAB. There is no active communication with the Austrian NAB. The CA has not received the NAB's work programme. Yet, the CA is confident that it will be informed if there will be any issues related to the accreditation of the relevant verifier.

18.6 Inspections and enforcement

There are no dedicated inspection activities under the EU ETS, but the Office usually conducts on-site visits of installations. In 2013 the Office of Environment undertook an inspection of one installation. Production and energy consumption data, as well as relevant documentation is checked during the inspection.

To date, sanctions to the operator were not needed and were not applied. In case an operator fails to send a verified AER, his EU ETS account is blocked.

19 Lithuania

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Reviewers of Document: Romualdas Brazauskas, Vaidotas Kisielius (Ministry of Environment) & Tomas Aukštinaitis (Environmental Protection Agency)

19.1 Main changes compared to Phase 2

- With the AVR, the NAB introduced an accreditation programme for EU ETS verifiers.
- For reporting of 2013 emissions the processes did not change, but a change in national legislation will amend the MRV related responsibilities significantly as of 1st July 2014: control activities and inspection will remain with regional CA, while the EPA will take over responsibilities for permit issuance, monitoring plan approval, review of annual emission reports and verification reports.
- A new body „The State Environmental Protection Authority" is established under the Ministry of Environment from the 1st of July 2014. It methodically coordinates, organises, and controls activities of the Regional Environmental Protection Departments (REPDs).

19.2 Short description of authorities involved, their responsibilities and how they work together

In Lithuania, there are several authorities involved in the European Union Emission Trading Scheme (EU ETS) which execute functions of the competent authority (CA) as defined by Directive 2003/87/EC (EU ETS Directive).

Figure 19 outlines the organisational structure of the EU ETS in Lithuania.

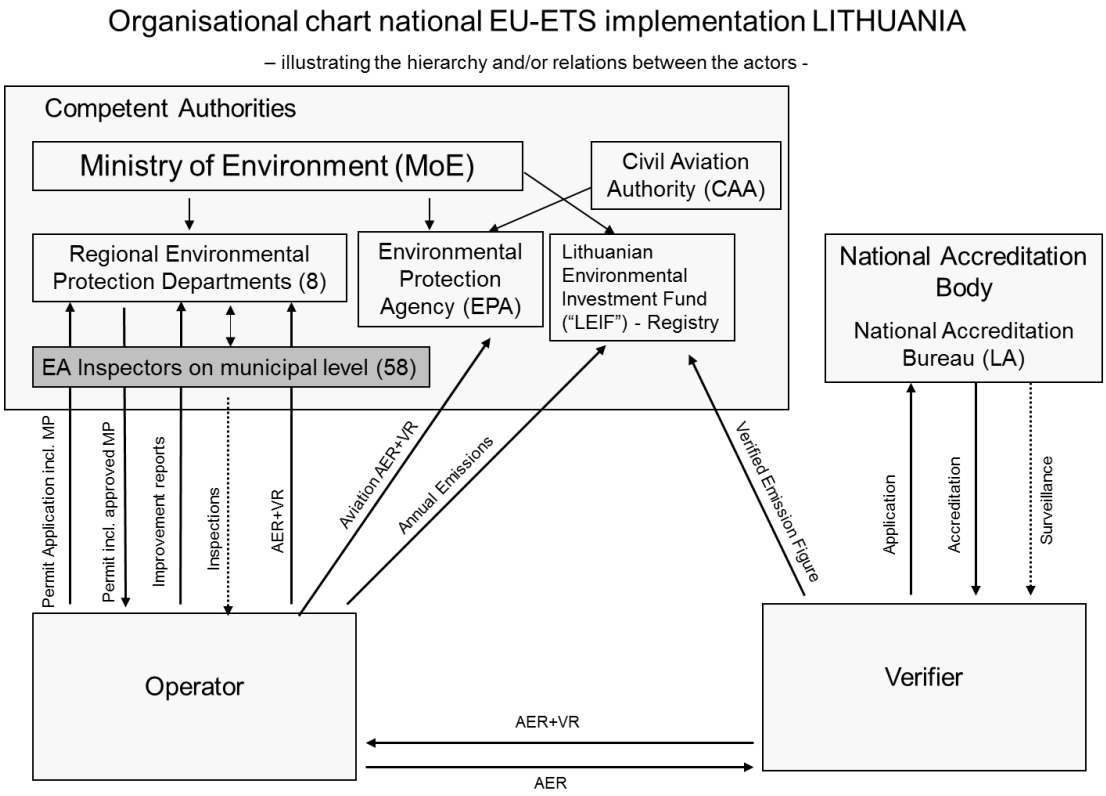

Figure 19 Organisational chart of EU ETS implementation in Lithuania[16]

19.2.1 The Ministry of Environment

The division of climate change policy within the Ministry of Environment (MoE) is in charge of allocation issues, approval of legal acts concerning emission trading, and overall administration and coordination of the EU ETS, e.g. the communication with other relevant ministries and the national registry administrator. The administration of the new entrants reserve for the stationary installations is jointly administered by the Ministry of Environment and Ministry of Economy. The administration of the new entrants reserve for the aircraft operators is regulated by the Ministry of Environment and Ministry of Transport and Communications.

19.2.2 Environmental Protection Agency

The Environmental Protection Agency (EPA), which is reporting to the MoE, has been tasked with the technical support of the regional CAs, providing technical guidance to the CAs, operators and verifiers, and with supporting the MoE in its reporting obligations, e.g. reporting under Article 21 of the EU ETS Directive. It has also been appointed as focal point for information exchange on accreditation issues. With the change to national legislation scheduled for the second half of 2014 the EPA will take over most of the MRV related tasks, including issuance of permits, approval of

[16] Institutional structure of the EU ETS presented in Figure 1 is based on the data applicable at the time of interview. Therefore institutional changes from the 1st of July 2014 are not reflected in this Figure.

monitoring plans (MPs), review of improvement reports (IRs), annual emission reports (AERs) and verification reports (VRs).

19.2.3 Regional Environmental Protection Departments

The Regional Environmental Protection Departments under the MoE (the "Regional Departments") performed CA functions in regard to monitoring, reporting and verification for installations during the reporting period of 2013. They have been in charge of issuing permits, approving monitoring plans, reviewing annual emissions reports (AERs) and verification reports (VRs), as well as undertaking inspections and enforcement. In 2014, there are eight Regional Departments and the scheme covers 95 EU ETS installations. The number of installations controlled by each Regional Department varies from 6 to 19. Inspections are further devolved to local administrative levels of these Regional Departments. With the scheduled legislative change, Regional Departments will be responsible of inspections only.

19.2.4 Lithuanian Environmental Investment Fund

The Lithuanian Environmental Investment Fund (LEIF) is the in charge of administering the Lithuanian accounts in the Union Registry.

19.2.5 Civil Aviation Authority

The Civil Aviation Authority (CAA) is a government authority responsible for approval and regulation of civil aviation. In regard to EU ETS, the CAA supports the EPA in reviewing monitoring plans and tonne kilometre plans submitted for approval by aircraft operators. Currently Lithuania is in charge of administering the EU ETS obligations of three aircraft operators.

19.2.6 National Accreditation Bureau

While already in charge of certifying EU ETS verifiers in Phase 2, the National Accreditation Bureau (LA) has been appointed as the national accreditation body for the EU ETS in 2012. The supervision over the NAB shifted from the Ministry of Environment to the Ministry of Economy.

While NAB has established an EU ETS accreditation programme in line with the AVR, it has not received any application for accreditation for the EU ETS until now.

Cooperation between CAs is explicitly regulated by Lithuanian legislation. The Regional Departments are obliged to inform the MoE and the LEIF when a new permit is issued or if a permit is withdrawn. MoE and EPA provide technical expertise to regional departments through the organisation of meetings (1-2 times per year) and through a 'help desk' by phone and email. MoE regularly reaches out to other departments, ministries or national experts in order to provide sector specific expertise to Regional Departments. It also distributes and translates the guidance received from the European Commission.

Staff of the various CAs are usually trained on the job. Most of the personnel has been working on EU ETS issues since the introduction of the scheme. The MoE provided a training to all CAs' staff on the new requirements of the AVR and MRR with the start of Phase 3.

19.3 Permitting and monitoring including notification of changes

Operators of installations covered by the EU ETS have to apply for a permit to emit CO_2 with their Regional Environmental Protection Departments (Regional Departments). The Regional Departments under the MoE act as CAs for permitting, monitoring and notification of changes.

19.3.1 Permitting

Permits are always combined with other permits. Two different combination of permits exist. For combustions activities with less than 50 MW a simplified pollution permit with GHG permit is issued. For other types of activities the GHG permit is combined with the IED permit. It contains an estimate of annual CO_2 emissions and certain conditions. The monitoring plan must be handed in as an annex to the permit application. Operators have to prepare their MPs using the translated version of the Commission template, which has been made available on the EPA's and MoE website. Both, a signed hard copy and an electronic copy are to be submitted. No national guidance has been provided in addition to the translations of the Commission guidance. In thirty cases simplified MPs have been approved for installations with low emitter status. The simplification is based on the Commission template as well.

19.3.2 Monitoring plan approval

The Regional Departments, with the help of the inspectors on municipal level, assess installations' applications and monitoring plans, including supporting documentation such as uncertainty analyses, risk assessments and evidence of commensurate procedures, checking completeness and internal consistency, cross checking with allocation data, other data and findings from inspectors' site visits. For that purpose some Regional Departments make use of the European Commission checklist. However, since the checklist has not been translated in Lithuanian, it remains a language barrier for some Regional Departments. No harmonised approach is applied by the eight Regional Departments for issuing permits and approving MPs.

19.3.3 Notification of changes

Any changes to the monitoring plan must be communicated and approved by the Regional Departments, as the monitoring plan forms an integral part of the IPPC permit or permit to use natural resources. An operator must notify the Regional Department 10 working days in advance about any changes to the monitoring plan and/or permit. The Regional Department decides whether the change is substantial and, if so, the permit/MP will be renewed or amended. Once the monitoring plan is approved it becomes part of the permit. Since IPPC permits have an unlimited validity the

GHG permits and MPs that are integrated into the IPPC permit are generally without an expiration date.

Smaller changes to the monitoring plan should be reported once a year, in advance to the reporting period, and monitoring plans need to be updated on a yearly basis in case of changes. Temporary deviations to the MP are not allowed.

The permits, decisions, monitoring plans and additional information about installations are stored in the regional offices. Copies of the documents are not provided to the MoE or EPA. No central database on the MoE level has been established. Only by March 2013, all MPs have been approved for Phase 3.

The MPs for aviation are received and reviewed by the EPA. CAA receives a copy of MPs and participates in close cooperation with EPA in the review and approval process. Final approval of MP is made by EPA.

Harmonisation between the various Regional Departments and the inspectors is currently only partly ensured through the general ministerial order on the inspection of installations and the translated Commission guidance. However, the application of this guidance remains in the hands of the Regional Departments. The change in legislation, shifting the issuance of permits and MP approval to the EPA, should enhance the process, as a greater degree of consistency can be ensured, leading to more harmonisation with the process of other member states. Nevertheless, more comprehensive guidance regarding the check and control of monitoring plans and its implementation, especially in more complex installations, is needed. In 2013 difficult cases were discussed and solved by the regional CA together with the MoE, which have supervised harmonised implementation for these cases. Irregular meetings with the Regional Departments and the MoE aimed at further enhancing harmonisation.

19.4 Reporting and Verification

19.4.1 In addition to the MRR and AVR, reporting and verification is regulated by the national legislation, which takes verification principles of the European Co-Operation for Accreditation (EA) into account. Operators have to prepare annual emissions reports (AER) using the translated Commission template. After verification, the verification bodies prepare a verification report (VR) and submit this report to the operator. A copy of the verification report is submitted to the regional department and to the registry (LEIF) by the verification body.

19.4.2 Submission of reports

Both installation and aircraft operators must deliver a hard copy and an electric copy of the AER and VR to the Regional Department not later than March 31 each year. Additionally, the operator has to enter the amount of annual emissions in its registry account and the verifier needs to confirm the entered emission figure. The LEIF (registry) checks consistency with the VR received electronically.
Regional Departments archive the paper and electronic versions and make a shortened version (cover page, other crucial information) available to the public through their websites.

In 2014, CA conducted a survey for aircraft operators to find out which of its aircraft operators (AOs) intend to submit their AERs in 2014 and which of them will do this in 2015. Only one aircraft operator submitted its AER in 2014.

In some cases verifications of 2013 emissions had to be based on MPs that had not been approved at that time. Simplified verifications are generally possible but have not been undertaken during the first verification of Phase 3.

The CAs do not possess a special IT system for GHG emission reporting, but there is a database storing all electronically submitted reports.

19.4.3 Review of AERs and verification reports

The Regional Departments review all submitted AERs and VRs for completeness and consistency using Commission guidelines. The level of detail of this content check is rather unclear and may vary between the different Regional Departments, as there are no clear requirements and guidance available for these checks. Yet, some of the Regional Departments use the Commission check list for their reviews. The EPA undertakes its own assessment in order to prepare a national summary of all emissions. While not being part of the official review process, the EPA communicates with Regional Departments in case it detects non-compliances. The operators and/or verifiers receive no official feedback in cases where no mistakes were detected. If mistakes are detected or submissions are incomplete, the Regional Departments follow up with the operator asking for corrections.

19.4.4 Improvement reports

The improvements identified by verifiers and listed in the VR, typically relate to the improvements in the operator's quality check procedures or control processes. Improvement reports (IR) based on the translated Commission template should be submitted by June 30 each year. At the time of interview the CA was not aware of recommendations from verifiers and hence did not expect to receive a substantial number of IRs.

19.5 Accreditation of verifiers

The National Accreditation Bureau (LA) has been appointed as the national accreditation body (NAB) for the EU ETS by a ministerial order in 2012. Already previously it was in charge of certifying verifiers for the EU ETS. The NAB is under the supervision of the Ministry of Economy and is entrusted with the authority of accreditation as a public authority activity. With the introduction of the AVR it has prepared an accreditation programme for EU ETS verifiers based on the AVR and EN ISO 14065, taking into account EA-6/03. The LA is a member of EA and successfully passed the peer review, however, the EA Multilateral Agreement in respect to EU ETS accreditation can only be signed once the LA has performed an actual accreditation assessment. However, LA has received no applications from verifiers seeking accreditation for the EU ETS until now. Therefore, Lithuania effectively relies on cross-border accreditation. Verification is performed by verifiers established and accredited in other member states (MS) (Finland, Latvia and Estonia) that have either offices in Lithuania or contract local staff to perform the services locally.

To fulfil the AVR requirements for lead assessors it makes use of technical experts from science institutes and industry bodies. The LA provides trainings on the accreditation procedures to these external assessors. Procedures for reassessment, as well as for administrative measures and appeals against such measures are in place as part of LA's general accreditation procedures.

So far no formal reporting between the LA and the EPA, which is appointed as the focal point for the exchange of information on accreditation issues, took place. This is because the LA did not have any data and information to provide the work programme or management reports at that time. Communication is maintained through meetings with the EPA and through participating in workshops organised by the CAs.

The EPA has also not received any work programmes from those NABs that accredited the verifiers, which are operating in Lithuania. Since the CA did not come across any issues in regards to verifiers it did not engage in any communication with foreign NABs so far.

The LA maintains a database on its website listing all verifiers it has accredited. Also, the EPA maintains a list all verifiers that have been accredited for the EU ETS in all MS.

19.6 Inspections and enforcement

19.6.1 Inspection

The environmental inspectors under the supervision of the Regional Departments perform inspections and enforcement. Spot checks are usually initiated as a response to claims addressed to operators activities, if operators had notified the CA of changes, or based routine checks.

Each site is inspected by the Inspectors of regional CA at least once per year. There is a rotation system between the inspectors and, as result, each installation is checked by different inspectors over time. The inspectors perform spot checks in combination with other environmental and IPPC related inspection activities. Each inspection includes the comparison of the AER with the MP, the assessment of data archiving procedures and transparency of data, as well as a consistency check of monitoring procedures. If there is a need, follow-up on-site inspection visits could take place. Airline operators have been inspected during approval of MP by the Civil Aviation Organisation.

19.6.2 Enforcement

Sanctions that could be applied to installation and aviation operators for non-compliance with requirements are clearly defined in the National Law and can be summarised as follows: the account at the registry will be blocked in case of irregularities or late submission of the AER or VR, the permit may be withdrawn or suspended, or the name of the non-compliant operator will be publicly announced. Conservative estimates of emissions figures are derived with support by the EPA. The administrative penalty for not receiving documentation in time could be also applied, and ranges from 116 € to 232 €. The administrative penalty for polluting environment without permission varies from 290 € to 579 €.

Generally, the Regional Departments have a right to impose sanctions. However, current inspection visit programmes did not detect any non-conformities which resulted in sanctions or fines. Hence, no sanction or fine has been imposed based on non-conformities related to GHG related issues.

In the case of partial cessation or partial cessation proof of cessation is required from relevant authorities.

19.7 Good Practices

- Involvement of inspectors in decision for issuing permits and approving MPs should be considered as good practice since this allows to rule out and address many non-compliances before the issuance of permits and approving MP.
- It can be considered as good practise that all operators were inspected at least once a year by the inspectors.

20 Luxembourg

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Reviewer of Document: Martine Kemmer (Environmental Administration)

20.1 Main changes compared to Phase 2

- Uses Commission template for monitoring plans, annual emissions reports, improvement reports and verification reports
- Change from acceptance procedure to accreditation based system for verifiers
- Strengthened resources of the CA (1 expert → 3 experts).

20.2 Short description of authorities involved, their responsibilities and how they work together

Luxembourg has centralised the competent authority (CA) functions as defined by Directive 2003/87/EC in the form of the Environmental Administration (AEV). Figure 20 shows all authorities and stakeholders involved and the communication between them. Descriptions of each organisation follow the figure.

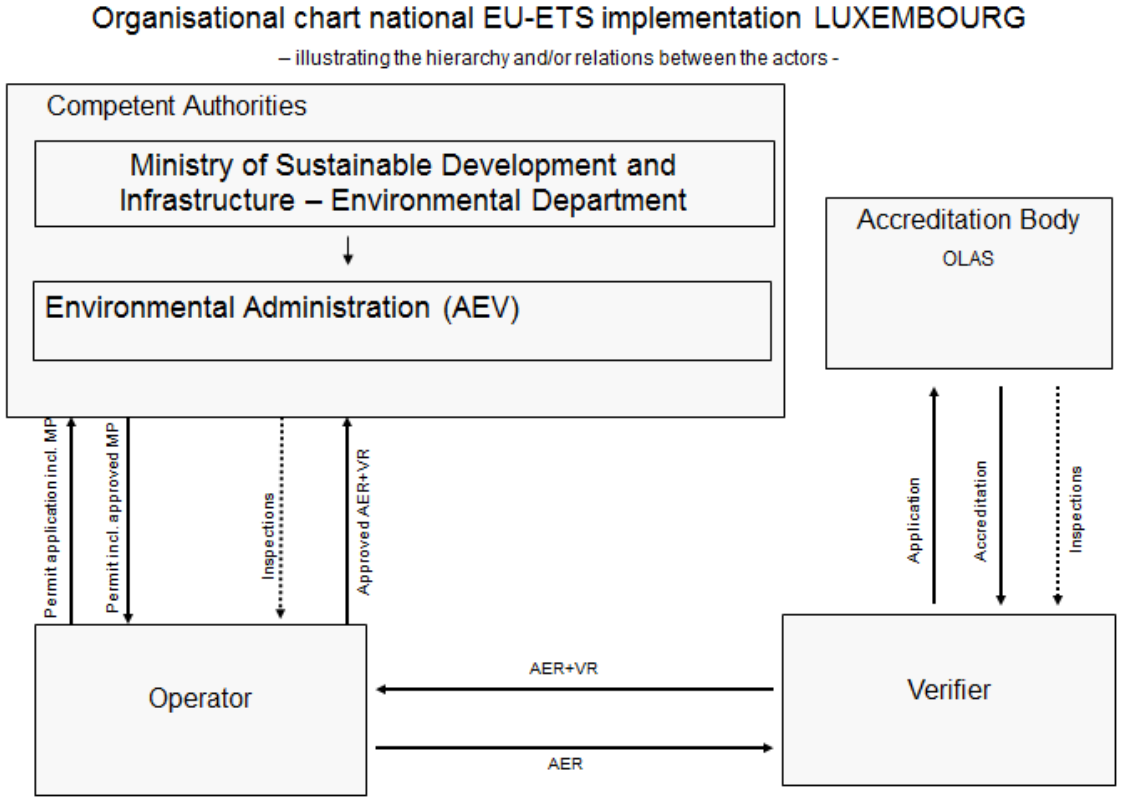

Figure 20 Institutional Structures of the EU ETS in Luxembourg

20.2.1 Environmental Administration (AEV)

The main authority for the EU ETS in Luxembourg is the Environmental Administration (AEV) working under the Environmental Department of the Ministry of Sustainable Development. The Environmental Department of the Ministry is furthermore directly responsible for the overall legal framework (e.g. development and issue of national legislation with regards to the EU ETS).

The EU ETS unit in the Environmental Administration (AEV), responsible for stationary installations and aircraft operators consisted of one single expert due to the limited number of installations in Luxembourg (currently 18 installations). Since January 2014, this expert is supported by two new colleagues, whereof one is mainly responsible for monitoring and the other focusses on union registry related issues. AEV is in this respect responsible for the:

- Permitting and approval of monitoring plans (MP)
- Allocation and issue of EU allowances
- Receiving and reviewing verified emission reports
- Running of the national registry
- Compliance and enforcement
- Administration of new entrance reserve
- Information to the public.

20.2.2 Office Luxembourgeois d'Accréditation et de Surveillance (OLAS)

Luxembourg appointed "Office Luxembourgeois d'Accréditation et de Surveillance" (OLAS) as single National Accreditation Body (NAB) according to the accreditation regulation 765/2008. OLAS is the department of the Luxembourgish institute for standardisation (L'Institut Luxembourgeois de la Normalisation, de l'accréditation, de la Sécurité et Qualité des produits et service, ILNAS) responsible for the accreditation of verifiers. OLAS became a signatory of the European Co-Operation for Accreditation (EA)" on 14 April 2011.

20.3 Permitting and monitoring, including notification of changes

Operators of installations, covered by the EU ETS, have to apply for a permit to emit CO_2 with the Environmental Administration (AEV). The permit application requires the submission of an installation specific monitoring plan, developed in accordance with the MRR 2012. Operators and aircraft operators are obliged to use the Commission template for monitoring plans in Phase 3. No additional guidance documents are available for the applicants who have to submit the documents as signed hardcopies whereas additional electronic submission is appreciated. The monitoring plans from installations and aircraft operators are checked against all requirements from the MRR by using the Commission's exemplar checklist. After validation of the MP and the permit application, the AEV issues an opinion which is submitted to the minister for final decision. Only by January 2014, all permits were issued and all MPs for Phase 3 were approved.

The monitoring plans are separate documents which can be updated independently from the permit. Although the AEV is also responsible for the issuance of IPPC permits, GHG emission permits are issued as separate permits. The validity of EU ETS permits is always limited to the duration of the

trading period. Current permits are valid until the end of 2020. Installation boundaries are defined similar to the IPPC boundaries. According to national law, operators have to inform the AEV on all changes to the monitoring methodology or to the permit. If changes are significant according to Art 15 (3) MRR they should be notified, where possible, two months before the change goes into effect, otherwise as soon as the change occurs. Insignificant changes are reported at latest by the end of each year. No guidance or templates for the notification is provided by AEV. Operators have to notify changes by sending an official letter. Based on the updated information or on an updated monitoring plan, the AEV validates the changes and issues again an opinion for final decision by the minister. Significant changes require a modification of the permit, whilst minor changes result in MP changes only. The CA tracks all changes in their files but does not use database software or other IT solutions which support review and administrational tasks.

There are no specific forms and guidelines provided to the operators by the CA, but a close contact between key players in the EU ETS, especially between the competent authority (CA) and operators is established. Operators and verifiers can directly ask the AEV in case of questions. The AEV has the opportunity to visit installations or meet with stakeholders on short term as distances and administrative barriers are rather low. Although no processes, guidance or templates are directly used from other member states, the CA maintains a close contact to some member states (especially Belgium) and to the Commission to ensure continued improvements and exchange of information.

20.4 Reporting and Verification

20.4.1 Submission of reports

The annual emissions report (AER) is developed by the operators and submitted to the AEV and in parallel to an appointed accredited verification body/verifier. The use of the Commission template is mandatory for AERs as well as for verification reports (VR). The verifier performs the verification based on the AER, the valid permit and monitoring plan version. He is obliged to always perform an on-site visit. The operator informs the AEV at least a week in advance of the date of the on-site visit. In case that the verifier finds deviations to the MP or other non-conformities which need to be resolved he and/or the operator directly contact the CA for advice or decisions. The CA often issues its opinion as soon as possible via email to ensure that the verification process can be finished in time. For all other questions the CA is also available by phone or will visit the installation to clarify open issues.

As a result of the verification procedure, the verification body/verifier will issue a verification report that includes a final verification statement summarising the audit-results and indicating the verified annual CO_2 emissions. Verification report and statement will be sent in parallel to the operator and to the AEV. The verifier and operator are required to submit the reports as signed hardcopies by the 7 March whereas additional electronic submission is appreciated. The early deadline allows for proper review time for the AEV. The same approach applies for aircraft operators. However the deadline for submitting reports are 31 March.

20.4.2 Review of AERs and verification reports

The AEV is responsible for receiving and reviewing the annual emissions and verification reports (see organisational chart in Section 1). All reports are checked by the AEV at least on completeness and consistency along with previous reports, the monitoring plans and further available information. Until now, if the CA does not find any mistakes, they put the emission figure into the registry. There is no specific acceptance procedure to inform operators or verifiers when the reports are satisfactory. If the verifier includes recommendations for improvements to the verification statement, the AEV checks the updated monitoring plan or improvement report and the following year if the operator has taken the recommendation into account. In case of mistakes found during the review of the reports the CA contacts the operator and request clarifications and corrections. In case of substantial mistakes or doubts about the competence of the verifier, the CA (which is also responsible for accepting the verifiers) informs the foreign accreditation body who has issued the accreditation certificate. Additionally, the operator may be required to submit a corrected report which is verified by a different verifier. The CA had an issue with one verifier who did not notice that the operator applied the low emitter status in the monitoring plan but the emissions of its installation exceeded the low emitter threshold. It is a still pending process in which the CA considers to withdraw the acceptance of the verifier and to inform the national accreditation body who issued the accreditation certificate of that verifier.

20.5 Accreditation of verifiers

Before the AVR came into force, Luxembourg applied an acceptance procedure for verifiers which was carried out by a separate unit within the AEV. For Phase 3 the "Office Luxembourgeois d'Accréditation et de Surveillance" (OLAS) has been appointed as single National Accreditation Body according to the accreditation regulation 765/2008. As no verifier applied for accreditation in Luxembourg, OLAS undertook no accreditation yet and Luxembourg relies of cross border accreditation. The CA requests foreign verifiers to provide their accreditation certificate in order to check that they hold a valid certificate. There is a lack of communication between the CA and relevant foreign NABs, such as receiving work programmes or communicating findings on verifier identified during review of VRs or the work programme.

The AEV maintains an active information exchange with other MS NABs in order to exchange information according to art 70(1), 70 (3) and 72 of AVR and if necessary whenever an issue arises.

20.6 Inspections and enforcement

Inspections and enforcement are performed by the AEV EU ETS unit as well. Due to the obligation to inform the AEV about the planned verification process and the dates for the on-site visit, the AEV has the opportunity to attend to verifications and inspect installations and do surveillance of verifiers at the same day. AEV has inspected one out of 18 installations in Phase 3 and strives for inspecting all installations at least once per trading period. In addition, extraordinary inspections are carried out whenever an issue arises and the AEV feels that further clarification is needed.

Upon non-conform operation of installations the authorities can impose fines or withdraw permits. Besides the 100 €/tCO_2 fine, penalties range from 251 € up to 100,000 €. The legislation even provides for imprisonments of eight days to six months depending on the severity of the irregularity. So far penalties were not used for stationary operators in Phase 3 but one procedure has been started against one foreign aircraft operator.

20.7 Good Practices

- Close and frequently used contacts between operators, verifiers and the CA are established. This ensures and facilitates a common understanding of the EU ETS requirements.
- The verifiers are required to inform the CA in advance about their verification planning and about the dates of site visits. This allows the CA to attend to site visits and inspect verifiers and installation at the same date. This enhances the CA staff's expertise and strengthens the communication between CA, operators and verifiers.

21 Malta

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Reviewer of Document: Saviour Vassallo (Malta Resources Authority)

21.1 Main changes compared to Phase 2

The main changes from Phase 2 to Phase 3 are as follows:

- In May 2010, the EU Emissions Trading System (EU ETS) implementation function was officially moved to the Malta Resources Authority (MRA). The EU ETS function was formerly allocated to the Malta Environment & Planning Authority (MEPA).
- English versions of Commission templates are now used for monitoring and reporting.
- To date a template developed internally by the operator of the installations falling within the scope of the EU ETS has been used for improvement reports. However, going forward the Competent Authority (CA) intends to use the Commission template for improvement reports (IRs).
- In the past, the CA required hard copies of the annual emission reports (AERs) and other documents to be submitted, but now all documents are submitted electronically by email.
- National legislation has recently been overhauled, and the two pieces of subsidiary legislation that transpose the EU ETS Directive into national legislation have been updated taking the requirements of the revised EU ETS Directive (2009/29/EC) and the Regulation on Monitoring and Reporting under the EU ETS, Commission Regulation No. 601/2012 (MRR) into account.

21.2 Short description of authorities involved, their responsibilities and how they work together

21.2.1 Key responsibilities

In Malta, there is one main authority involved in the EU ETS, the MRA, which executes functions of the CA as defined by Directive 2003/87/EC.

National legislation transposing the EU ETS Directive was revised during 2012 and 2013 and the relevant national legislation is as follows:

- Legal Notice 434 of 2013: European Union Greenhouse Gas Emissions Trading Scheme for Stationary Installations Regulations (S.L.504.66);
- Legal Notice 403 of 2012: European Union Greenhouse Gas Emissions Trading Scheme for Aviation Regulations (S.L.504.115).

MRA is formally designated as the CA for EU ETS in these legal notices.
The MRA is under the aegis of the Ministry for Energy and Health (MEH). However, climate change is, as a theme, in the portfolio of the Ministry for Sustainable Development, Environment and Climate Change (MSDEC). Figure 21 shows all authorities and stakeholders involved in EU ETS in Malta and the communication between them.

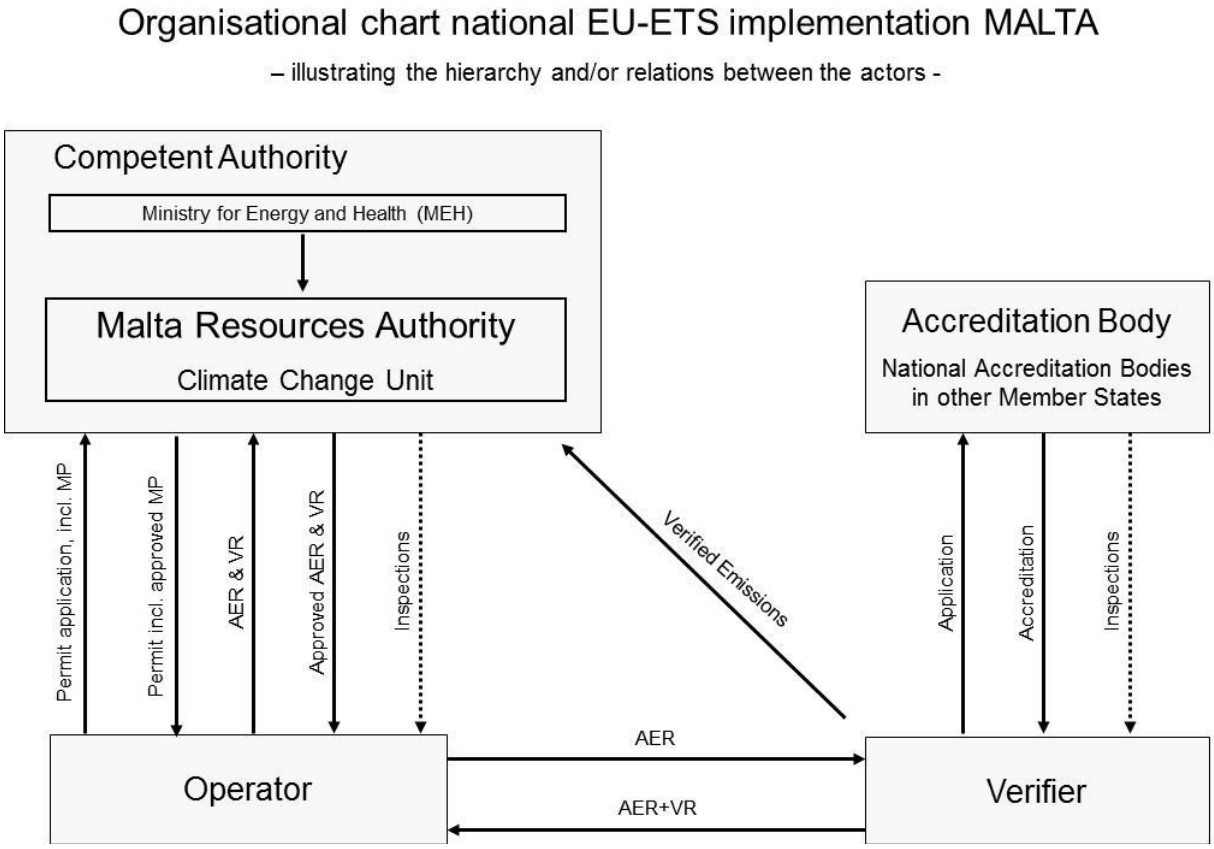

Figure 21 Institutional Structures of the EU ETS in Malta

The Climate Change Unit within MRA is responsible for the following tasks:

- Processing of applications for greenhouse gas emission permits
- Processing of draft monitoring plans (MPs)
- Issue of permits and approval of MPs
- Issue of allowances
- Registry administration
- Receipt and processing of verified emissions reports
- Review and acceptance of reports as applicable
- Providing help-desk support to operators, aircraft operators and verifiers as necessary.

The responsibilities of the CA cover both installations and aviation operators. No additional CA has been involved in the administration of the EU ETS for aviation operators.
It should be noted that it is envisaged to integrate the Climate Change Unit within a new environment authority in Malta in the future. Consequently, the function of the CA for EU ETS purposes is expected to also migrate to the new authority.

The National Accreditation Board of Malta (NAB-MALTA)[17], which is operated as a Board under the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties (MSDC), does not currently accredit any verifiers for EU ETS. No applications for EU ETS verifiers have been, or are currently being,

[17] Legal Notice 306 from 2007 has established the NAB-MALTA as the single nationally recognized accreditation body in Malta with the authority to give accreditation also with regards to EU ETS verification activities. The NAB-MALTA is the single national accreditation body as per EU Regulation 765/2008 Article 4 Para. 1.

processed. Verifiers accredited by other Member State NABs are accepted by the CA. Although there is no formal verifier acceptance regime in place, the CA and the NAB-MALTA developed a verification guidance note to provide general information regarding acceptance of verifiers.

During the compliance period covered by this evaluation, two verifiers operated in Malta. One verifier performed verification for the two installations, both of which are operated by the same operator, while the second verifier carried out the verification of the annual emissions report of the only aircraft operator who submitted an annual emissions report with respect to 2013 emissions[18].

21.3 Permitting and monitoring including notification of changes

21.3.1 Permit application and monitoring plan

Operators of installations covered by the EU ETS have to apply for a greenhouse gas emissions permit from the MRA. The permit application requires the submission of an installation specific MP, developed in accordance with the Monitoring and Reporting Regulation (Regulation 601/2012). In Malta, the greenhouse gas emissions permit is separate from the IED (IPPC) permit, which is dealt with by a different authority.

To facilitate submission of MPs, MRA require operators to use the English version of the Commissions MP template. A minor amendment has been made to the Commission MP template so that emissions from urea and bicarbonate, used as an abatement measure, can be included. The operator can fill out the templates directly and is required to submit the documents electronically to the CA. Malta does not have any simplified MP to date.

Commission guidance on MP is used by the CA to assist in answering questions posed by operators. It has been observed that the guidance is not directly used by operators, possibly due to the volume of guidance and its text-based nature. Operators instead tend to contact the CA directly with any queries. No guidance additional to the Commission guidance is provided by the CA.

In Malta, the operator of the installations (two in 2014) has a system where they produce a standard operating procedure (SOP) for M&R for Greenhouse Gas emissions and submit to CA. The SOP forms part of their Environmental Management System (EMS). This includes uncertainty analyses, risk assessments and documents their procedures. This document was originally developed by the operators, but they have worked with the CA to make it part of the M&R process.

The CA carries out a complete review on MPs and SOPs submitted by installation operators with their application for a permit. Reviews contain checks on completeness, consistency and crosschecks with information from previous permitting and reporting activities. This review stage is an iterative process with the operators. Operators submit a draft, which the CA makes comments on and sends back. SOPs are also checked thoroughly. Where necessary, a meeting is held to go through each section of the MP and ensure full understanding.

[18] It should be noted that, due to changes in requirements for aviation, this aircraft operator was subsequently determined to be exempt from compliance requirements relating to the EU ETS in view of the level of activities/emissions reported for 2013. Another aircraft operator which is subject to the requirements of the EU ETS Directive with respect to 2013 emission has chosen to delay the submission of the annual emissions report for 2013 emissions to a later date, in accordance with Regulation (EU) No 421/2014.

Verifiers also review the SOP and raise issues that should result in an update of the SOP. The technical review by the CA also includes checks that past comments by verifiers have been included.

This iterative process of approval is very thorough, but can take some time to complete. However, the small number of installations and operators concerned, the long-standing relationship between staff at the CA and staff at the installations, and (with regards to face-to-face contact) the small size of the country and the proximity of the premises of the CA to the premises of the operator, make this approach more feasible than may be the case for larger countries.

Once required changes are made and final MP produced and the permit is then issued with the approved MP. The permit is written in such a way that it does require an update whenever the MP is updated.

The CA retain copies of all documents on their servers.

No formal training is carried out by the CA on the assessment of MP, due to only one person carrying out assessments. Commission guidance is used and the CA actively participates in meetings at the European level, such as the Compliance Forum Task Forces. The Commission's 'Exemplar checklist for assessing installation MPs' is not specifically utilised, as all MPs are checked fully from beginning to end.

The CA did not encounter specific issues in approving Phase 3 MPs[19]. All Phase 3 MP were approved and permits issued going into Phase 3. Conversion of these MPs to the Commission template was carried out and completed in 2013.

Aircraft Operators (AO) subject to the requirements of the EU ETS Directive currently all have an approved MP. The MPs to date are not scope specific. There may be some updates to permits required in line with recent changes to the requirements for AO, though such updates are not expected to involve major changes to the MPs concerned.

21.3.2 Notification of changes

In Maltese national legislation, it states that operators have to submit their MPs and carry out monitoring and reporting in line with Directive and the MRR. Therefore, issues listed as significant modification to the MP requiring approval by the CA in Article 15 of the MRR are directly applicable to operators. National legislation also has a specific note on deviations from the MP, where a deviation is defined as use of different monitoring of a temporary nature.

The MP can be changed and updated independently of the permit.

Operators are required to regularly check whether MP updates are required. Significant modifications need to be reported to the CA as soon as possible, as no proposed significant modification is valid without approval of the CA.

[19] Although the use of urea in one of the installations required an adjustment to the Commission template and spectrometry was required to determine an Emissions Factor (EF).

Once changes are approved, the CA sends the operator an email notifying of approval. The MP file is updated with the date of approval and third page of MP also updated.
For non-significant changes the basic requirement is for the operator to carry out regular checks of the MP and notify CA as per legislation. Typically a letter would be sent to notify the CA of non-significant changes. Information on these would be annexed to MP and the MP updated with these when a significant change is required.

Specific templates or checklists are not utilised for assessing changes to MP.

21.3.3 Monitoring of emissions

In Malta, there have been no issues with the broadened definition of 'combustion' (as outlined in Directive 2003/87/EC Art. 3(t)) as the two installations are straightforward sites using heavy fuel oil (HFO) and gas oil. One site also uses urea and bicarbonate as abatement measures. The broadened definition of combustion has not changed the approach for the two sites.
Until 2012 both installations were Category C and were meeting highest tiers. One site is now a Category B installation, but has retained the same approach as before. There are therefore no installations in a transitional period working to an improvement plan.

No operators are applying a fallback methodology.

There are no installations with low emitter status.

No operators have adopted the use of measurement-based methodologies (CEMS).

No operators are using biomass and no biomass use if envisaged going forward.

The CA and operator approach to uncertainty assessments has not particularly changed since the introduction of the MRR, as the CA has worked closely with operators to develop their approach over time. Uncertainty is a very detailed technical area in the operator SOPs and is an area where recommendations made by verifiers are specifically noted. Examples in the Commission guidance have been useful in helping the CA and operators to better understand the requirements on uncertainty assessment. This section of the Commission guidance is used by operators.

There have been no unreasonable cost claims or claims over technical feasibility in Malta in Phase 3.

Sampling plans are also included as part of the SOP and reviewed in the iterative checking process.

Requirements of the MRR have not really changed the frequency of analysis by operators. Operators sample every batch they receive, which is the approach developed in Phase 2. Analysis frequencies are typically greater than those required by Annex VII of the MRR.

In Malta, the two laboratories used are fully accredited and the CA has had no applications for equivalence. As Malta is an island, operators may be required to use laboratories abroad, as occurred in the past. The CA would like further detail on additional things they should check relating to

accreditation of laboratories, particularly when checking whether local laboratories are meeting all required accreditation requirements.

The CA has had no experiences with inherent or transferred CO_2.

CA have not had instances where data gaps have occurred and a provision for temporary changes in their legislation. Aircraft Operators are required to outline procedures for managing data gaps.
There are no instances in Malta where an operator has applied a global warming potential in the monitoring of installation emissions.

21.3.4 Aviation

Aircraft operators (AOs) meeting the requirements of MRR Article 54 ('small emitter' status) are allowed to use simplified monitoring requirements and Eurocontrol's small emitter's tool to estimate their fuel consumption.

When updated versions of the Commission EU ETS Operator List is released, the CA would check this to identify new AOs. The CA also checks, on an ongoing basis, the list of newly issued aircraft operator certificates (AOCs), published by the local civil aviation authorities, in order to identify potential local new entrants into the scheme.

Once a new AO is identified, the CA would first look on internet for information on operator. Where necessary, information is received from Eurocontrol or CAAs of different countries have been contacted (particularly third countries). Issues can arise where a private person appears on the list, as contact details can't be provided by Eurocontrol and it can be difficult to find information on the operator[20].

Once an AO is identified and contact details determined, the CA would send a formal written letter by registered mail[21]. At the same time the CA would also try to contact the AO through email (where details are available). A discussion would then be had with the operator to determine whether they are covered by EU ETS or not. With local operators the CA would have a face-to-face meeting to discuss points such as what they have to do and any concerns they might have. The distinction between commercial and non-commercial operators is not apparent from the Commission list and CA often have to do quite a bit of work to determine the operator's status. This makes a difference to whether they are regulated or not.

CA has had a few instances where AOs needed to be transferred to a different CA. In such cases, the determining factor has usually been which country has issued that operator's operating licence/AOC.
The requirements for fuel density measurement and identifying sources of uncertainty and determining fuel uplift, as outlined in the MRR, are clear and seen as more straightforward than the MRG.

[20] However, this is now expected to be less of an issue, as these tend to be small operators and it can be determined from Eurocontrol data if they are no longer covered due to the new requirements.
[21] There can be an issue with registered letters are returned undelivered and it is not clear as to the reason why, e.g. whether the AO is bankrupt or has moved office. However, such cases have often concerned small emitters, and the recently adopted new requirements regarding small emitters, particularly non-commercial ones, should result in such cases becoming less of an issue.

No MPs have been approved allowing for the use of biofuel.

CA uses Eurocontrol Support Facility (SF) in the checking of annual emissions reports (AERs). Use of Eurocontrol saves about 50% administrative burden of administering AOs for the CA. Everything is checked in the AERs, including any discrepancies in aerodrome pairs. This was previously done manually but, in recent years, such checking has been greatly facilitated by using the ERE-tool developed by Germany.

Malta has taken an open approach to the submission of 2013 AERs. Most operators have waited until regulation set before reporting. At the time of interview, only one operator was remaining who needed to report 2013 and this operator was expected to report reduced scope later in 2013.

21.4 Reporting and verification

21.4.1 Submission of annual emission reports and verification reports

In Malta, reporting and verification is regulated by national legislation, which takes the requirements of MRR and principles of the European co-operation for Accreditation (EA) into account.

Operators have to prepare AERs and assign an accredited (respectively accepted) verification body to verify the AER. In the case of aircraft operator, tonne-km reports may also be prepared and duly verified, if the operator intends to apply for allocation of free allowances.

The verifier performs an on-site visit as part of the verification process. Due to the size of the installations (one category B and one category C installation), simplified verifications would not be carried out and site visits would not be waived. After verification, the verification body prepares a verification report (VR) and submits this report to the operator.

To facilitate submission of AERs, MRA require operators to use the English version of the Commissions AER template for reporting. Operators are required to submit verified AERs, with the VR, by 31 March each year. To date, all submitted AERs have been verified by an appropriately accredited verifier.

21.4.2 Review of AERs and VRs

All AERs are reviewed fully for completeness and consistency with other reports. No specific checklists are used for this purpose. However, CA is considering a process of documenting review checks in future. For aviation AERs checks are made against Eurocontrol data, using the German ERE-tool.

If mistakes were identified in the AER/VR the CA would typically go back to the operator to justify any discrepancies. To date all discrepancies in AERs have been justified and no actual errors identified.

Deadlines for the approval of AERs are stipulated in national legislation, which states that the CA shall determine whether it can accept a submitted report within 30 days of the date of submission of the report (Regulation 17(2) of S.L.504.66; Regulation 14(2) of S.L.504.115). The CA formally informs

operators of acceptance of the AER by providing a remarks report with a statement at the end that the CA accepts the AER. This report is sent to the chairman of the operator's company the installation with a covering letter.

The AERs provide sufficient information for CA purposes, particularly now that Commission template is used, as the 'accounting' sheet at the end is particularly useful. Fuel combustion data from EU ETS AERs is used in the National Inventory.

21.4.2.1 Determination of the emissions figure

The national legislation in Malta (Regulation 17(3) of S.L.504.66; Regulation 17(3) of S.L.504.115) contains provisions on how a CA is allowed to determine the emissions figure. This covers instances either where the AER has not been submitted or where it is not in accordance with the legislation.

To date there have been no instances where the emissions figure needed to be determined. Therefore, no formal procedure has been established. For AOs Eurocontrol SF data would be used to determine emissions.

21.4.2.2 Improvement reports

The CA requires a single improvement report (IR) on improvements to the monitoring methodology to be submitted by the 30 June each year in line with the requirements of the MRR. To date a template developed internally has been used for IRs, as CA has had an iterative process of improvement with operators for a number of years. However, going forward the CA intend to use the Commission template for IRs.

To date the most common improvement requirements identified by verifiers and operators are:

- Installations:
  - Improvements relating to internal procedures to enhance quality of the way monitoring and reporting is carried out
  - Updates to elements of SOPs to make them clearer and more comprehensive
- Aircraft operators:
  - Suggestion that operators prepare monthly emissions reports to assist in reconciliation at end of year
  - Suggestion that operators should electronically download Eurocontrol SF data for reconciling.

21.4.2.3 Electronic reporting

The CA in Malta does not have a specific IT system in place for reporting. All documents are submitted electronically by email. In the past, the CA used to require hard copies of the AER and other documents to be submitted, but now email submission is sufficient.
The CA has considered various electronic options for reporting in the past. ETSWAP was considered, but this is now not financially feasible as there are only two installations in Malta and one aviation operator remaining in the reduced scope. The development of an internal XETL reporting system for EU ETS purposes had been considered at one point, but this did not go forward. The CA is now actively following the discussions on the Commission DECLARE system proposal.

21.5 Accreditation of verifiers

The NAB-MALTA does not currently accredit any verifiers for EU ETS. No applications for EU ETS verifiers have been, or are currently being, processed.

NAB-MALTA is a European Co-operation for Accreditation (EA) MLA signatory in testing and calibration and is presently undergoing the process to extend its signatory status to include inspection. It is not yet an EA MLA signatory for EU ETS, as it does not have any clients. The fact that the EA MLA can only be signed once the NAB-MALTA has clients might make it difficult for any potential verifiers to ever be accredited by the NAB-MALTA, as any new verifiers will have to be in compliance from day one and this can only be achieved through accreditation by an EA MLA signatory.

Verifiers accredited by other Member State NABs are accepted by the CA. Although there is no formal verifier acceptance regime in place, the CA and the NAB-MALTA developed a verification guidance note to provide general information regarding acceptance of verifiers. This document states the requirements that apply to foreign verifiers to be accepted. Foreign verifiers are required to provide a copy of the scope of accreditation, in English, evidence of knowledge of the applicable local legislation and the relevant national legislative framework, as well as information regarding the competency of the individual verifiers selected to perform verification (in the form of a curriculum vitae).

The CA does not typically see the management report or work programmes from other Member State NABs, but they do receive a notification on when a verifier plans to come to do a site visit in Malta. When a verifier comes to Malta to do a site visit, the CA would arrange a pre-meeting with the verifier to ensure a common understanding prior to the site visit.

The CA has not submitted any complaints, regarding a verifier, to the NAB that has accredited that verifier.

As all Maltese operators are verified by foreign verifiers, the CA is reliant on the information exchange process set out in the regulation to get information on issues such as change in verifier status.

21.6 Inspections and enforcement

21.6.1 Inspections

The GHG permit issued by the MRA allows for inspections to be carried out at the permitted installation by the CA. However, to date, no official inspections have been carried out by the CA. This is mainly due to a lack of human resources, as there is currently only one expert carrying out most tasks relating to EU ETS.

There is still the question as to what extent IED inspectors can integrate GHG related inspections into their inspection activities. This may be given further consideration following the envisaged integration of the Climate Change Unit within the new environment authority.

In general, the CA plan further consideration of EU ETS inspections, how these might be carried out in the future and what the minimum requirements for these inspections should be.

The guidance note on the acceptance of foreign verifiers, includes provisions to allow for future inspections and supervision of verifiers. The guidance note states that the NAB-MALTA, in conjunction with CA, reserve the right to perform supervision on the verifier. Where applicable such supervision may be carried out in liaison with the national accreditation body that has issued the accreditation to the verifier. The verifier may be charged for the costs relating to supervision. The operator and the verifier shall make all the necessary information available to NAB-MALTA and the CA to allow a proper supervision to be carried out by no later than four weeks before the start of the verification process. This includes the dates when verification shall be carried out (site visits) and a verification plan.

Although no inspections have been carried out to date, the CA and the operators are in close contact to discuss any issue that may arise. For this reason, the CA has visited installations and held regular meetings with operators, where operators are located locally. The purpose of these visits was to facilitate the timely resolution of any issues that may eventually result in problems with the verification and acceptance of the verified reports and were not considered official inspections to monitor the measures taken by the operators to monitor and report emissions.

In the case of aircraft operators not based in Malta, similar close contact is provided for by phone and email at all stages of the compliance cycle.

21.6.2 Enforcement

The national legislation stipulates that monitoring and report needs to be carried out in line with the current regulation (MRR) and outlines sanctions for non-compliance in accordance with Directive 2003/87/EC. These include instances where:

- An operator is operating without valid permit or monitoring plan
- Operations are not in line with the permit or monitoring plan
- Changes have not been reported to the CA
- There is non-compliance with regards to timely and complete surrendering of allowances.

Sanctions for aircraft operators are determined in a separate legislative act.

To date no sanctions have been applied to either installations or aircraft operators.

It should be noted that transposition of the EU ETS Directive is through two pieces of subsidiary legislation, one covering installations and another specific to the inclusion of aviation activities. These where both subject to amendment during a recent overhaul of national legislation, which has taken requirements of the MRR into account.

21.7 Good practices

- MPs for the two stationary installations are supported by a SOP, which forms part of the installations EMS and includes details on uncertainty analyses, risk assessments, sampling plans and installation procedures. These SOPs have been developed and refined in conjunction with the CA.

- The CA carries out a complete review on MP and SOP submissions, as well as on AERs. Eurocontrol SF data is used for the checking of aviation AERs.

- As verifiers from other MS NABs are accepted by the CA, and no EU ETS verifiers are currently accredited in Malta, the CA and the NAB-MALTA developed a verification guidance note to provide general information regarding acceptance of verifiers.
- When a foreign verifier comes to Malta to do a site visit, the CA arranges a pre-meeting with the verifier to ensure a common understanding prior to the site visit.

22 The Netherlands

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22.1 Main changes compared to Phase 2

- An electronic database system was implemented and operators now submit reports via email or web form.
- Activities are now aligned with the MRR and AVR.
- In Phase 3, the accreditation process changed in two-steps, first to the EN ISO 14065 standard, then to the AVR.
- Regular communication has been established between the CA and the NAB.
- The Dutch NO_x emission trading system (ETS) has been repealed. Therefore, integrated monitoring plans for CO_2 and NO_x and cross checks between NOx data and EU ETS data are no longer required.

22.2 Short description of authorities involved, their responsibilities and how they work together

The Netherlands has centralised the competent authority (CA) functions as defined by Directive 2003/87/EC in the form of the Dutch Emissions Authority (NEa). Figure 22 shows all authorities and stakeholders involved and the communication channels between them. Descriptions of each organisation follow the figure.

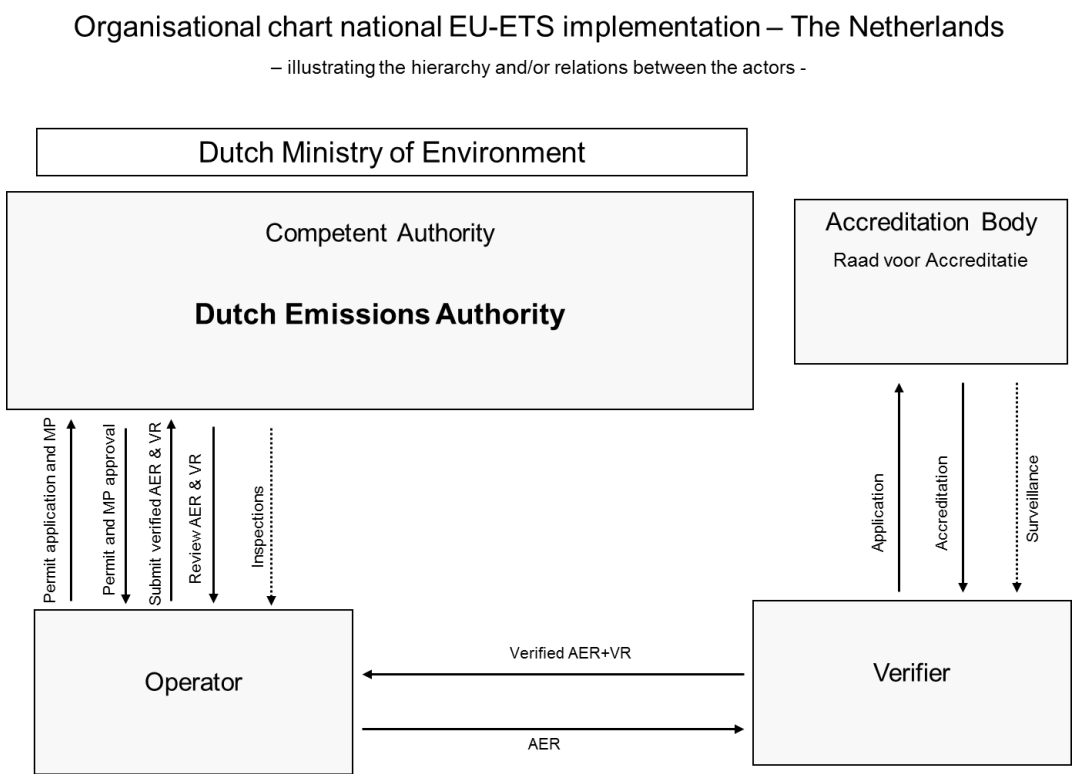

Figure 22 Institutional Structures of the EU ETS in the Netherlands

22.2.1 Dutch Ministry of Environment

The Dutch Ministry of Environment has the overall responsibility for EU ETS and drafting legislation.

22.2.2 NEa

The Dutch Emissions Authority (NEa), under the Ministry of Environment, is the competent authority (CA) holding executive power for EU ETS functions, and covers both installations and aviation. The NEa is an independent administrative body and is responsible for:

- Approving the monitoring plan and issuing ETS permits
- Updating permits, approving or accepting notification of changes
- Allocation and issuing of allowances
- Reviewing emission reports and verification reports
- Inspection and enforcement
- Registry activities
- Auction of emission allowances
- Focal point for the national accreditation body, verifiers, operators.

The NEa is organised into departments for Monitoring & Allocation, Compliance and Enforcement, and Registry and Market Integrity, headed by separate managers. All overlapping (strategic) ETS-functions are under coordination of one manager for installations and one manager for aviation, which facilitates communication, consistency, and training. There are specialised teams, but they are all located on same floor of same building. There is regular communication at different levels, between and within teams, and quarterly meetings with the NAB.

22.2.3 Raad voor Accreditatie

In the Netherlands, the Raad voor Accreditatie (RvA) is the appointed national accreditation body, responsible for accrediting verifiers. It is a member of the European co-operation for Accreditation and is a semi-autonomous public authority, and, in the Netherlands, is considered an independent governing body, falling under the ultimate responsibility of the Ministry of Economic Affairs. The results of the EA peer evaluation are taken into account in the monitoring of the NAB by the ministry. RvA has assigned an account manager for the ETS and has quarterly meetings with the NEa.

22.2.4 Verifiers

In 2014, five accredited verifiers are operating in the Netherlands for installations that are accredited by RvA, and a list of accredited verifiers is published on RvA's website. In accordance with the Accreditation and Verification Regulation (AVR), the NEa accepts the accreditation of verifiers holding an appropriate accreditation by NABs of EU member states, which is particularly relevant for aviation verifiers. For aviation, 8 verifiers are operating in the Netherlands, of which the majority were accredited by NABs in other MS. At the time of the interview, the RvA has accredited one verifier for aviation.

22.3 Permitting and monitoring, including notification of change

Permitting and review of MPs are handled within the same team within the NEa, which facilitates a consistent approach. In general, permits are only updated in case of changes to the Annex I activities. However, the NEa updated all permits for Phase 3 due to the degree of changes to all MPs, as approved MPs become part of the permit. The Industrial Emissions Directive (IED) and the ETS involve separate permits. All installation operators have permits and MPs. An agreed temporary plan is in place in a few complex cases where the final version of the MP is not yet approved.

The NEa has a consultation requirement established with the CA of the IPPC-permit based on a mutual consultation protocol. However, there is no obligation to respond, and they get feedback only in approximately 10% of cases – usually just confirming the system boundaries are the same. If the NEa requires specific information, they follow up directly.

All operators are required to use the same MP template for installations, which is translated into Dutch and is based on the Commission template. The NEa has added explanatory text within the template and provided additional guidance documents e.g. for uncertainty assessments, sampling and risk assessments in Dutch, at www.emissieautoriteit.nl. They also ask operators for a reference document for all information not easily included in the excel-based MP template, e.g. the sampling plan, uncertainty analysis, schematic overview, and formulas.

The NEa provide additional guidance in Dutch, focusing on providing practical information and examples, e.g. where to find figures, what parameters to take into account, what formulas to use for uncertainty assessments, which they find is especially relevant for installations with low emissions. They also clarify overlaps with the Commission template in terms of what to put where, to assist annual emissions reporting.

In many cases, additional guidance was developed based on the Regulation on Monitoring and Reporting (MRR) before Commission guidance was published or to elaborate on issues common in the Netherlands.

All submissions, including MPs, are received electronically via email and are stored in an internal database and workflow system. The NEa has built an internal tool to upload data from other sources automatically (e.g. NIMs, emission reports) into their internal checklist and a tool to track changes in the monitoring plan. They have also semi-automated the generation of reports from the NEa to the operator, which has standard remarks built in.

All files are checked for completeness, technical accuracy, and plausibility, such as for the uncertainty assessment and risk assessment. The NEa contacts the operator if incomplete material information is provided.

Procedures and specific instructions have been developed to facilitate the approval process. For example, their validation checklist builds on Commission's exemplar checklist, addressing what to check at which level of detail, including notes on how to handle installations with low emissions and de minimis sources.

The NEa noted that they hire external consultants to help manage workflow in peak periods, such as to perform initial validation of MPs. When new staff or consultants are contracted, specific training is organised, as appropriate, and additional quality control measures apply, for example, a four eyes principle.

The NEa reviews and approves all changes affecting the MP (temporary changes to the monitoring methodology, structural changes to the monitoring methodology, changes to the name of an installation and closure). If there appears to be undue delay in returning to compliance with the MP, e.g. unexpected delays fixing defective equipment that caused the temporary change, the NEa will follow up with the operator.

The NEa identified a few issues considered significant modifications to the MP that require CA approval that are different to those identified in the MRR:

- They clarified that they must approve changes to emission sources only as far as the monitoring methodology is affected.
- They added the following issues to what requires CA approval: (a) changes in the way in which quantity, NCV, EF, CF, BioF, OF or composition are determined; (b) changes of the sampling plan for heterogeneity reasons.

To facilitate submission, the NEa provides templates and basic guidance on the website for each type of notification (e.g. temporary or structural changes to the monitoring methodology, changes to the name of an installation and closure). The appropriate form is to be submitted as a cover sheet with the updated MP. The NEa conducts the same checks for changes as are performed the MP. However, the inspection department may also be asked to assess the notification.

The Netherlands no longer has a national emission trading system for NO_x. However, in the past, if an installation was covered by the EU ETS and the NO_x emission trading system, it was required to complete an integrated monitoring plan for CO_2 and NO_x and the reviews were coordinated. The local

authority responsible for IPPC permits was then asked by the NEa to check the capacity of the combustion or process units with IPPC information. The NEa noted that having the NOx scheme previously has given them increased confidence in the scope of combustion installations.

22.3.1 Aviation

The approach for monitoring plan approval for aviation follows the same general framework as for installations to the extent feasible. The aircraft operators use the Commission templates in English, which are uploaded into the same database and workflow system, and the NEa uses the validation checklist for review.

22.4 Reporting and Verification

22.4.1 **Submission of reports**

An operator has to submit an emission report and verification report via email by the 31st of March each year. The NEa sends out reminder e-mails to all operators, and calls small or new operators if there is a concern about timeliness.

Operators upload the reports via a web-based system that provides immediate acknowledgement of receipt. Usually, the NEa does not notify operators of AER approval, but will notify the operator in cases where they had to adjust the final emission figures.

The NEa requires operators to use translated versions of the excel-based Commission templates with minor changes to reduce redundancy, such as avoiding asking for basic descriptive information already provided. Also, the NEa provides operators with a tool to copy information automatically from the MP to the AER and have included some additional guidance directly in the template, e.g. how to deal with weighted average values.

Improvement reports (IR), e.g. relating to verifier comments in the verification report or cases where a lower tier or a fall-back methodology is being used, need to be submitted by 30 Sept 2014. The NEa provides operators with a NL-specific template based upon the Commission template that reduces the information required to streamline the process, e.g. minimising duplication from other submissions.

Usually, there is no direct contact regarding the installation between the verifier and the NEa. However, verifiers will contact the NEa to confirm the approved version of the MP.

The NEa reported that the most common issues in the verification reports triggering IRs this year (concerning the first compliance cycle of Phase 3) are procedural findings. There are also some inconsistencies and gaps in MPs and some missing de-minimis source streams.

A major issue is that verifiers have not consistently reported findings. Depending on the way they report a finding, it could trigger an IR for even a minor issue not affecting the calculations, even when NEa staff believe it shouldn't be necessary. More training of verifiers is planned by the NEa on what should be considered as material misstatements non-conformities, recommendations, etc., as this categorisation determines what type action is required from the operator.

22.4.2 Aviation

For aviation, the NEa requires use of the templates made available by the Commission in English. Despite the option to postpone verified emissions reporting for 2013 to 2015, a few aircraft operators have submitted AERs anyway.

22.4.3 Review of AERs and verification reports

As mentioned above, all data from the AERs and other reports are stored in the internal database and workflow system. The NEa is considering allowing external access to certain portions for operators and verifiers, however an EU-wide solution would be preferred.

As with the MP, the NEa has developed an internal protocol to review the Annual Emissions Reports (AERs). All emission and verification reports receive a basic check on completeness, whether the verification report records material misstatements non-conformities, and/or recommendations, has been submitted on time and is verified by an accredited verifier.

Thorough checks of the emission reports and verification reports are performed on a selection of installations, using a risk-based approach.

If the NEa finds errors in the emission report or verification report, it can officially determine the emission figure using a specific calculation method that errs towards overestimation of the emissions, to be conservative. This would also be done when no verification report is provided or if the emission report is not submitted. Generally, the NEa follows Commission guidance regarding conservative estimation of emissions. If necessary to make the estimation, the NEa will conduct an on-site visit. Also, the NEa will notify RvA if the verifier has made a mistake.

The NEa noted that they did not receive a few AERs by the 31st March 2014 deadline, but received them soon enough after to still evaluate and accept them.

The NEa approved postponing site visits for one year for twenty one operators involving offshore oil platforms for technical and safety reasons.

Aviation

The approach for AER approval for aviation follows the same general framework as for installations, to the extent feasible. They use the Commission templates in English, upload into the same database and workflow system, and use the aviation sections of the validation checklist for review.

22.5 Accreditation of verifiers

As RvA is an independent governing body, official decisions on accreditation are public and can be appealed in court. No verifier had their scope reduced or removed during Phase 3 by RvA. Performance oversight for RvA is in the form of a peer review by EA members.

In Phase 3, the accreditation process changed in a two-step process, first to the EN ISO 14065 standard, then to the AVR. The AVR is considered harder than EA 6/03, which has helped clarify requirements by providing a format and has set dates.

RvA made minor adjustments to their protocols per AVR, e.g. information exchange requirements. RvA provides specific accreditation protocols (SAPs) as needed to clarify the application and assessment process, key dates, and ongoing data requirements for the verifiers.

The specific review requirements of the AVR are new and additional for RvA, as well as the requirement that the final decision maker at RvA have the same qualifications as lead assessor, which RvA addresses by having a review process with a second independent reviewer, before going through the sign off process.

RvA noted that the notification requirement for verifiers has helped in RvA's planning process and for the witness activities in particular.

An accreditation certificate is valid for four years. When the accreditation certificate expires or the verifier applies for an extension of the scope, a reassessment following the same process takes place. The accreditation process includes:

- Review of the application and associated documentation (e.g. quality management manual, exemplar reports)
- Office visit e.g. to view implementation of quality management procedures
- On-site witnessing
- Annual surveillance.

The accreditation team consists of a lead assessor, an assessor and an expert that has knowledge on ETS or sector-specific knowledge. Where additional external technical expertise is needed, RvA draws from industry, e.g. large engineering consultancy or a specific expert for aviation, or in a few cases from an accreditation body in a neighbouring member state.

In line with Chapter VI of the AVR on information exchange, RvA submitted the management report on time according to the template published by the Commission. RvA received due notifications from its accredited verifiers on time and RvA was able to submit its work programme to the NEa on time. However, the data from verifiers was limited, as many contracts between verifiers and operators were signed much later than expected. To further facilitate information exchange beyond the requirements in AVR Article 70(1), RvA submitted two updates to the NEa as more detailed information from verifiers became available.

RvA noted that all verifiers in the Netherlands have been active for several years, so they have established relationships with them and know areas to watch for each. RvA maintains a listing of verifiers on their website, which is updated real-time as changes occur.

In Phase 3, the NEa filed one complaint with the NAB regarding two AERs they could not accept because the verifier was not accredited for the relevant scope. NAB has since updated its procedures to provide additional checks to ensure this issue does not recur.

Neither the NEa nor RvA has been informed of any suspension, withdrawal or reduction of accreditation scope of a verifier by another MS' NAB.

22.6 Inspections and enforcement

Inspections are carried out by the inspection department within the NEa. The overall inspection procedures have not changed under the new regulations and the NEa targets inspection of 20% of operators annually using a combination of risk-based and random approaches, so that all facilities are covered over time.

Risk factors include a new operator, changes occurring in an installation, or issues from previous inspections which can decrease or increase the risk profile, etc. A regular inspection covers the following: documentation, procedures and responsibilities, physical site characteristics and operations, data flows, and monitoring equipment. For very large facilities, they may go every year but focus on a different group of factors each year.

The NEa noted that they also sometimes witness onsite procedures by laboratories.

When issues are found it is typically de minimis source streams that have been missed, or the procedures to monitor activity changes are not where they should be per new MRR. To address this, the NEa has reminded verifiers and internal inspection staff that they need to check procedures and de minimis source streams in particular. The NEa notes that they also give compliance assistance on site during inspections.

If there are issues found during an inspection, follow-up action depends on the matter concerned. Examples include: making an appointment with the operator for corrective action; follow up investigation, or enforcement. If it is found the operator is doing a reasonable monitoring method, but different than reported in MP, then they need to update the MP.

A detailed policy document has been developed which indicates what sanctions can be imposed for each specific infringement. The infringements in this document relate to very specific elements in the compliance chain.

Enforcement protocols were already in place and did not change much with the MRR. Penalties range from €10,000 to a maximum of €450,000 or, when this is higher, to a maximum of 10% of the turnover of the operator concerned. In accordance with the ETS-directive, the NEa has rules allowing 100 €/ton if not enough allowances are surrendered.

The NEa requests evidence in the case of cessation or partial cessation of Annex I activities. For cessation, operators are required to send photos, minutes of board meeting where decision is made, etc. For partial cessation, documentation is only required if there is a request for permit change.

Typically, the NEa does not have issues with enforcement. However, they noted that it can be difficult in cases of bankruptcy, where there is no longer a clear operator for the future. They watch to see if the bankrupted company starts a new company in another name.

22.6.1 Aviation

The NEa seeks to be consistent with the EU regarding aviation, and inspections and enforcement are being aligned accordingly.

22.7 Good Practices

- The MS has been proactive in developing guidance, for example, to clarify requirements, provide relevant and practical examples, or addressing issues specific to the Netherlands. Guidance facilitates comparability, transparency and efficient processes for all stakeholders.
- The MS developed a detailed checklist with a decision tree type format for the review of monitoring plans and AER, which is also developed for aviation. Similar guidance has also been developed for carrying out inspection and enforcement. It includes a risk-based inspection tool that helps select the installations to be inspected. These clear internal procedures increase the consistency, transparency, and detail to which reporting is reviewed.
- The database and workflow management system contains automatic checks (e.g. completeness and plausibility of reported data, consistency of calculation, and comparison with data from previous years), which reduces the potential for errors on the side of the operator and considerably improves the review process of reported data, as it better allows the comparison of data from different sources.
- The MS developed internal Excel tools such as a tool to upload data automatically into their internal database, and track changes in the monitoring plan. Also, they provide operators a tool to copy information from the MP to AER.
- The NAB is paying close attention to verifiers' time allocation in order to avoid competiveness issues (i.e. Verifiers allocating insufficient to verification activities and through this being able to charge lower rates).
- The utilises external resources in the checking of complex claims regarding the technical infeasibility of implementing a specific monitoring methodology required by the MRR, improving the validity of all such claims approved or rejected by the CAs.

23 Norway

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23.1 Main changes compared to Phase 2

- The Norwegian Environment Agency (EA) no longer undertakes the verifications of annual emission reports (AERs), as it did previously in Phase 2, due to the Regulation on Accreditation and Verification under the EU ETS, Commission Regulation No. 600/2012 (AVR) requirement for third party verification.
- The EA is in the process of developing inspection procedures for Phase 3.
- It is proposed that inspections will be carried out by the department within the EA responsible for inspections, accompanied by an EU Emissions Trading System (EU ETS) case handler.
- Norway's National Accreditation Body (NAB), Norsk Akkreditering, now has the responsibility of accrediting verification bodies based in Norway wishing to undertaken EU ETS verification activities.
- The EA provides country-specific electronic templates for monitoring plans (MP), AERs and verification reports (VRs) based on, and including all the requirements of, the European Commission's versions.

23.2 Short description of authorities involved, their responsibilities and how they work together

While Norway is not a member of the EU, it takes part in the EU ETS, for the full 2013-2020 compliance period, based on the European Economic Area/European Free Trade Association (EEA/EFTA) framework.

The EA is the Competent Authority (CA) and it reports to the Norwegian Ministry of Climate and Environment. The EA has around 700 employees, with 350 employees based in Oslo. The EA implements government policies on pollution related to climate change, chemicals, water and the marine environment, waste management, air quality and noise and manage Norwegian nature.

For the implementation of the EU ETS, the EA is responsible for:

- Permitting (including approving MPs)
- Allocation of allowances
- Reviewing AERs, VRs and improvement reports (IRs)
- Inspections
- Enforcement.

Within the EA, there is a small team that specifically handles aviation operators assigned to Norway.

Norway has appointed a NAB, Norsk Akkreditering, to accredit verification bodies in Norway.

Figure 23 is an organisational chart showing the main actors in Norway and the information exchanges or data flows between those actors.

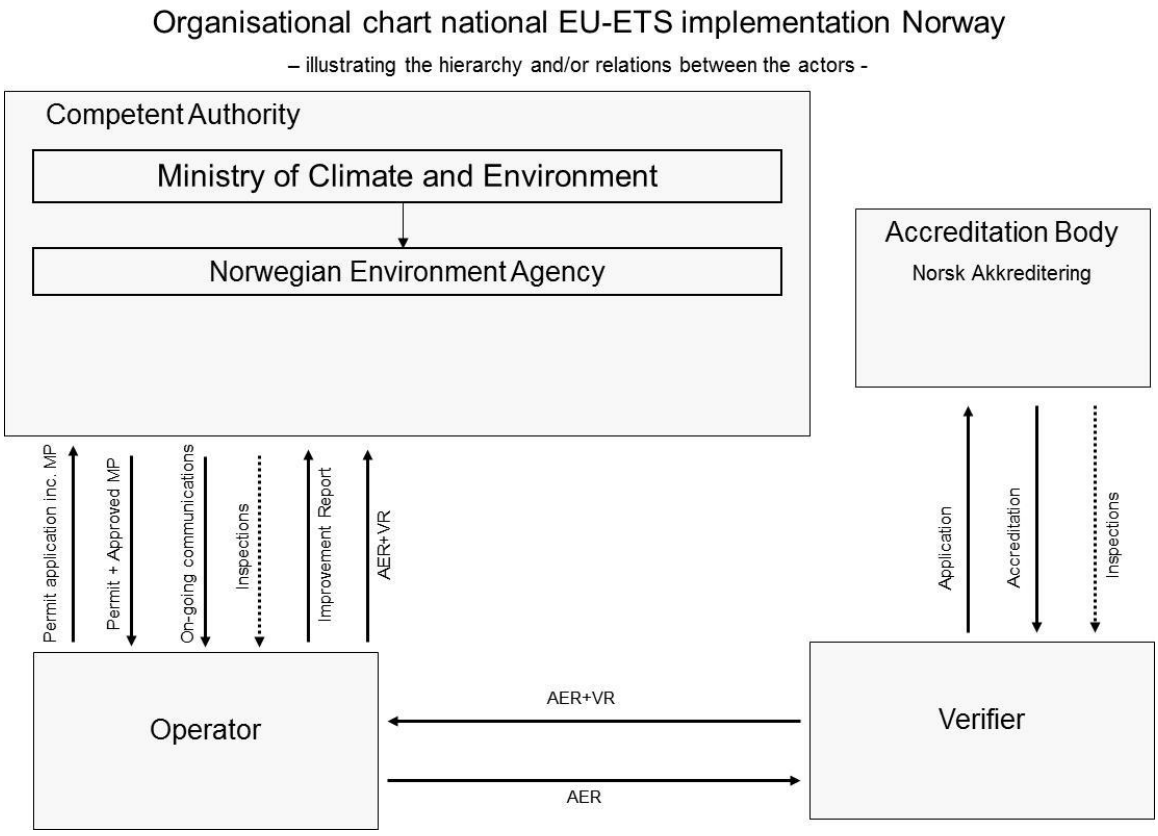

Figure 23 Institutional Structures of the EU ETS in Norway

23.3 Permitting and monitoring, including notification of changes.

Operators have to apply for a permit using a permit application form and completing a MP. The permit, when granted, is specific to the EU ETS and is not combined with permits issued under other national or European regulations.

The EA provides its own MP template to operators based on, and including all, the requirements of the European Commission's template. The EA prescribes its own MP template to ensure that emissions data are collected and stored in the Agency's emissions database (Forurensning).

Permit applications and MPs are submitted electronically by operators and electronic submission is mandatory in Norway.

The EA only provides one MP template to all operators, including those meeting the requirements of a low emitter (in accordance with Regulation on Monitoring and Reporting under the EU ETS, Commission Regulation No. 601/2012 (MRR) Article 13). The Norwegian template, like the Commission's template, has key selection criteria (e.g. the operator's chosen monitoring

methodology) that, when completed, makes the provision of certain data mandatory or not applicable.

Once submitted to the EA, an MP is assigned to a case handler within the Agency's electronic reporting system. The case handler will conduct completeness and adequacy checks, checking against the requirements outlined in the MRR and checking that supporting documentation – such as the risk assessment, uncertainty analysis and sampling plan – have been attached (where required).

The case handler assesses all elements of the MP and makes specific checks for completeness against the requirements outlined in Annex I of the MRR. The case handlers follow an EA checking process and have the Commission's Exemplar checklist for assessing installations MPs available to them, though this is not always utilised as it is considered too general for some installation cases in Norway.

The case handler's determination of the MP is peer reviewed by another case handler before approval is granted. All case handlers are Agency staff members and are located in Oslo.

Case handlers have not received specific training on MP approval but have learnt through on-the-job training and through the feedback from peer assessments of their work. If, during the determination of Phase 3 MPs, the EA became aware that specific technical issues needed a common approach or interpretation, the EA held a meeting of all case handlers where a resolution or common approach was sought. If the issue was related to a lack of knowledge/understanding amongst the case handlers, then additional training or guidance was given to ensure a consistent approach.

All MPs in Norway have been approved by the EA and permits were issued between the 7 June 2013 and 25 March 2014. Once a MP has been determined and is no longer 'in process', all documentation is retained in the EA's document archive.

The EA prescribes the list of changes outlined in Article 15(3) of the MRR as significant changes to the MP requiring approval by the EA. The EA provides templates for an 'application' (significant change) and 'notification' (non-significant change) within its electronic reporting system that operators must complete.

Any significant update of the MP will also require an update of the permit, as the two documents are linked. New permits are issued by the electronic reporting system and a copy is also sent to the operator by letter and email.

In Norway, the MP includes a list of significant changes that require the operator/AO to submit an application for approval by the EA. The MP also includes a change history compared to previous MP versions.

The EA has developed national guidance to operators around specific topics where it was felt necessary based on the number of queries or perceived uncertainty amongst operators. To date the Norwegian EA has developed guidance around:

- Guidance to operators on how to complete descriptions of procedures
- Exemplar risk assessment (based on the Commission's published version).

Currently, a smaller number (less than 20) of installations in Norway have 'temporary exceptions' from meeting the tier requirements laid down in Article 26 of the MRR and are in a transitional period and working to an improvement plan. Most are currently not meeting the required calculation factor tier or tier related to PFC and only a few are currently not meeting the required AD tier. The EA has required these installation to put in place a plan to improve by the end of 2014 or 2015.

The EA has developed its own standard factors for natural gas source streams used by operators in Norway, including standard factors for LNG, dry gas, propane and flare gas.

Where operators in Norway are sampling natural gas source streams, in line with a tier 3 approach to determine the calculation factors of the source stream, the EA commonly requires the frequency of analysis outlined in Annex VII of the MRR. The frequency could be higher than the 1/3 rule calculator provides. This is because the calculator assumes sampling of the same pool and this is not representative of natural gas source streams in Norway.

The EA is active in Member State discussions around the interpretation and application of Articles 23 and 65 of the MRR through the Task Force on Monitoring and Reporting. As discussions are ongoing, the EA is unclear about the connection between the two articles. The EA currently follows the data gap guidance paper developed by the German Emissions Trading Authority (DEHSt).

23.4 Reporting and Verification

In Norway, operators must submit their annual emissions reports (AERs) and accompanying verification reports (VRs) by the 31 March following the end of the compliance year. Both the AER and VR must be submitted to the EA electronically.

The EA provides installation operators and aircraft operators with a country-specific template for the AER, as the data must be in a format consistent with the Agency's emissions reporting system. The AER template includes guidance to operators on how to complete the report. The electronic reporting system also pre-populates the AER with certain information from the operator's MP.

23.4.1 Verification

The implementation of the requirements of the AVR in Norway meant that, from 2013 onwards, the verification of AERs had to be conducted by accredited third party verification bodies. Under Phase 2, the EA itself performed the verification of all AERs.

In reviewing the 2013 AERs and VRs, the EA has become aware of issues where verifiers have incorrectly categorised misstatements, non-conformities and recommendations. Following the review of the 2013 AERs and VRs, the EA is also aware of significant differences in the level of detail in the VRs and level of accuracy/consistency in the verifications themselves by different verification bodies. The EA proposes to address such inconsistencies through information exchange with the NAB and directly with verifiers.

23.4.2 Review of annual emissions reports and verification reports

Once submitted, the EA undertakes a review of all (100%) of the submitted AERs. Case handlers reviewing the AERs use a checklist developed by the EA to guide these checks. In checking an AER, the case handler performs a consistency check between the AER and VR, a consistency check between the AER and MP and a consistency check within the AER itself.

In Norway, formal acceptance of AERs and VRs is provided by the EA to the operators.

Where improvement reports (IRs) are required to be submitted, operators and aircraft operators in Norway use the European Commission's template. The EA proposes developing a template within its electronic reporting system for IRs, but this has not been implemented yet and was not in place for improvement reporting for the 2013 compliance year.

The EA allows the combined reporting of improvements relating to MRR Article 69(1) and reporting of improvements relating to MRR Article 69(2), with the combined report due by the 30 June following the end of the compliance year.

23.5 Accreditation of verifiers

Accreditation of verification bodies located in Norway for Phase 3 is now undertaken by Norsk Akkreditering – Norway's appointed NAB for the EU ETS. Previously, under Phase 2, there was no NAB as all verification activities were undertaken by the EA.

For the implementation of Phase 3, Norsk Akkreditering was newly appointed as the public authority responsible for accrediting verification bodies and verifiers undertaking EU ETS verification activities.

In preparation for this change, several meetings were held between Norsk Akkreditering, the EA and verification bodies to ensure a smooth transition to the new arrangement and to ensure all stakeholders were suitably informed. Norsk Akkreditering also ran a training course for verifiers to explain the accreditation requirements and what the accreditation process would entail.

Norsk Akkreditering makes available its 'Accreditation Conditions' document on its website, which outlines the general principles and specific conditions of each scope of accreditation.

The accreditation process in Norway, as undertaken by Norsk Akkreditering involves the following key steps:

- An application review
- An office assessment (inc. checks of CVs and interviews with staff)
- Witness auditing (of the scope of accreditation applied for)
- Correction, by the verification body, of any non-conformities picked up during the office assessment or witness auditing

- Accreditation decision.

These steps are outlined in Norsk Akkreditering's procedures. These procedures are general procedure, applicable to other accreditations overseen by Norsk Akkreditering, where possible. However, EU ETS specific procedures needed to be developed by Norsk Akkreditering for sanctions, Information Exchange and witness auditing.

Once granted by the NAB, an accreditation certificate is valid for 5 years. When the initial certificate is granted, a reaccreditation plan (including annual surveillance) is set out. This is a general procedure for all types of accreditation in Norway.

In 2014 Norsk Akkreditering has started undertaking its first surveillance of EU ETS verifiers, and this is being done through both office visits and witness auditing.

Thus far, Norsk Akkreditering has not received any complaints regarding a verifier accredited in Norway and so it has not had cause to withdraw, suspend or reduce the scope of an accreditation of a verifier.

Norsk Akkreditering maintains a database of accredited verifiers on its website, which is updated every 24 hours.

23.6 Inspections and enforcement

The EA is in the process of reviewing and updating its inspection procedures for Phase 3, with an aim to start undertaking inspections in line with Phase 3 requirements in the autumn of 2014.

The review and update of the EA's procedures is necessary, as previously under Phase 2 the EA was the sole verification body in Norway and so undertook a combination of verification site visits and 'inspections' (as implemented by other EU ETS Member States in Phase 2).

Although not formalised at the time of conducting the interview with Norway, the EA proposes to take a campaign based approach to inspections, if/where common non-conformities with the MRR requirements are identified by EA staff.

When inspections are carried out, they will be conducted by staff from a specialist inspection department within the EA. However, a member of the case handling team will also attend the inspection to ensure there is an appropriate level of EU ETS specific knowledge to identify any issues (non-conformities), areas for improvement/recommendations.

23.7 Good Practices

- The EA has produced electronic reporting templates for the submission of MPs, AERs and VRs based on and including all the requirements of the European Commission's templates. The country-specific templates feed into the Agency's emissions reporting system.
- The EA has put effort into developing country-specific standard factors for natural gas source streams, in an attempt to harmonise the approach being taken by installations in Norway.
- The EA seeks to share experiences and discuss issues through active participation in the Compliance Forum Task Forces on Monitoring & Reporting and Accreditation & Verification.

24 Poland

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Reviewer of Document: Tomasz Karpinski, KOBIZE (tbc)

24.1 Main changes compared to Phase 2

- AERs and VRs of installations are only submitted to the central CA (KOBIZE) for their review, and operators no longer have to send an additional copy to the regional CAs (local Environmental Authorities)
- AER and VR from airline operators are now submitted directly to KOBIZE rather than to the Ministry of Environment
- Translated Commission templates are used for MP, AER, VR and improvement report.

24.2 Short description of authorities involved, their responsibilities and how they work together

In Poland, there are several authorities involved in the compliance cycle of the European Union Emission Trading Scheme (EU ETS) which execute functions of the Competent Authority (CA) as defined by Directive 2003/87/EC. Figure 24 shows all authorities and stakeholders involved in monitoring, reporting, verification and accreditation, and the communication between them. A change in the relevant national legislation to be passed during the first half of 2015 will change some of the responsibilities and processes. These planned changes are also described in the text of this document.

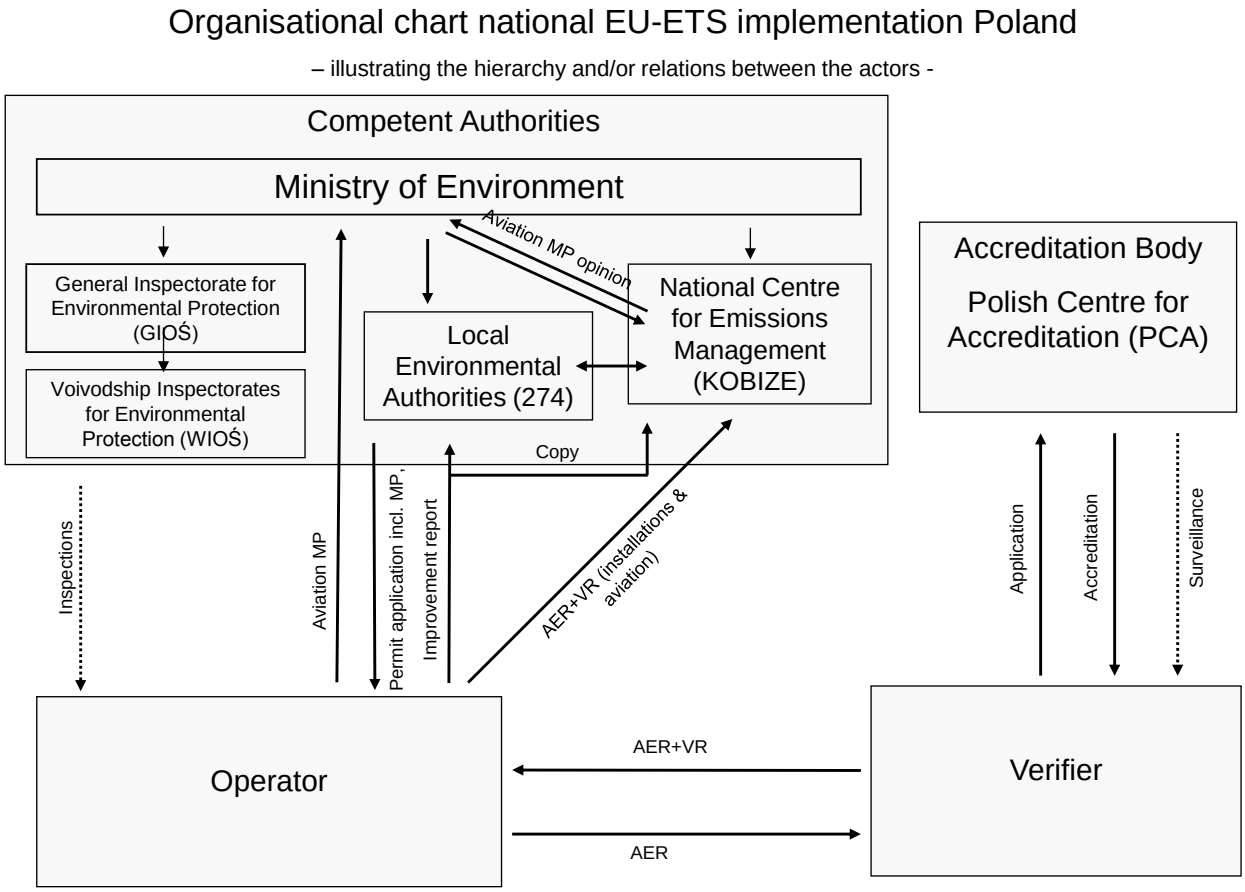

Figure 24 Institutional Structures of the EU ETS in Poland

24.2.1 Ministry of Environment

The Ministry of Environment (MoE) is responsible for the overall supervision of the system, the development of national legislation, and the supervision of subordinated authorities. Most of the EU ETS related tasks have been delegated to lower level institutions as described in the following. It is formally in charge of approval of monitoring plan and reviewing tonne kilometres reports from airline operators.

24.2.2 The National Centre for Emissions Management

There is a dedicated and centrally organised organisation in Poland, the National Centre for Emissions Management (KOBIZE). The KOBIZE acts as the national ETS administrator (Competent Authority), undertaking most of the technical assessments, and is responsible for:

- Receiving and assessing annual emission reports and verification reports of both installations and airline operators.
- Running the national registry.
- Allocation issue, such as assessment of national implementation measures (NIMs) and involvement in tasks related to new entrance reserve.

- Approval of the use of Certified Emission Reductions (CERs) and Emission Reduction Units (ERUs) for compliance.
- Information to the public.

KOBIZE also provides training to operators, local competent authorities (local Environmental Authorities), verifiers and operators through organising workshops on relevant issues and provides technical assistance and clarification upon request.

With the introduction of the new legislation forthcoming in 2015, KOBIZE will be tasked with administration duties, including all technical assessments, while the Ministry of Environment will remain in charge of the overall supervision of the EU ETS. KOBIZE will then also play a role in processes of approving monitoring plans (MPs) and assessing improvement reports, which are currently managed by the local Environmental Authorities. While officially KOBIZE will only provide its opinion on each MP (update) application and any submitted improvement report, effectively it will take over the technical assessment, while the administrative tasks of issuing the permit remains with the local Environment Authority.

24.2.3 Local Environmental Authorities

The ETS implementation is additionally supported on a local level. Each regional administration office has its own environmental department responsible for a large scope of environmental issues including the EU ETS. The responsibilities of these local Environmental Authorities, in this respect, include issuance of GHG permits to emit CO_2 and the review and approval of monitoring plans. Since 2014 the responsibilities have been expended to also include the assessment of improvement reports. This part of the compliance cycle will be shared with KOBIZE under the new legislation. Currently, there are 274 local Environmental Authorities in Poland, which are in close contact to KOBIZE.

24.2.4 Inspectorates

The Voivodship[22] Inspectorates for Environmental Protection (WIOŚ) are responsible for environmental inspections in Poland. This also includes inspection of installations with regards to the EU ETS. The 16 WIOŚ operate under the supervision of the General Inspectorate for Environmental Protection (GIOŚ) which is supervised by the MoE.

24.2.5 Aviation

Since the start of Phase 3 KOBIZE is more directly involved in the compliance cycle of aviation. Airline operators are now submitting their AERs and VRs directly to KOBIZE for a review and approval. The MPs from aviation operators still have to be submitted to the MoE. KOBIZE remains involved in the assessment of the MPs by providing technical expertise to the MoE. In case of required clarifications

[22] Poland is subdivided in 16 provinces, the so called „Voivodships".

or corrections the KOBIZE contacts the operators directly or via the MoE and reports back to the ministry. The MoE remains responsible for the issuance of final decisions and enforcement.

24.2.6 Polish Centre for Accreditation

The Polish Centre for Accreditation (PCA) is the appointed national accreditation body in Poland. It operates under the supervision of the Ministry of Economy and provides a common system for the conformity assessment of laboratories, certification and inspection bodies, for environmental verifiers, as well as an accreditation programme for EU ETS verification bodies.

24.3 Permitting and monitoring, including notification of changes

Operators of installations covered by the EU ETS have to apply for a permit to emit CO_2 with the local Environmental Authorities. Together with the permit application form, operators submit a monitoring plan based on the translated Commission template. The use of the template is obligatory. The approved monitoring plan becomes an annex to the GHG permit. No national guidance is provided to operators in addition to the translated Commission guidance for the development of monitoring plans. Also, no specific template for simplified monitoring plans is provided for installations with low emissions.

Although the local Environmental Authorities are also responsible for the issuance of IPPC permits, GHG emission permits are issued as separate permits. Local Environmental Authorities use their existing knowledge about the installation to crosscheck and verify the provided information or make use of inspectors, if required. KOBIZE experts are frequently consulted on issues related to requirements for monitoring plans by the local Environmental Authorities. However, this type of consultation occurs on a voluntary basis. After an assessment of the permit application and monitoring plan the local Environmental Authorities issue a decision. The involvement of local authorities that already know the respective plants quite well, as they also have to deal with other environmental permits, can facilitate the EU ETS implementation. However, downsides of this segregation of duties can still be identified for Phase 3. As in many cases local Environmental Authorities are responsible for very small numbers of EU ETS installations (as few as three installations), it is a challenge to ensure that the relevant knowledge of EU ETS requirements is available. Also, the approach for assessing permit and monitoring plan applications differs across local Environmental Authorities as no harmonised check-list of procedure is being applied. KOBIZE, which has more, but still limited resources at hand to familiarise itself with the procedural and technical requirements of the Monitoring and Reporting Regulation (MRR), can only provide support through the organisation of workshops and by providing ad-hoc assistance upon request.

After issuance of GHG permits, the local Environmental Authorities send a copy of the permit, including the monitoring plan, to KOBIZE. KOBIZE maintains a database with complete EU ETS relevant information from all installations. Key information from the monitoring plans and permits is transferred manually into KOBIZE's database. Additionally, the official hardcopies are scanned and stored electronically in the database. The database includes all relevant installation information and allows efficient crosschecks and comparisons. However, the exchange of relevant documentation

between authorities, i.e. from the local CA to the central CA, does no always happen in a timely manner.

Permits are valid for a period of 10 years. Since Polish legislation does not distinguish between minor and significant modifications, any kind of modification needs to be reported to local Environmental Authorities. The local Environmental Authorities then evaluate if the changes need to be considered as substantial and if the permit needs to be updated. An update to the permit usually also requires the monitoring plan to be amended accordingly. Similarly, if the monitoring plan is changed, the permit also needs to be updated. Operators have to notify the local Environmental Authorities and apply for approval for modifications before implementing the change. However, the approval process can sometimes be very lengthy, which has led to some holdups during the verification period in 2014. For example, in cases where verifiers identified non-conformities that required an updated of the monitoring plan and verification could not be concluded before this update was approved. In most cases, the local Environmental Authorities issue an amendment to the existing permit. Local Environmental Authorities forward a copy of any updated permit and MP to KOBIZE that update the data about this installation in their database. In principle KOBIZE is able to track each change to an installation, however, during the assessment of the AER it is sometimes found that monitoring plans have been updated in the meantime and no copy was forwarded to KOBIZE.

24.3.1 Harmonisation at national level

Currently, KOBIZE has no supervisory role for local Environmental Authorities. It nevertheless plays an integral role in training, supporting and facilitating coordination and harmonisation across local Environmental Authorities to the extent possible. Upon request KOBIZE issues opinions to local Environmental Authorities, which yet remain legally non-binding. The fact that KOBIZE translated almost all Commission guidance, tools and templates[23] certainly helped to establish a common basis for the tasks undertaken by local Environmental Authorities and therefore led to an increased degree of harmonisation. Nevertheless, comprehensive guidance regarding the check and control of monitoring plans and its implementation, especially in more complex installations, is required for local Environmental Authorities.

24.3.2 Aviation

Airline operators are required to develop their monitoring plans based on the templates provided by the EU Commission and have to submit them to the MoE. MoE cooperates with the KOBIZE for the approval of MPs and enforcement issues. Most MP information for aviation operators is not integrated into the existing database system but treated manually.

[23] Except of the exemplar check list for the approval of monitoring plans and the FAQ Monitoring and Reporting, the latter one being currently translated

24.4 Reporting and Verification

24.4.1 Submission of reports

Operators have to prepare AERs using the translated Commission template and contract an accredited verification body to verify those AERs. Since 2011 inspectors from the WIOŚ can no longer be assigned to do verifications due to changes in national legislation and the Accreditation and verification Regulation (AVR) prohibiting this arrangement. Verified AERs are to be submitted to KOBIZE by 31 March. After verification the verification bodies prepare a verification report (VR) and submit this report to the operator.

Next to the AVR, the legal requirements for the annual emissions reporting and verification are also clearly defined in national legislation. The translated Commission templates for the AER and VR, including tools, examples and guidance, are made available on KOBIZE's website and the use of the templates is obligatory since 2013. A hard copy and an electronic version of the AER and VR has to be submitted to KOBIZE no later than 31st of March each year. KOBIZE also provides a list of accredited verification bodies, those that are accredited by PCA and those KOBIZE knows of that are accredited in another MS but operate in Poland on its website. All parties are listed with information about their scope of activities. KOBIZE organised a number of workshops, for both verifiers and operators, to provide information about the main changes brought about by the MRR and AVR. The workshops for verifiers on verification and accreditation issues are usually jointly organised with PCA.

Airline operators are also required to develop their reports based on the templates provided by the Commission but since 2012 have to submit annual emission reports directly to KOBIZE.

The fact that both operators and verifiers are now bound to use the same format is perceived as an improvement. In the past, verification reports were often only short statements and did not always contain sufficient information on the verification process, findings of the verifier or suggestions for improvements. The fact that recommendations for improvements are included in the VR if applicable helps KOBIZE in following up on whether these have been taken into account by operators or not. Also, the option of verifying AERs with comments or being able to submit a VR with a negative verification opinion enables verifiers to inform KOBIZE of any non-conformities, misstatements or other findings in much more detail compared to the previous process.

In 2013 site visits have been waived for two installations with low emissions and KOBIZE informed operators and verifiers about site visit requirements in the first year. In the coming years waiving site visits is an option but KOBIZE has not yet defined on what basis approval for such cases will be provide.

Improvement reports are to be submitted to the responsible local Environmental Authority using the translated version of the Commission template. The two reports, one reporting on recommendations provided by verifiers in the VR and the other one on reaching higher tiers or moving from a fall-back method to a standard methodology, if applicable, are expected to be submitted as combined reports. Local Environmental Authority can define a later date than 30th June as submission deadline for the combined report. Since MPs for Phase 3 have been assessed and approved under time pressure in

order to assure they are available for operators on time, it is expected that improvement reports will help improving MP after the first year in accordance to the MRR. Also, some installations with low emissions have not applied for approval of new MPs as the requirement (other than using the new template) remained the same for them. This has been identified through the recommendations of verifiers and is also expected to be picked up by operators due to requirements to address such findings through the improvement reports.

With the new legislation scheduled for this year, KOBIZE will also become involved in the review of improvement reports through the formal submission of opinions to local Environment Authorities, which should help to apply harmonised approaches to the assessment of such reports.

24.4.2 Review of AERs and verification reports

Upon receiving of the reports, the KOBIZE experts enter the main information from the AERs and VRs of stationary installations into their database manually. Additionally, the official hardcopies are scanned and stored electronically. The KOBIZE checks all the received AERs and VRs with help of their database. This initially includes an automated internal recalculation of reported emissions as well as crosschecks with previous reports and other available data sources. In a second step, KOBIZE experts check if the right tiers and all other factors are correctly applied for each emission source; each and every detail is rechecked and recalculated. The review process is determined by the steps defined in the IT system. Translated Commission guidance and examples are being used by the KOBIZE experts and frequent exchange of information between staff is ensured as the actual expert team is rather small and located in one office.

Since it is KOBIZE that enters the annual emission figure into the registry it is bound to review all submitted AER and VR for completeness and content by 30th April. This is facilitated by the fact that KOBIZE receives some AER and VR as early as in January. Polish law prescribes that operators or verifiers are contacted and asked for corrections if mistakes are identified in the AER or VR respectively and, whenever necessary, asks for supportive information from the local Environmental Authorities or WIOŚ.

As was done in the past KOBIZE compiles a list of typical mistakes, which it submits to the PCA to support their experts in efficient supervision of verifiers through providing relevant information.
Situations where emissions figures are to be determined are more clearly defined compared to previous MMR situations. In Phase 3 so far no emission figure had to be determined. However, for some cases where no AER had been submitted, KOBIZE asked for inspections of these installations. These are, however, likely to be cases that are no longer part of the EU ETS and have only forgotten to surrender their permits.

Based on national legal requirements KOBIZE is also involved in the review of aircraft operators' AERs and VRs. The review activities are performed manually and are not supported by the extraction tool of the database software system. Due to the small number of aircraft operators, the database only contains scanned versions of relevant submissions but data are not entered into the system in the same way as they are for installations.

24.5 Accreditation of verifiers

PCA, as a national independent accreditation institution, has been appointed as the National Accreditation Authority to accredit verification bodies for the EU ETS in Poland.

The PCA was in charge of accreditation already in Phases 1 and 2. Since back then it already was a full member of the EA and was operating in accordance to both ISO/IEC 17011 standard requirements and the „EA Guidance for Recognition of Verification Bodies under EU ETS Directive", the overall accreditation process did not change significantly due to the introduction of the AVR. Natural persons can no longer be certified as individual verifiers as no national Certification Authority has been appointed in line with the AVR.

Accreditations are given on the basis of an official accreditation programme for GHG verifiers, DAVG-01, which is available on PCA's website. The programme is based on the international standard PN-EN EN ISO 14065:2013, IAF MD6, EA-6/03 and on the AVR. Each organisation that wants to be accredited for the EU ETS has to submit full documentation to the PCA. After satisfactory review of the documentation, an initial office visit at the applicant organisation and a check of the general eligibility of the institution is performed. Afterwards, witnessing activities are carried out on-site. The assessment of how applicant verification bodies address identified non-conformities can be either through desk-reviews or through on-site visits depending on the nature of the issue. The accreditation certificates expire after four years, in line with other accreditation programmes by PCA. The process for re-assessments is also defined in the accreditation programme for GHG verifiers, DAVG-01.

Every year the PCA carries out surveillance of all verification bodies. First surveillance activities in Phase 3 are scheduled for the second half of 2014. Surveillance includes an office check of the procedures. Witnessing activities are performed in such a way that every verifier (incl. experts from verification bodies) is witnessed at least once in three years. Currently there are eight verification bodies. Poland for the verification of aviation activities still relies on service of verifiers accredited by other MS.

PCA is a signatory of the EA and participates in peer review processes of the EA. As a national independent accreditation institution operates under the supervision of the Ministry of Economy, whereas the Ministry of Environment is the formal focal point in regards to PCA's accreditation programme for GHG verifiers. Currently there is little communication between the Ministry of Environment other than the ministry receiving the PCA's work programme and management report. Informal but more active communication and engagements, such as joint workshops, are happening between KOBIZE and PCA on technical, mostly verification related issues.

24.6 Inspections and enforcement

Inspection procedures did not change due to the introduction of the AVR. WIOŚ is responsible for inspections and enforcement. Inspectors are embedded into the local administrative level. On a general level, the inspectors and inspection activities are coordinated and supervised by the General Environmental Inspection Authority. The Inspection for Environmental Protection (Główny Inspektorat

Ochrony Środowiska) is a central organ of the government administration, appointed by the Prime Minister and supervised by the Ministry of the Environment.

The inspectors perform spot checks in combination with other environmental and IPPC related inspection activities. Spot checks are usually initiated as a response to claims addressed to operators activities, if operators had notified the CA of changes, or based on routine checks. Selection of sites to be inspected is risk based on the IPPC permit category and depends on the respective local Environmental Authority. Inspectors do not perform inspection of, or together with, verifiers. There are no specific guidelines or checklist with regards to EU ETS requirements for inspectors.

Regular inspections have taken place in frequencies that each installation is inspected once every five years. Extraordinary inspections can be trigger either by local Environment Authorities in case an issue has been identified with a specific operator or are automatically trigger through the omission of submitting an AER and/or VR. The current inspection procedures bear the risk of potentially detecting installations that should be in the EU ETS only after 5 years, i.e. once an inspection has taken place according to the regular rotation.

The Inspectorates are responsible for sanctioning with regards to the general violations of permit conditions and requirements. Several sanction types are laid down in the national legislation. In case of non-compliance, regarding timely surrender of allowances or late/no submission of AER and VR, the KOBIZE (registry), with help of the General Environmental Inspection Authority, follows up these cases.

Inspection of aircraft operators is the responsibility of the Mazowiecki Voivodship Inspectorate for Environmental Protection. For aviation operators the sanctions (fines) for not submitting the AERs and for not surrendering emission allowances are included in the respective national legislation.

24.7 Good Practices

- Central CA providing training (to the extend it has capacity and expertise) in the form of workshops to operator and verifiers, e.g. on the key changes from the MRG to the MRR and AVR.
- Central CA (although not the designated focal point) maintain a good working relationship with the Polish NAB by for example involving it to a large degree in informing verifiers of the new requirements and also in translating the AVR to Polish.
- KUBIZE provides through the translation of all Commission guidance into Polish a common basis to all regional CA[24].

[24] Except of the exemplar check list for the approval of monitoring plans and the FAQ Monitoring and Reporting, the latter one being currently translated

25 Portugal

Author of Document: Mandana Hazrat (Ecofys Germany GmbH)
Reviewer of Document: Ana Daam (Agencia Portuguesa do Ambiente)

25.1 Main changes compared to Phase 2

- Use of Commission template for monitoring plans, annual emissions reports, improvement reports and verification reports (No IT system in Phase 3)
- Change from qualification procedure to accreditation based system for verifiers
- Appointment of IPAC as the single national accreditation body
- The responsibilities of the Portuguese Registry are located in another unit although in the same Department as the rest of the ETS issues.

25.2 Short description of authorities involved, their responsibilities and how they work together

Key responsibilities:
In Portugal, several authorities are involved in the European Union Emissions Trading Scheme (EU ETS) which execute different functions of the Competent Authority (CA) as defined by Directive 2003/87/EC.

Figure 25 shows all stakeholders involved in the implementation of the European Union Emissions Trading Scheme (EU ETS) and the communication between them. Descriptions of each organisation follow the figure.

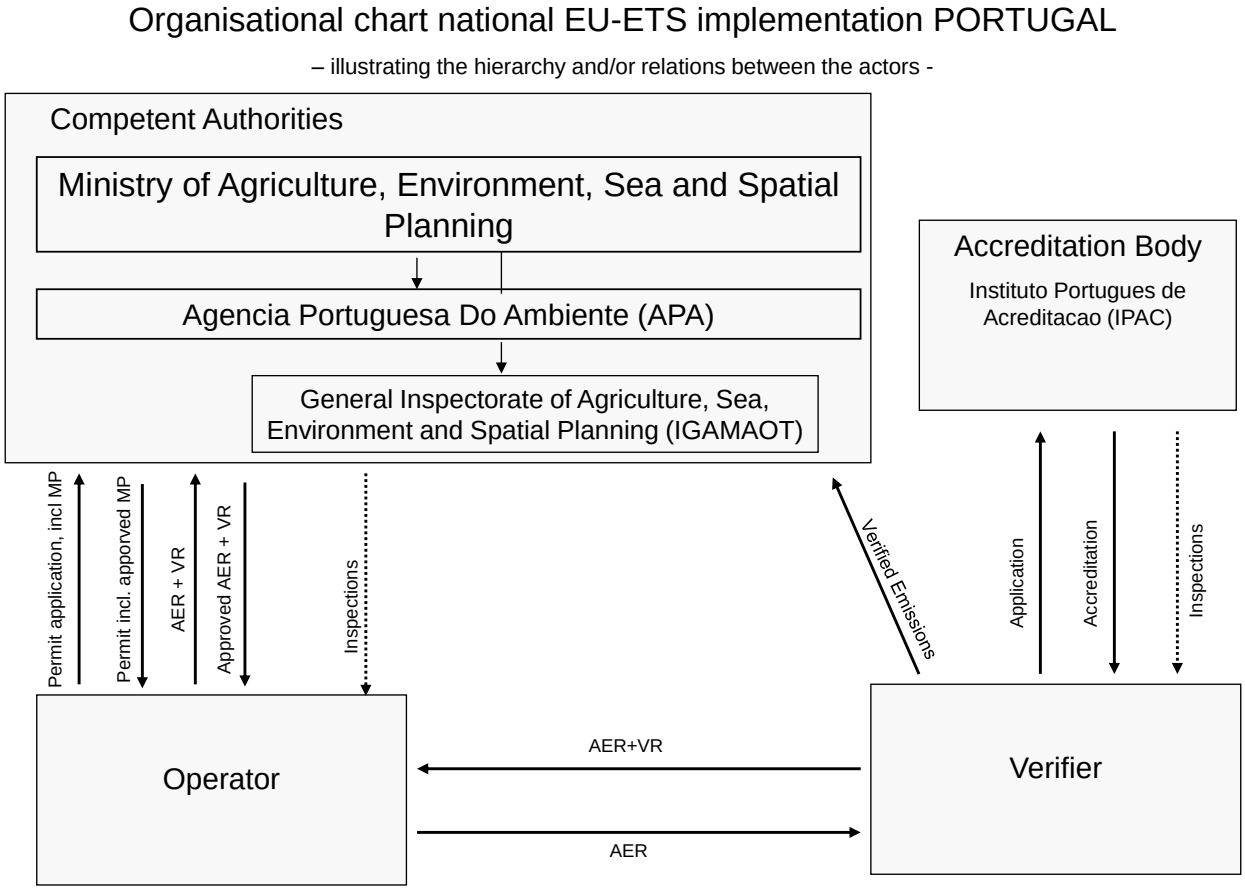

Figure 25 Institutional Structures of the EU ETS in Portugal

25.2.1 The Ministry of Environment, Spatial Planning and Energy

The Ministry of Environment, Spatial Planning and Energy acts as the body issuing all legislation relevant for the EU ETS. The legislative contents of the EU ETS are drafted by the Portuguese Environmental Agency (Agência Portuguesa do Ambiente) and then submitted to the secretary of the state cabinet's office who consults other ministries involved and follows the other necessary procedures to the publication of the legislation.

25.2.2 Agência Portuguesa do Ambiente (APA)

APA is the competent authority, responsible for permitting, monitoring approval and review of AERs/VRs and improvement reports. Monitoring and accreditation/verification related issues are located in two different departments of the Agency. The department of climate change is responsible for all main tasks of the compliance work as well as for the administration of the Union registry, while the environmental management department of the Agency is for the intermediate with IPAC for verification and accreditation related issues. It should be noted that APA is the central competent authority for all ETS installations on the Portuguese mainland. The few ETS installations located on the Island of Madeira and on the islands of the Azores lie with the responsibility of two regional CAs. These CAs ask and receive advice from APA on the compliance work, however they carry out the MP

approval and review of the AERs, VRs and improvement reports autonomously. Once the AERs and VRs are reviewed, the regional CAs from the islands submit the annual emissions to APA which is communicated via the national registry to the Commission.

25.2.3 General Inspectorate of Agriculture, Sea, Environment and Spatial Planning (IGAMAOT)

The IGAMAOT is the enforcement authority for the implementation of the legal requirements of the EU ETS. The inspections performed by IGAMAOT are integrated inspections in which requirements of all environmental legislation, including also IPPC and EU ETS related issues, are checked. IGAMAOT is working under the supervision of the Ministry of Environment, Spatial Planning and Energy.

25.2.4 Instituto Português de Acreditacão (IPAC)

Since 2013, IPAC is the appointed national accreditation body, working under the supervision of the Ministry of Economy.

25.3 Permitting and monitoring, including notification of changes

25.3.1 Permit application and monitoring plan

Operators of installations and aircraft operators, covered by the EU ETS, have to apply for a permit to emit CO_2 either with the licencing entity responsible for the activity permitting of the Ministry of Agriculture and Sea, with the Ministry of Economy or with the Ministry of Environment, Spatial Planning and Energy depending on the specific activity of the installation/ aircraft operator. Once, the licencing entity has received the application, it forwards it to APA and from that point APA takes over the process and communicates directly with the operator. After the approval process is done, APA has to communicate its decision to the respective licencing entity. APA performs the formal act of issuing the permit or approving the MP.

It depends on the specific situation of an installation whether the implementation of the IED (IPPC) and the EU ETS involve combined or separate permits. If the installation possesses an IPPC permit, the ETS permit would be an attachment to the IPPC permit. The process regarding the instruction of the issuing/ updating of ETS permits runs in parallel with the IPPC permit. However, the issuing/ updating of these documents are done by different departments.

It is obligatory to use the Commission templates for the monitoring plan in Phase 3.

The Commission's guidance has been used a great deal by the CA and APA also advised operators to make use of it. Furthermore, APA has developed some additional guidance on the following topics:

- Procedure of the notification of insignificant changes to the MP as operators had difficulties to understand when a change is significant or insignificant
- Example template of a simple sampling plan
- A document explaining the difference of the MRR (compared to MRG in Phase 2)

- A 3-page document on filling in the MP as operators had some issues with the Commission template.

No additional guidance has been provided to operators on the MP application. Although required by APA, not all relevant uncertainty analyses, risk assessments and evidence of commensurate procedures required in accordance with MRR Article 12 have yet been submitted by the operators. Thus, APA requested that these documents would be submitted up to 30 days after the notification of omission is sent to the operator.

APA has performed the assessment of the MPs based on the Commission's Exemplar Checklist in the beginning of Phase 3. In addition, the CA staff strives for a harmonised approach to assessing the MPs by participating in the working groups on EU level and through regular team meetings in which the staff can exchange information and discuss specific issues.

To date about 89% of the MPs have been approved. The MPs that are still not approved belong mostly to aircraft operators with which APA had the majority of issues encountered in Phase 3. Given the fact that about 7 aircraft operators are causing about 99% of Portugal's GHG emissions in the EU ETS aviation, a substantial part of the emissions is currently emitted without approved MPs.

25.3.2 Notification of changes

APA considers all changes as per MRR Art 15(3) as well as a change in the operator's name and tax number as significant changes. Significant changes have to be reported by operators as soon as possible to APA. Insignificant changes have to be reported to APA either in June or in December, depending on the semester in which they occurred. No templates are provided for the notification of changes.

25.3.3 Monitoring of emissions

At the beginning of Phase 3, the CA hired a consultant to assess whether more installations could be included in the EU ETS according to the broadened definition of combustion, as outlined in Directive 2003/87/EC Art 3(t) and because of new activities included it organised several workshops for operators on this issue in May 2011. APA declared that the definition is generally clear but expressed that it would be helpful to have further guidance and an EU wide clear communication on this topic as they had some doubts, e.g. regarding the involvement of incinerators.

No installation applied a fall-back methodology in Portugal. Three installations have adopted the use of measurement-based methodologies (CEMS) under Phase 3. All these installations used CEMS only for measuring nitric acid and followed the requirements of COM guidance document no. 7. All operators using CEMS are using accredited laboratories.

25.3.4 Aviation

When updated versions of the Commission EU ETS Operator List are released, new aircraft operators are identified by comparison with the former list or by using Eurocontrol Support Facility data. Once identified, APA tries to contact the new aircraft operators and explains them their obligations under the EU ETS. APA expressed that they encountered many issues with regards to contacting aircraft operators. Especially small aircraft operators were difficult to reach and sometimes the CA could not even find out the proper address or nationality of the respective aircraft operator.

Aircraft operators meeting the requirements of MRR Art 54 (small emitter status) are allowed to use simplified monitoring requirements or Eurocontrol's small emitter tool to estimate their fuel consumption.

25.4 Reporting and Verification

25.4.1 Submission of AERs and VRs

Operators of installations and aircraft operators are required to submit an annual emission report (AER) and verification report (VR) from an accredited verifier by 31 March each year to APA. It is mandatory to use the Commission templates for AERs and VRs and to submit both electronically via the email account of APA, which is especially meant for the submission of AERs and VRs. In total, APA provides three email accounts for the different purposes related to the ETS compliance work:

- One account for the submission of AERs & VRs
- One account for the submission of all other relevant documents (e.g. MP) for stationary installations (this account is named "CELE" which means "ETS" in Portuguese) and for additional clarifications on different issues
- One account for the aviation sector.

Operators should put the responsible verifier in cc when submitting the AER and VR to APA so that the verifier is aware of which version of the AER has been sent to the CA. By this, APA wants to avoid receiving non-verified versions from operators.

No additional guidance has been provided on completing the AERs or VRs. All AERs and VRs are reviewed by APA. More in detail, the following checks are performed on AERs by APA:

- Crosschecking the data provided in the MP and AER
- Check on whether all source streams, units, factors have been reported and applied correctly
- Check on whether the AER has been verified by an accredited verifier and duly signed by the authorised person of the accredited entity.

To date, no guidance or checklist is provided to CA staff on reviewing AERs and VRs. However, APA is currently developing a checklist which should be available for future reviews, based on the Commission's documents.

25.4.1.1 Determination of emission figures

The national legislation does contain provisions on how the CA is allowed to determine emission figures based on conservative estimations. For aviation, the Decree Law 93/2010 provides the CA with the right to use Eurocontrol Support figures to determine the emissions. The determination by the CA would take place in case that the operator has not submitted a verified AER at all or the submitted AER is in complete or contains significant mistakes which could not be corrected in the approval process. In Phase 3, no emission figure was determined by the CA so far. However, as some operators did not submit AERs for 2013, it is likely that the CA will determine the emission figures soon. As the CA suspects that these installations have not been operating and not to have any activity anymore, the estimation of APA will be "0 tCO_2". All the installations based in the mainland of Portugal submitted their AERs before the established deadline.

25.4.1.2 Improvement reports

Portugal decided to give operators more time to submit their improvement reports related to any improvements of the monitoring methodology by setting the deadline of 30 September 2014 for this year due to the number of new requirements and obligations. The deadline of 30 June for improvement reports related to non-conformities and recommendations reported by verifiers has not been enforced. Operators should use the Commission template for improvement reports.

25.4.2 Aviation

To date, no AER from any aircraft operator was received as APA had advised them to submit the AERs for 2013 and 2014 together, in two separate reports until March 2015.

25.5 Accreditation of verifiers

Since 2013, the Instituto Portugues de Acreditacao (IPAC) is appointed as the national accreditation body (NAB) and responsible for the accreditation of verifiers under the EU ETS in Portugal. IPAC is working under the supervision of the Ministry of Economy.

IPAC has developed its own procedures, rules and criteria for accreditation, which are laid down in several documents and published on the IPAC website. The two main documents, DRC 001 on the general accreditation rules and DRC 009 on the accreditation procedure of EU ETS verifiers, are also made available in English on the website.

The accreditation process starts with the application of the verifier. A list with the documents that are to be handed in with the application is published on the website of the NAB. The NAB reviews the application and documents and carries out office assessments and witness assessments on-site.

The accreditation is valid for a period of four years; for reaccreditation, the same process as for the initial accreditation has to be undergone. However, it is not necessary to resubmit all documents. The

NAB reminds the verifier after 3.5 years that he should hand in his application if he strives for reaccreditation. Annual surveillance includes office assessments and witness assessments on-site and is carried out four times per accreditation cycle.

In total, four verification bodies have been accredited by IPAC in Phase 3. All verifiers submitted verification plans, but not all of them until 15 November. The main reason for the delayed submission was that many verifiers did not have their contracts signed by the clients in time. IPAC performed checks on whether the verifiers are allocating sufficient time to their verifications based the submitted verification plans but also during the office and on-site assessments. To date no complaints with respect to a verifier have been received.

IPAC maintains a database on its website with all accredited verifiers, their accreditation scope and the date of expiry of the accreditation. The database is updated every night.

An effective information exchange and cooperation between the CA and the NAB has been established through regular meetings and additional information exchange via email. Furthermore, as 2013 was the first time for the NAB to perform the accreditation work, IPAC was supported by experts from the CA in order to ensure that everything runs smoothly.

IPAC is member of the European co-operation for Accreditation (EA), the International Laboratory Accreditation Cooperation (ILAC) and the International Accreditation Forum (IAF).

25.6 Inspections and enforcement

The entity responsible for inspections in Portugal is the Inspectorate General of Agriculture, Sea, Environment and Spatial Planning (IGAMAOT). The inspections cover environmental issues regarding air/waste/ water consumption/waste water discharges/noise/ energy/permitting, i.e. EU ETS issues are only one of many issues covered under an inspection.

The major of EU ETS inspections is combined with IED environmental inspections.

IGAMAOT is performing inspections following its own risk-based inspection plan (considering complexity, size, emissions of installation, attitude and compliance behaviour of the operator) or on specific request of APA, classifying IED installations into "high risk" and "low risk". Type and frequency of the inspections are established upon this risk classification of the installation: installation with high risk every year, installations with low risk every three years.

A new Decree Law, published in 2013, provides a list of infringements and the associated penalties/ sanctions. The 100 €/tCO_2 fine for exceeding the reported emissions is the only fine that APA can issue directly to the operator. All other penalties or sanctions are issued by the inspectorate.

25.7 Good practices

- One of the main changes compared to Phase 2 was introduced through the AVR since verifiers are no longer appointed through a qualification procedure but accredited by the appointed NAB, the Instituto Português de Acreditacão (IPAC). Accreditation processes have been implemented according to the AVR. While verifiers did not notify planned verifications by 15 November due to lack of signed contracts at that time, the NAB was provided with timely updates on planned verifications over the year. IPAC performed checks on whether the verifiers are allocating sufficient time to their verifications based the submitted verification plans but also during the office and on-site assessments.
- Requirement to put the respective verifier in cc when sending the AERs an VRs to the CA; by this it is ensured that operators are sending the verified version of the AER to the CA
- Participation in EU working groups and regular team meetings in order to ensure a harmonised assessment approach.

26 Romania

Author of Document: Mandana Hazrat (Ecofys Germany GmbH)
Reviewer of Document: Nicoleta Rosu (Ministry of Environment and Climate Change, MECC)

26.1 Main changes compared to Phase 2

- Centralisation of all main compliance tasks at MECC as the central competent authority
- Since 2013, the Romanian Accreditation Association (RENAR) acts as accreditation body for verifiers
- Use of Commission templates for monitoring plans, improvement reports, annual emission reports and verification reports.

26.2 Short description of authorities involved, their responsibilities and how they work together

Key responsibilities:
Since the beginning of Phase 3, the competent authority functions as defined by Directive 2003/87/EC have been centralised in the form of the Ministry of Environment and Climate Change in Romania.

Figure 26 shows all authorities and stakeholders involved in the implementation of the European Union Emissions Trading Scheme (EU ETS) and the communication between them. Descriptions of each organisation follow the figure.

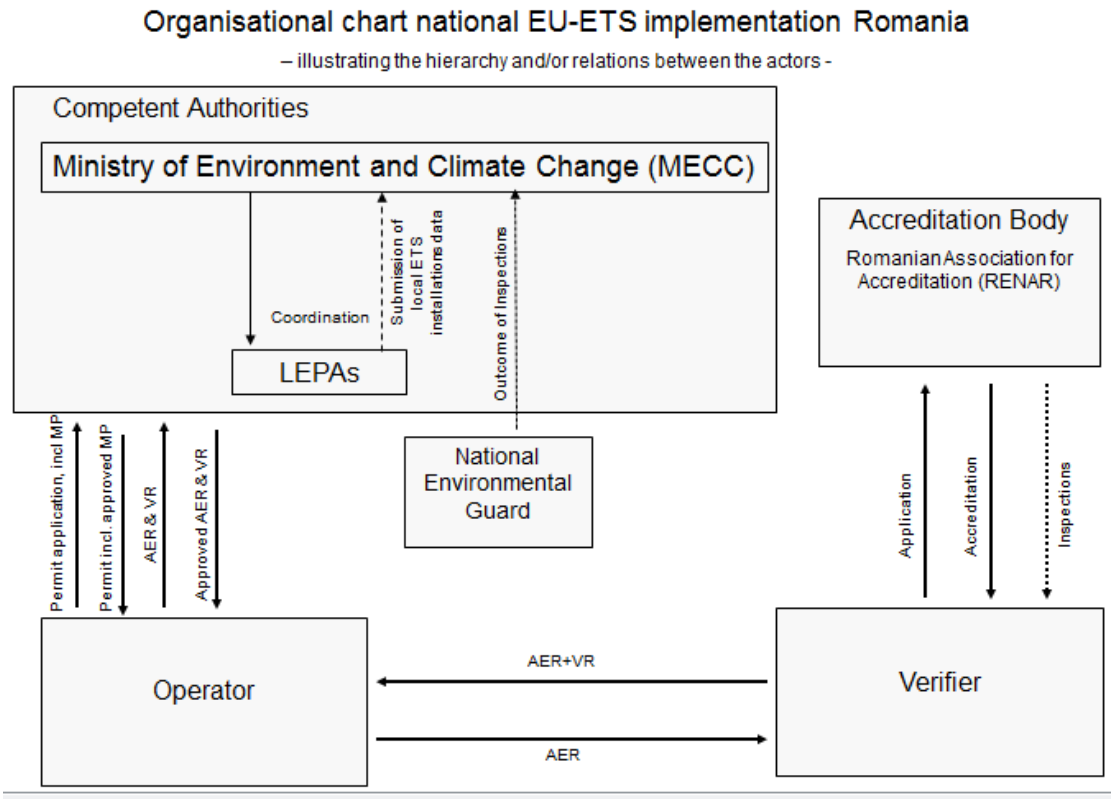

Figure 26 Institutional Structures of the EU-ETS in Romania

26.2.1 The Ministry of Environment and Climate Change (MECC)

The Ministry of Environment and Climate Change sets the legal basis for all EU-ETS activities. Furthermore, by being responsible for all main compliance tasks (issuance of permits, MP approval, review of AERs and VRs), MECC acts as the central competent authority in Romania. Further CAs exists at local level (LEPAs) which are coordinated by MECC but only play a minor role in the compliance cycle. LEPAs have the obligations to inform MECC by the end of each year on new ETS installations and to provide local/ regional installation data which is used for crosschecking by MECC.

26.2.2 Romanian Association for Accreditation (RENAR)

Since 2013, the Romanian Association for Accreditation acts as accreditation body for verifiers. Before, the Ministry of Economy - Directorate of Quality Infrastructure and Environment Protection was responsible for this task.

26.2.3 National Environmental Guard

The National Environmental Guard is responsible for inspections and enforcement. Inspections are carried out based on the annual inspection plan of the National Environmental Board or on request of MECC.

26.3 Permitting and monitoring, including notification of changes

Operators of installations, covered by the EU ETS, have to apply for a permit to emit CO_2 with MECC. In general, the implementation of the IED (IPPC) and the ETS involve separate permits in Romania.

The application for the permit including the monitoring plan application as an Annex, is submitted in paper as well as on CD-ROM directly to MECC. It is obligatory to use the Commission template for the monitoring plan application in Phase 3. The template as well as Commission's guidance for the application of EU Regulation no. 601/2012 have been translated into Romanian language and made available on the MECC website. The Commission's guidance has been used a great deal by both, MECC and the operators. No additional guidance has been provided by the CA, with exception of one internal paper on the determination of unreasonable costs. This internal paper was developed based on the paper developed by the MS experts under the Compliance Forum - Task Force "Monitoring" under the European Commission.

MECC performs a detailed validation of the monitoring plan, including checks on completeness, consistency, the measurement equipment used, sampling plans, frequency of analyses and on the uncertainty assessments. Emission sources listed in the application are compared with the sources as listed under the IPPC permit (if applicable) or with the environmental permit. Installation boundaries are determined by listing the emissive units and their respective fuel and material flows. The use of simplified MPs (according to MRR Art 13) is not allowed in Romania. Communication with the operator during the verification and approval of monitoring plan occurs by normal mail, letter, phone or fax.

Most of the installations had approved MPs and permits by May 2013, only for 4-5 installations they have been approved in September, because these installations had problems with the IPPC permit. According to the Romanian legislation on permitting under Phase 3, the issuance of a GHG permit required a valid IPPC permit, if the installation falls under the IPPC provisions. In December 2013, this legislation was amended in such a way that the issuance of the GHG permit does not require a valid IPPC permit obtained according with the IED provisions anymore. However, there is still also the obligation for operator to provide the IPPC permit or the environmental permit when submitting all the papers and the application for obtaining the GHG permit.

26.3.1 Notification of changes

All significant changes to the MP prompt an update of the permit. MECC requires the operators to annually submit the MP until 1 August each year. This approach has already been applied in Phase 2, in order to ensure that MPs are updated regularly. MECC reapproves the MPs until the end of each year. The final version of the MP is stamped and signed by MECC on every page. No specific

templates are provided for the notification of changes. The national legislation only requires the operators to report changes in an official way and the notification is usually provided by email or official letter. Significant changes should be reported 60 days before they occur, if possible, otherwise as soon as possible. There is no distinction between significant and insignificant changes in Romania. Insignificant changes (such as the change of operator's address, name of person in charge with the monitoring and reporting obligation at operator's level, etc.) are attached to the GHG permit and to the MP and do not require the revision of the permit.

26.3.2 Monitoring of emissions

In Romania, no specific issues with the broadened definition of "combustion" (as outlined in Directive 2003/87/EC Art. 3(t)) have been highlighted. The broadened definitions are checked as part of the permit and MP approval process.

The Commission's Guidance on Interpretation of Annex I of the EU ETS Directive (excl. aviation activities) is used for classifying the installations and for permitting purpose.

Several installations (mainly from the ceramic sector) applied fall-back methodologies (as per MRR Art 22). MECC assessed the applications based on the submitted documents regarding the unreasonable costs declaration, the calculation of the overall uncertainty and/or the calculation of clay based on production data. In case of any doubts, MECC asks the operators to clarify and to provide further information.

Four installations have adopted the use of measurement-based methodologies (CEMS) under Phase 3. All installations used CEMS only for measuring nitric acid.

Sampling plans have been submitted by all operators using analysis to determine calculation factors or operators use the emission factors published on the MECC web site.

26.3.3 Aviation

When updated versions of the Commission EU ETS Operator List are released, new aircraft operators are identified by comparison with the former list or by using Eurocontrol support facility data. Once identified, MECC tries to contact the new aircraft operators either by searching their contact details in the internet or by asking Eurocontrol, IATA or the civil aeronautical association for help.

Despite of the efforts undertaken in order to ensure an efficient communication with aircraft operators, the CA did not receive any positive feedback from their side. Even the involvement of Romania's embassies and of the Civil Aeronautical authorities from the countries in which the aircraft operators are registered did not help to improve this situation and to get some input from AOs.

Aircraft operators meeting the requirements of MRR Art 54 (small emitter status) are allowed to use simplified monitoring requirements or Eurocontrol's small emitter tool to estimate their fuel consumption.

In Romania, an IT infrastructure for the development of an integrated environmental system with the scope of establishing an aggregated database containing environmental information (related to IPPC, emission pollutants, waste, SEVESO, etc.) is still under construction. This database will also contain specific areas related to the ETS that could allow the improvement of the cooperation with the operators and the compliance work.

26.4 Reporting and Verification

Operators of installations are required to submit an annual emission report (AER) and a verification report (VR) from an accredited verifier by 1 March each year to MECC, in both paper and electronic form (CD-ROM).

It is mandatory for operators and verifiers to make use of the Commission template for the submission AERs or VRs. No additional guidance has been provided on completing the AERs or VRs.
All AERs and VRs are reviewed by MECC. For example, the following checks are performed:

- Completeness and consistency checks
- Crosscheck of reported data with information provided in MP & permit
- Assessment of the emission source streams and the parameters used for the determination of the emissions
- Check whether there was a change in the operation of installation.

In case of any doubts or non-compliances MECC asks the operator for clarification and to take corrective measures within an agreed timeline, if necessary. There is no guidance on the review of permit applications, monitoring approval and annual emission reports. In case of any doubts, the staff of MECC discusses the issue in the team, aiming for the best solution.

The national legislation does not contain provisions on how a CA is allowed to determine emissions figures. However, according to the EU Regulation no. 601/2012, emission figures would be determined in case that the operator did not submit a verified, complete AER. For 2013, MECC determined the annual emissions of two installations by making conservative estimations. This estimation was made based on the inspections performed by the National Environmental Guard which had shown that there was no activity performed at the installation's site. Hence MECC determined the emissions to be "0 tCO_2".

Operators are required to submit improvement reports to MECC by 30 June each year. To date, the most common improvement requirements identified by verifiers are:

- Higher tiers should be applied
- Insufficient description of the methodology for uncertainty assessment
- Frequency of analyses is too low and should be increased.

To date, AERs for 2013 have been received only from few aircraft operators.

26.5 Accreditation of verifiers

Since 2013, the Romanian Association for Accreditation (RENAR) is responsible for the accreditation of verifiers. The Association is formally recognised as unique national accreditation body (NAB) and operates under the coordination and surveillance of the Ministry of Economy. RENAR has set up an accreditation council who is responsible for the decision process on accreditation. Only lead assessors are used for the assessment of verifiers and RENAR can also rely on external technical experts which are usually coming from the industry, if needed.

RENAR has published all relevant documents as the rules for the accreditation, the regulation for application according to 14065 and AVR, an application form, a list of the documents that have to be handed in with the application for accreditation as well as other relevant documents and made them publically available on their website. The accreditation process starts with the application for accreditation of the verifier, followed by a review of the application and the required documents. In a next step, the NAB prepares and carries out on-site witness assessment and office audits. In case of any nonconformities, the verifier is requested to take corrective measures and/or resubmit the relevant documents. The application is then forwarded to the Accreditation Council, which issues an accreditation decision. The accreditation is valid for a period of four years, for reaccreditation the same process as for the initial accreditation has to be undergone. However, it is not necessary to resubmit all documents.

Annual surveillance always includes a witness audit on-site and is carried out four times per cycle, whereby the first surveillance is performed six months after the initial accreditation. The last surveillance can turn into reassessment if the verification body applies for it nine months before the accreditation certificate expires. RENAR reminds the verifiers during the penultimate surveillance audit that they should apply for reaccreditation. If a verifier applies for an extension of scope, he has to provide a file with staff members holding the relevant expertise and relevant proof, like CV, workbook, auditor certificates.

Seven verification bodies have been accredited in Romania in Phase 3. A database with all accredited verifiers working in Romania is published on the RENAR website and is updated as soon as an aspect of the accreditation of a verifier changes (e.g. extension of scope of accreditation, suspension or withdrawal). In general, the update is made within 3-5 days after a decision is taken by the accreditation council.

The competence of the verifiers is ensured through internal quality management procedures of the verification bodies and through the NAB which is checking the competence during all assessments. In addition, since all accredited verification bodies have already been working with the same personnel in Phase 2, the verifiers have years of experience.

As 2013 was a year of transition, the deadline for submitting verification plans to the NAB was set at 20 December 2013 and all verifiers have done so. RENAR performed checks on whether the verifiers allocate sufficient time to their verifications based on the requirements of AVR Art.9 and have included provisions in their contracts for charging additional time as per Art 9a of the AVR.

According to AVR Art 61, RENAR established a procedure on how to proceed in case of any complaints, with respect to a verifier. However, no complaints have been received in Phase 3. Mutual acceptance of verifiers accredited in another MS became an issue in Phase 3 though. Due to the practice of RENAR sending operators with a list of its accredited verifiers, operators are under the impression that these are the only verifiers that hold a valid accreditation certificate. Also, requiring verifiers to have an office in Romania is not in line with the AVR or Regulation 765/2008.

RENAR is member of EA and successfully passed the peer review. Furthermore, RENAR is signatory of ILAC-MRA and IAF-MLA.

MECC and RENAR have developed and signed a convention which regulates their cooperation and ensures an active information exchange between both authorities.

26.6 Inspections and enforcements

The party responsible for inspections is the National Environmental Guard, which is working under the supervision of the Ministry of .Environment and Climate Change. The staff has expertise on industrial activities, and can make both announced and unannounced site visits. Furthermore, for ensuring the inspectors' competence it is required by their job description to have ETS specific expertise.

Inspections are related to an installation's environmental obligation, in general, i.e. EU ETS obligations are only one of many aspects. The site visits are carried out by a team of the National Environmental Guard and the respective local competent authority (LEPA).

The installations to be inspected are chosen by the National Environmental Guard, but MECC can also require an inspection in case of non-conformities, new entrants, capacity extensions, etc. In the latter case, MECC defines specific requirements what should be checked during the inspections (e.g. the existence of emission sources and source streams as listed within GHG permit on the installation's site or if the emissions sources are operational or not).

Once the inspection is carried out, the National Environmental Guard submits a detailed inspection report to MECC, which contains valuable information for the process of monitoring approval, the review of the AERs or permit issuing. Where the national environmental Guard performs an inspection without specific information from MECC, the ETS related activities will include ascertaining the existence of the ETS permit and the existence of the emission sources stated in this permit. If the previous inspection report required any actions from the operator, their timely implementation is also checked.

Only a small percentage of the EU ETS installations have been inspected in Phase 3.

For non-conforming operations of installations, competent authorities can impose fines or may even proceed to the suspension or withdrawal of the permits, after a notification in advance. Fines are ranging from 4,500 € up to the maximum 11,000 €. MECC stated that, as these fines are rather small because the Romanian national legislation did not allow the environmental CA to impose more higher level of penalties for ETS purposes, these do not seem to have a deterrent effect on operators Furthermore, MECC noted that it is not always easy to impose fines against aircraft operators as contacting them is sometimes difficult, despite of all the efforts that have been made by the CA responsible for the implementation of the Aviation Directive.

Infringements/application of fines includes the following:

- Not applying for a permit
- Not notifying the CA of changes
- Not submitting an improvement report
- Not reporting the correct amount of annual emissions
- Aircraft operators not submitting MPs & AERs
- Not keeping monitoring data for 10 years.

The necessity to apply a penalty is mostly identified by MECC, while the authority to impose penalties lies with the National Environmental Guard. Sanctions have so far not been applied in Phase 3.

26.7 Good Practices

- The convention developed and signed by MECC and RENAR facilitates an effective and regular information exchange between the authorities; in addition, short lines of communication allow a quick dissemination of information.
- The shift of all main compliance tasks to MECC promotes a harmonised approach in doing the compliance work and facilitates the communication with the operators as there is less involvement of different CAs in the compliance cycle.
- The obligation of the National Environmental Guard to provide MECC with detailed reports of the inspections carried out, improves the quality of the compliance work done by MECC.

27 Slovakia

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27.1 Main changes compared to Phase 2

The main changes from Phase 2 to Phase 3 are as follows:

- Verifiers are now accredited by the Slovak National Accreditation Service (SNAS). SNAS is national accreditation body (NAB) according to Art. 4(1) of Regulation (EC) No 765/2008. This is a change from Phase 2, where the Ministry provided certification for verifiers.

27.2 Short description of authorities involved, their responsibilities and how they work together

In Slovakia, there several authorities involved implementation of the EU Emission Trading System (EU ETS), each with separate responsibilities. The relationship and communication between these parties are laid out in Act No. 414/2012 on emissions allowance trading.
Figure 27 outlines the organisational structure of ETS in Slovakia.

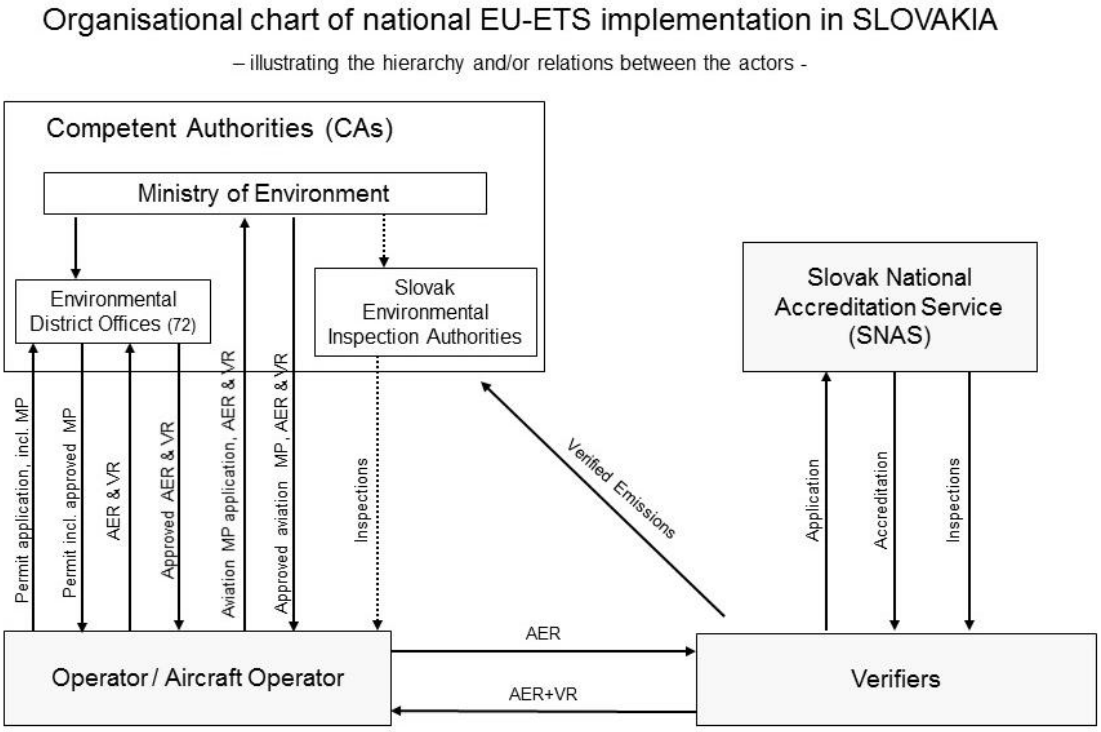

Figure 27 Organisational chart of EU ETS implementation in Slovakia

27.2.1 Ministry of Environment

The Ministry of Environment (Ministerstvo životného prostredia – the Ministry) acts as the Competent Authority (CA) with overall responsibility for ETS in Slovakia. It also has the following responsibilities:

- Drafting legislation implementing the EU ETS Directive and other related legislation
- Drawing up a national allocation table and allocating emission allowances to installations
- Performing state supervision on the emission trading
- Providing information to the public
- Approval of monitoring plans (MPs) for aviation
- Dealing with changes to MPs for aviation
- Receiving and reviewing annual emission reports (AERs), tonne-kilometre reports and verification reports (VRs) for aviation.

27.2.2 Environmental District Offices

According to Act No. 414/2012, several EU ETS specific responsibilities are delegated to the regional CAs, the Environmental District Offices (District Offices). There are approximately 72 District Offices. A District Office is responsible for one district and has jurisdiction over installations that are officially established in their territory. The District Offices are responsible for:

- Issuing permits to emit greenhouse gases (GHG)
- Approval of MPs
- Changes in permits and notification of changes of the MP
- Notifying the Ministry of the issuing of permits, changes to permits and removal of an installation from the scheme
- Receiving and reviewing AERs and VRs, including confirming the correctness of the data contained
- Carrying out regional supervision of allowance trading within the district
- Notifying the Ministry if an operator has not submitted an AER and VR or if any of these reports are not correct
- Imposing fines for administrative infringements
- ETS inspections.

General inspections are carried out by the Slovak Environmental Inspection Authorities on operators of installations. There are four Inspection Authorities, each responsible for their respective region in the Slovak Republic. The inspection authorities cover inspections on other environmental legislation such as air, IPPC, water, nature protection, biosafety, GMO's and waste. They do not carry out EU ETS specific inspections. Six main inspectors within each region are involved in the inspection and enforcement.

Verifiers in Slovakia are accredited by the Slovak National Accreditation Service (SNAS). SNAS is NAB according to Art. 4(1) of Regulation (EC) No 765/2008. Accreditation of verifiers is carried out in line with the Regulation on Accreditation and Verification under the EU ETS, Commission Regulation No. 600/2012 (AVR).

There are currently five accredited verifiers in the Slovakia. The verifiers and the District Offices keep in close contact with each other. Verifiers are asked by District Offices to give explanations on

particular monitoring and technical issues, such as understanding of uncertainty assessment. Verifiers are familiar with the installations due to regular site visits carried out. They are therefore instrumental in providing technical advice to the District Offices. One verifier is also accredited for performing EU ETS verifications for aviation.

27.3 Permitting and monitoring, including notification of changes

27.3.1 Permit application and monitoring plan

Operators of installations have to apply to the relevant District Office for an EU ETS permit to emit greenhouse gas (GHG) emissions. The permit is not connected to other permits, such as the IPPC permit, operational permit and permits related to air legislation, water and other environmental legislation. Having a permit to emit GHG emissions is mandatory for installations falling under the scope of EU ETS. A paper template is available for the permit application.

A MP is part of the operator's permit application and an application for a MP must submitted together with the permit application to the District Office concerned. The MPs have to be submitted in the template provided by the European Commission. Use of the MP template is obligatory. The CA have not made any amendments to the Commission template, but do provide a translated version to operators. Simplified MPs are not allowed to be submitted by operators and/or aircraft operators.

Once the operator has applied for a permit the District Office has 60 days to issue the permit. The validity of the permit is not limited; it remains valid as long as the legislative regulations remain unchanged and the operator is acting in line with the permit's conditions and national legislation. The District Office can withdraw the permit of an operator if its installation has closed down. The District Offices usually obtain information on closure from IPPC permits, notifications under other legislation or the fact that in case of closure no natural gas is delivered to the company by the national gas supplier.

As the MP is integrated in the permit itself, the approval process of the MP is part of the permitting procedure. During the permit and MP approval process, the following checks are made:

- A completeness check
- Internal plausibility checks of information submitted in the permit and MP, such as whether the correct tier is applied and whether the uncertainty matches the tier applicable
- Checks with other external sources like IPPC data and data gathered under other environmental legislation.

During the approval of the MP there is close contact between the District Offices and the operators. When required, the District Office can carry out a site visit to gain further familiarity with the installation.

The Commission's guidance (English version) on MPs has been made use by the CA(s), operators and aircraft operators in Slovakia.

The team involved in ETS in each District Office tend to be small. No specific training programme or additional guidance is provided to staff to assist in checking of MPs. Staff are hired in line with the Civil Service Act and training is carried out on the job.

The District Offices can ask operators by phone, post or mail to adapt the MP before their approval. Once the MP has been approved and the permit issued, the District Offices would provide the copy of approved MP to the Ministry. Updated versions of the MP are provided to the Ministry each time a change occurs.

Requirements for coordination between the Ministry and District Offices are set out in Act No. 414/2012 on emission trading. Annual meetings are also held that District Offices are invited to attend. District Offices can also contract the Ministry regarding any issues that might arise throughout the year.

All Phase 3 MPs were approved by the District Offices by the end of 2012.

27.3.2 Notification of changes

According to the Act No. 414/2012 on emission trading, an operator has to notify the District Office any planned change in the nature, functioning or expansion of the installation that may result in the modification of the permit or removal of an installation from the ETS scheme. Significant changes, as per the Regulation on Monitoring and Reporting under the EU ETS, Commission Regulation No. 601/2012 (MRR), require approval by the District Office. Changes should be reported as soon as possible, when being planned.

All other changes also need to be reported to the District Offices, which will take an official decision on the notification and its significance. The District Office is empowered to request operators to updated the MP or to provide the District Office with additional information, where required. Operators are expected to inform of all changes throughout the year. Notifications would usually be provided by letter.

27.3.3 Monitoring of emissions

In Slovakia, no specific issues with the broadened definition of 'combustion' (as outlined in Directive 2003/87/EC Art. 3(t)) have been highlighted. The broadened definition is checked as part of the permit and MP approval process.

There are not installations in Slovakia applying a fallback methodology.

Seven installations have adopted the use of measurement-based methodologies (CEMS) under Phase 3. There is one nitric acid installation using only CEMS. The other six installations combine the CEMS with calculation-based methods, where the CEMS methodology is used for fuels such as hard coal in heating plants. The quality assurance and measurement standards required for the installations using CEMS are as per the MRR. The operators using CEMS are using accredited laboratories (as can be found on the list of accredited labs on the Slovak National Accreditation Service website). The District Offices check and retain a version of the operator sampling plan for installations using CEMS. No specific issues have been highlighted regarding the use of CEMS.

No specific issues have been highlighted regarding the use of biomass.

Sampling plans have been submitted by operators as part of their procedures. No specific template is provided to operators for the completion of sampling plans.

27.3.4 Aviation

Aviation is a small sector in Slovakia, with only one aircraft operator identified for regulation in Phase 3.

Aircraft operators (AOs) have to complete the Commission excel template for the MP. AOs then submit the MP to the Ministry of Environment, who is responsible for the approval of MPs for aviation. Other requirements and procedures are similar to those for installations.

The one AO covered by EU ETS emits more than 25,000 ton CO_2 per year, so it does not meet the requirements for use of simplified monitoring.

When updated versions of the Commission EU ETS Operator List are released and new AO identified, data from Eurocontrol, the Ministry of Transport, Construction and Regional Development, Civil Aviation Authorities or the internet would be used to identify contact details. An official letter would then be sent out to the operator's headquarters. The letter contains a list of obligations and requirements that the operator has to meet and the list of actions need to be taken.

The requirements for fuel density measurement and identifying sources of uncertainty and determining fuel uplift, as outlined in the MRR, are considered clear by the Ministry.

The Ministry uses Eurocontrol Support Facility (SF) to check 100% of annual emissions reports (AERs). If there is a discrepancy between data from the AER and the data from SF, the Ministry performs a detailed check to determine the root cause of the deviation.

For submission of 2013 AER, the Ministry asked their AO to submit both their 2013 and 2014 AERs by the first of March 2015.

27.4 Reporting and verification

27.4.1 Submission of AERs and VRs

Operators of installation are required to submit an annual emissions report (AER) and VR by 1 March each year to the relevant District Office, by post or email. The early submission date provides the District Offices with time to review and accept these reports. Operators will then provide a copy of the accepted AER and VR to the Ministry by the 31 March.

Operator must complete their AER and VR in the Commission AER template. An additional operator identification field has been added to the template for Slovakia.

AOs are also required to use the AER template, as published by the Commission, for completion of their AER. They must submit their AERs to the Ministry via email.

The Ministry translates and shares the guidance published by the European Commission with the relevant stakeholders. No additional guidance has been produced on the completion of AERs.

The verification steps followed in Slovakia have been developed from the AVR. If the verifier finds non-conformities in the AER to the permit, MP or the MRR or national legislation, both the operator and the District Office are contacted. There is direct communication possible between the verifier and the District Office and issues are often resolved and corrected through collaboration between the verifier, the operator and the District Office. If the non-conformities cannot be corrected they are mentioned in the VR. This also applies to misstatements. Operators are required to follow issues up in the form of an Improvement Report (IR) under MRR Article 69(4). The IR requires CA approval. Recommendations of a verifier that are not related to misstatements in the data or non-conformities are also generally followed up in next year's verification.

The Ministry believe that one simplified verification, where a site visit was waived, was carried out relating to 2013 AERs.

27.4.2 Review of AERs and VRs

The District Office will review each installations' AER and VR. The same staff as for permitting are involved in the review of AERs and VRs. The following checks will be carried out:

- Completeness check of the VR
- Crosschecks on the emission data in the VR, permit and MP
- Check on the recommendations mentioned in the VR, including an assessment of whether there is a need to change the permit or MP
- Check whether there was any change in the operation of installation
- Cross checks with data gathered from other reporting mechanisms
- Check on the correctness of the data in the reports.

If the District Office is satisfied with the report, it issues a confirmation of correctness of the data. This statement consists of name of the operator, signature of verifier, amount of emissions and statement of the District Office that the data is correct.

Typical problems found in reviewing AERs are calculation problems. Misstatements in the data and other non-conformities are discussed between the District Office, the verifier and the operator and are subsequently corrected. The objective of the AER and VR review is to correct misstatements and solve problems, so a rejection of AER/VR is not common.

If a recalculation of emissions is required, the AER would be returned to the operator for correction, re-verification and resubmission. The District Office would then reassess the correctness of the data. The deadline for completion of such amendments is the 30 April (at the latest).

If an operator fails to submit a VR on time or if the emission report is not verified as correct and satisfactory the District Office has to notify the Ministry of Environment. This can have implications for the verifier if the review of the VR showed that the verifier was non-compliant or at fault.

27.4.2.1 Determination of the emissions figure

The national legislation does not contain specific provisions on how a CA is allowed to determine emissions figures, relating to MRR Article 70.

The CA have stated that emission figure would be determined in the case where no AER was submitted. The CA should also note the other provisions of Article 70 and make conservative estimate of the emissions of an installation or aircraft operator in all of the situations lists.
If required, conservative estimates would be made by the CA to determine annual emissions in accordance with Article 70 of the MRR and the Commissions' guidance document.
To date, there has only been one case where determination of the emissions figure was required, which was a case where there were no emission.

27.4.2.2 Improvement reports

Operators are required to submit an improvement report (IR) to the District Authorities (for installations) or the Ministry (for aviation) by the 30 June each year. IRs are submitted via post or email. The Ministry expect each operator to submit a single combined IR. A translated version of the Commission template for IR is used. To date the most common improvement requirements identified by verifiers and operators are:

- Discrepancies with the MP, where source streams had changed, but the CA was not notified
- Improvements in terms of documents, such as control activities and procedures
- Additional information requirements for the sampling plan.

27.4.2.3 Electronic reporting

There is currently no e-reporting system in place, but a national e-reporting system is currently in procurement. Slovakia are now looking at whether to continue with this project or to join the EU-proposed DECLARE project.

27.4.3 Aviation

Aviation AER and VR are reviewed by the Ministry. High-level checks are performed on the completeness of the AER. The Ministry uses Eurocontrol Support Facility (SF) in its checks of AERs. If there is a discrepancy between data from the AER and the data from SF, the Ministry performs a detailed check to determine the root cause of the deviation. Checks are also performed on the verification opinion, non-conformities and areas for improvements in the VRs.

27.5 Accreditation and acceptance of verifiers

Verifiers are now accredited by the Slovak National Accreditation Service (SNAS). SNAS is NAB according to Art. 4(1) of Regulation (EC) No 765/2008. This is a change from Phase 2, where the Ministry provided certification for verifiers. Previously, there were approximately 27 individual verifiers accredited. There are now five verification bodies accredited in Slovakia.

The process for accreditation of verification bodies has been set up in line with the AVR. SNAS makes information about the accreditation process available to verifiers on the SNAS Homepage (e.g. SNAS Policies, Methodical Guidelines for Accreditation).

The steps in the assessment process are:

- Documentation assessment, carried out on documents submitted[25])
- On-site assessment (head office visit), including interviews with relevant personnel and verifiers, files review
- Witness assessments.

During each stage of assessment, SNAS would report any identified issues to the applicant and would require them action on these. Actions and a timeframe for these would be agreed. SNAS would then assess the action taken and evidence provided.

The competence, impartiality and independence of verifiers are assessed within the assessment process, as per the AVR and the standards set out in other Regulations, such as ISO14065.

The SNAS accreditation certificate is valid for 5 years. Reassessment will follow a similar procedure to the initial assessment and will take into account any results from annual surveillance assessments carried out.

SNAS will carry out annual surveillance of verifiers, which consists of an on-site office assessment and of the witness assessment. There will be four surveillances per cycle and SNAS would ensure different activities are assessed each year.

SNAS uses technical experts in the assessment of verifiers. In Phase 1 and 2, the Ministry nominated technical experts who were authorised to carry out the verifications. SNAS has established a procedure for assessing competence and training experience of the experts, which is in line with EN ISO14065 standard. It should be noted that the NAB should be the body responsible for selection of appropriate technical experts.

SNAS has established the procedures to withdraw, suspend or reduce scope of accreditation of verifiers, if required.

SNAS provide access to their database of accredited verifiers via SNAS Homepage (in the section 'Important Links – EU ETS Verifiers'). There is also information provided on what countries the verifiers are operating in.

27.5.1 Information exchange

There is a good relationship between the Ministry and SNAS. A single focal point exists on each side, which makes communication straightforward. However, there is no formal process for gather information from District Offices to submit to the NAB via the focal point.

[25] SNAS requires the verifier to submit documentation as an annex to the accreditation application including: documents confirming the legal status of applicant; a copy of Quality Manual (QM) (drafted according to EN ISO 14065 and AVR); organisational structure of the applicant (if it is not included in QM); and a list of workers of the workplaces/offices/branches (unless it is part of the QM).

To date, SNAS has not received any information from NAB/NCA or CA in other MS. They would expect to receive information, where relevant, on any issues with accreditation certificate or verifier incompetence.

27.6 Inspections and enforcement

27.6.1 Inspections

There are currently no EU ETS specific inspections being carried out in Slovakia. Operators are currently only inspected by the Slovak Environmental Inspection Agency as part of other environmental permits, such as the IED permit. These are inspected on an annual basis, but the focus is much broader than EU ETS issues.

Under the emissions trading Act, there is only a requirement to inspect if specific reasons are identified. There have been no inspections under the emissions trading act to date in Phase 3, as no specific reasons have been identified that would result in one being carried out.

The District Offices can carry out inspections according to Act No. 414/2012.

27.6.2 Enforcement

The following sanctions can be imposed by the District Office:

- Fine on an operator or aircraft operator who fails to surrender allowances to cover emissions for the previous year to the registry administrator by the 30 April. The penalty for each non covered tonne of CO_2 during the trading period is 100 €.
- Fine up to 16,600 € on an operator if the operator:
    - Fails to submit an application for a permit in the set time limit
    - Fails to comply with the requirements on monitoring GHG emissions or the submission of emission reports as laid down in the permit
    - Fails to notify the information on changes of permit or MP
    - Fails to submit an emission report and VR to the District Office by the 15 of March
    - Fails to submit an AER, VR and verification protocol to the registry administrator by the 30 of April
    - Undertake transfers of GHG emission allowances after the 31 March if the emission report is not verified as correct within the set time limit
    - Fails to submit activity level data report or NER application.
- Naming and shaming of operators who have breached the requirement to surrender emission allowances equivalent to the emissions reported.

The District Office shall take into account the seriousness of the breach of the obligation, the duration of infringement and the actual or risk of harmful consequences to the environment or human health. The sanction is imposed within three years of the day that it discovers the breach of the obligation but no later than five years as of the day on which the breach of the obligation has occurred.

27.7 Good practices

- All MPs are checked as part of the permitting procedures. All AERs and VRs are also checked by the District Offices. Checks include completeness checks, plausibility checks and checks with other sources of data.
- The Ministry use the Eurocontrol Support Facility for the checking of aviation AERs.

28 Slovenia

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28.1 Main changes compared to Phase 2

The main changes from Phase 2 to Phase 3 are as follows:

- In Phase 2 the Ministry of Agriculture and the Environment was responsible for the accreditation of verifiers. Now there is a separate Slovenian Accreditation Body responsible for such accreditation.
- To date, greenhouse gas (GHG) permits and monitoring plans (MPs) have been separate documents. There have been recent updates to national legislation and these are now being combined into a single document.

28.2 Short description of authorities involved, their responsibilities and how they work together

Several parties are involved in the EU Emission Trading System (EU ETS) in Slovenia, each with separate responsibilities. The relationship and communication between these parties is defined in the Environmental Protection Act (EPA[26]) and Decree (SI) on activities, greenhouse gases and installations for which a greenhouse gas permit is required (Decree on Activities[27]). Figure 28 outlines the organisational structure of the EU ETS in Slovenia.

[26] http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1545
[27] http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED3269

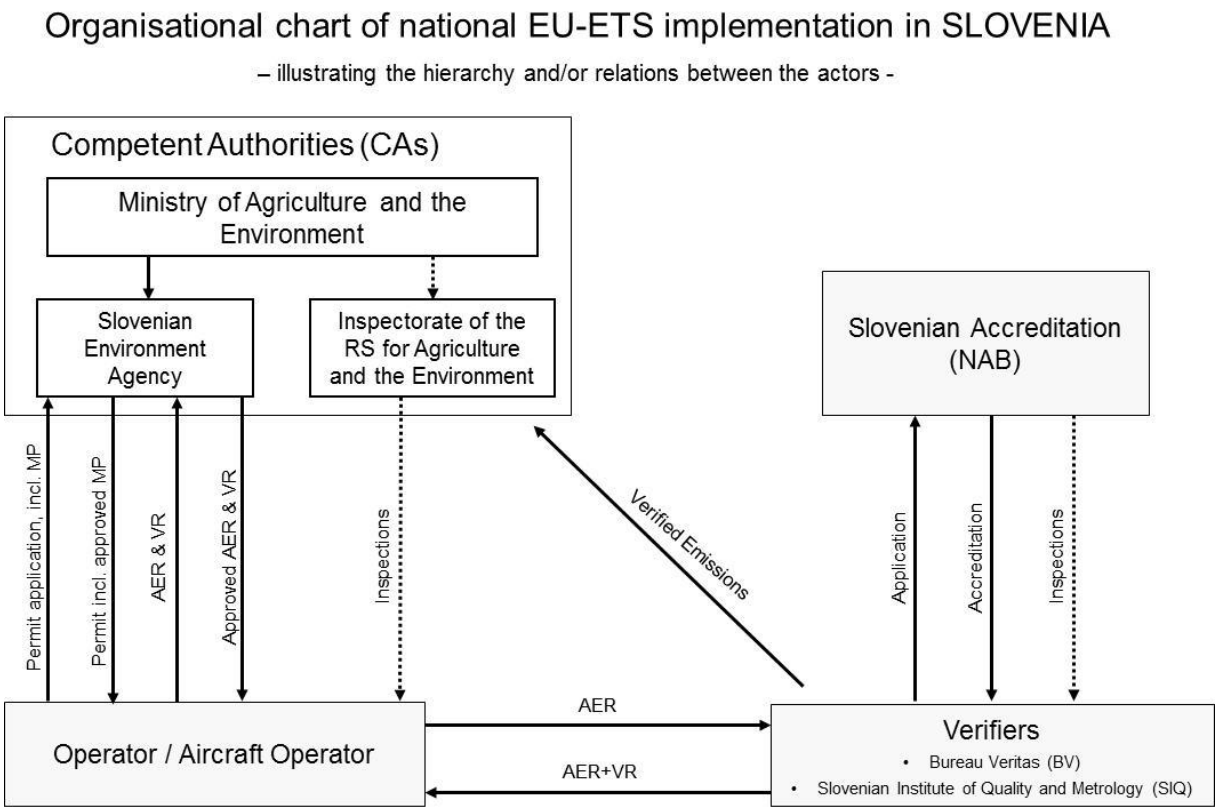

Figure 28 Organisational chart of EU ETS implementation in Slovenia

28.2.1 Ministry of Agriculture and the Environment

The Ministry of Agriculture and the Environment (the Ministry) has the overall responsibility for EU ETS in Slovenia. It has the following additional responsibilities:

- Drafting legislation implementing the ETS Directive and the Regulation on Monitoring and Reporting under the EU ETS, Commission Regulation No. 601/2012 (MRR)
- Drafting National Implementation Measures (NIMs) and New Entrants and Closures (NE&C) for Commission approval
- Drafting legislation for allocating emission allowances
- Drafting legislation for penalties
- Approving Certified Emission Reductions (CERs)
- Administration of allowances reserve
- Coordinating information exchange and cooperation between Slovenian Accreditation, Inspectorate and Slovenian Environment Agency
- Providing information to the public.

28.2.2 Slovenian Environment Agency

According to the Environment Protection Act, specific responsibilities are delegated to the Slovenian Environment Agency (the Agency), which is a separate body within the Ministry. The Agency has the following responsibilities:

- Issuing permits to emit GHG emissions

- Approving of MPs
- Administration/validation of changes to GHG permits and MPs
- Issuing decisions on free allocated allowances
- Managing the national part of the Union registry
- Receiving and reviewing verified emissions and verified reports
- Administration of NER (new entrant reserve)
- Reporting to European Commission/European Environmental Agency (EEA) and to UNFCCC
- Providing data to the other Competent Authorities and information to the public.

The Agency is the implementation body responsible for ETS as well as other environmental legislation, such as IPPC Directive and LCP Directive. Two staff members are responsible for the ETS responsibilities listed. It also reports on national GHG emissions to UNFCCC, using EU ETS data for this purpose.

There is regular contact and communication between the Agency and the Ministry. During the drafting process of policy and legislation the Agency can comment on the drafts prepared by the Ministry. This helps to ensure continuous improvement and practical input into drafting process. Guidance, training and a helpdesk has been developed for operators to explain the monitoring requirements. The Agency has found that regular and practical communication with operators works best in getting messages across.

28.2.3 Inspectorate of the Republic of Slovenia for Agriculture and the Environment

Inspection is carried out by the Inspectorate of the Republic of Slovenia (RS) for Agriculture and the Environment (the Inspectorate), which is a separate body within the Ministry. The inspection enforces compliance of GHG permits, submission of MPs and reports and imposes fines for infringements.

28.2.4 Slovenian Accreditation

Slovenian Accreditation (SA) is the national accreditation body (NAB) responsible for the establishment, development and maintenance of a professional, independent and impartial accreditation system in Slovenia and for the implementation of the related assignments. It was established by the Decision of the Government of the Republic of Slovenia. As a public institute with the state's authorisation it performs, as the only independent and non-profit institution, the assignments of a public service in the regulated and non-regulated sectors and represents the interests of the Republic of Slovenia in international accreditation organisations.

Slovenian Accreditation's basic activity is accreditation of conformity assessment bodies. The Slovenian accreditation system complies with the requirements of the Regulation (EC) No. 765/2008 on accreditation and market surveillance. Slovenian Accreditation is organised and operates in compliance with the standard SIST EN ISO/IEC 17011:2004, and it complies with the rules of the international accreditation organisations (European co-operation for Accreditation (EA), International Laboratory Accreditation Cooperation (ILAC) and the International Accreditation Forum (IAF)). It thereby allows transparent, credible and internationally comparable implementation of an accreditation system in Slovenia. Slovenian Accreditation joins in accreditation activities at the

international level. For this purpose it associates and concludes agreements with related organisations. It also participates in the European and international organisations for accreditation, representing in them the interests of the Republic of Slovenia.

Slovenian Accreditation accredits Verification bodies according to EN ISO 14065:2013 and the Regulation on Accreditation and Verification under the EU ETS, Commission Regulation No. 600/2012 (AVR). Slovenian Accreditation is a member of the European co-operation for Accreditation and a signatory of the EA MLA for all accreditation activities. At the time of interview, Slovenian Accreditation had been recently evaluated for ETS and expects to sign EA MLA for EU ETS at next EA GA. Slovenian Accreditation has established good communication with the Agency and the Ministry in order to communicate information, as required by regulation. Slovenian Accreditation has granted the accreditation for GHG verification to two verification bodies, Bureau Veritas and the Slovenian Institute of Quality and Metrology (SIQ – Slovenski Institut za Kakovost in Meroslovje).

28.3 Permitting and monitoring including notification of changes

28.3.1 Permit application and monitoring plan

28.3.1.1 GHG permit application and MP

An operator of an installation falling under the scope of ETS has to obtain a GHG permit to emit greenhouse gas emissions. The GHG permit is not connected to other permits, such as the IPPC permit or permits related to air legislation.

In 2005, an IT web based system has been set up, which allows operators to apply for a permit and a monitoring plan (MP) electronically. For both the permit application and the MP, data needs to be submitted in electronic format into entry fields.

The electronic template is different from Commission MP template. It is the same as the one used in Phase 2, but has been updated of the new provisions of Phase 3 in order to make it compliance with Phase 3 requirements. It contains data on the installation, data on ETS units (capacity in MW or t/day; Annex I activities; expected emissions; source streams) and sub-installations, monitoring methodology for each source stream, measurement equipment for each source stream (type, location, measurement principle, uncertainty and the report of the Inspectorate on measurement equipment assessment (IMEA)).

Additional documents appended to MP application include calibration and verification certificates for the uncertainty of measurement equipment. These documents are regularly checked by the Inspectorate on measurement equipment assessment and the Agency. Operators also need to send paper documentation to the CA on uncertainty analyses, risk assessments and evidence of commensurate procedures, when they apply.

There is no simplified MP template for small installations emitting less than 25,000 tonnes CO_2.

The CA has had some of the Commission guidance translated into Slovenian. The CA sends all of the guidance to operators for them to use. The CA also organise workshops with operators to help

provide them with additional guidance. There is also some guidance incorporated into electronic templates (notes and images, which are mainly instructions on how to complete). No specific additional guidance has been produced.

To date, the MP has been a separate document from the GHG permit. The permit and MP both reflect the rated thermal input and/or production capacity of each ETS unit. The sum of the rated thermal input or production capacity of all ETS units is submitted on the front page of the permit. The permit also captures the Annex I activities carried out at the installation and contains conditions that an operator must meet (i.e. compliance with MP and requirements to report on emissions, to surrender emission allowances and to notify changes). The MP contains data on installation and on activity (as per the permit), the NACE code, source streams and the monitoring methodology data (like uncertainty data, sampling data, determination methods activity data and activity specific factors).

The validity of the GHG permit is not limited. It remains valid as long as the legislative regulations remain unchanged and the operator is acting in line with the permit's conditions and national legislation. The Agency can withdraw the permit of an operator if its installation has closed down, if an installation has failed to have its permit updated or if requirements in MP have not been fulfilled.

In Slovenia, operators need submit an updated MP to the Agency annually. Therefore, all Phase 3 MPs issued at the end of 2012 (by start of Phase 3).

For aviation, there is no permit required. Aircraft operators have to use the Commission MP templates for submission of MPs. These MPs must be sent to the Agency via email and normal post. Other procedures related to the MPs are similar to that for installations.

28.3.1.2 Approval of GHG permits and MPs

To date, the MP was a separate document from the GHG permit. Because of that, the approval procedure for the MP was different from the permitting procedure. To ensure that the correct versions of the permit and the MP are attuned, the decision on the MP refers to the permit version number. While the permit and MP are currently separate documents, these are due to be combined later in 2014.

During the assessment of the permit application, the Agency visits the installation to check, among other things, the capacity of the ETS units and the installation boundaries.

The Agency assesses whether the MP meets the requirements in the Environmental Protection Act, the Decree on Activities and the MRR. During the approval process of the MP the following checks are made:

- A completeness check, covering requirements of Annex I
- Internal plausibility checks of information submitted in the MP and the permit (i.e. whether the correct tier is applied, whether the uncertainty matches the tier applicable, etc.)
- Manual check that statements in MP supported by additional documentation, where required
- Checks with other external sources like IPPC data and data gathered under other environmental legislation (such as emission monitoring data). These cross checks can be made easily, as all data is stored in electronic databases and the information required can be

searched through unique installation identification numbers. Automatic crosschecks between databases are not yet possible since the databases are not linked to each other.

During the approval of the MP there is close contact between the Agency and the operators. The Agency asks operators by post to adapt the MP before their approval. Open issues may also be clarified via e-mail or phone.

Due to a small two-person team, there is currently no specific training programme or guidance required to help the staff check the MPs consistently.

The Commission's 'Exemplar checklist for assessing installation MPs' is not used by the CA. The CA plans to have internal QA checks following combination of the permit and MP into one document. When this occurs they intend to prepare a checklist.

28.3.2 Notification of changes

According to the Environment Protection Act a change in the permit is required if it concerns a planned change in the technical characteristics, the operation and capacity of an installation and if that change affects the contents of the GHG permit. The CA used the list from Article 15 of MRR in the development of this article in their environmental legislation and so the EPA meets MRR Article 15.

A specific procedure for changing the permit is laid down in the Environment Protection Act. This is initiated by a notification of the change by the operator to the Agency. Operators are expected to notify the Agency of all changes, as soon as they know there is a significant modification, or in advance if it is planned. The Agency will then assess whether the planned change is significant and affects the contents of the permit and whether an application for a revised permit should be submitted in a specified time. From that moment the updating procedure of the permit starts. The checks made on the changes to the MP are the same as for the permit approval process.

If there is a significant change then the CA will issue a legal document on the change of the permit or MP. Approval is provided by letter and IT system is updated with the change.

As the permit and MP were separate documents, changes needed to first be made in the permit and then the MP. However, now that the documents are to be combined, the update will only need to be carried out once.

The operator can insert and submit changes to the Agency through the IT system. The date of any changes and the person who has made the change is logged in the IT system, which clearly shows the latest version of the MP, permit or other data.

If the installation or its unit closes down the Agency has to be notified, with proof of closure included in the notification. In such cases, the Agency shall issue a decision on the expiration of the validity of the permit. The inspectorate will visit the installation to ensure that the installation is really closed.

As stated, all operators need to submit an updated MP to the Agency annually for approval. This is applicable even if no or only minor changes have occurred in the MP. This results in a high

administrative burden for both the operators and the Agency. However, the Agency intends to change the procedures according to MRR and an update to the Environment Protection Act has been carried out. Updates to the MP would then only be required in the case of changes and approval should not be needed for non-significant changes.

Notifications of temporary changes to the MP have not occurred yet and have therefore not been addressed during the annual update of the MP. The Agency considers a temporary deviation to be a maximum of six months.

All changes to the permit and MP are stored in the IT database, which keeps track of all changes that occurred.

28.3.3 Monitoring of emissions

In Slovenia, the broadened definition of 'combustion' (as outlined in Directive 2003/87/EC Art. 3(t)) was checked during the NIMs procedure. No issues were identified. The CA finds the broadened definition clear, but it has not resulted in any specific changes for the Agency.

In Slovenia, most Category B and C installations already met highest tier before introduction of the MRR. Therefore, Article 26 has not resulted in any changes in this respect.

There are therefore no installations in a transitional period working to an improvement plan, as per Article 26 of the MRR. There have therefore also been no unreasonable cost claims or claims over technical feasibility in Slovenia in Phase 3.

No operators are applying a fallback methodology.

In many cases the Agency has required an operator, particularly in combustion installations, to apply a higher tier for Natural Gas, as this tier can be achieved 'without additional effort'.

No operators have adopted the use of measurement-based methodologies (CEMS).

The Agency has not encountered any issues with applying the new definition of biomass in line with the RES Directive. For those installations with biomass, all source streams are 100% biomass, with no fossil fraction.

The Agency does not yet have specific practices in place with regards to the checking of uncertainty assessments. To date, checking has been done as part of the verification of AERs. However, once permits and MP are combined, procedures will be put in place for the checking of uncertainty assessments. The CA is not certain whether the simplification of the uncertainty assessment has changed the burden on operators.

Operators are required to have calibration certificates for all measurement instruments. The Agency retains calibration details for the meters types that are under "type-conform" conditions (national metrological control). No specific issues have been noted with instruments under "type-conform" conditions.

The CA has prepared one example of a sample plan and sent to operators. The Commission guidance on sampling plans is also used by the Agency and operators.

The Agency is not aware of instances where the requirements of the MRR have changed the frequency of analysis by operators.

There are no non-accredited laboratories used by operators.

The CA has had no experiences with inherent or transferred CO_2.

The CA has not had instances where data gaps have occurred.

There have been instances where an operator has applied a global warming potential in the monitoring of installation emissions. These were for CF4 (7,390), C2F6 (12,200) and primary aluminium.

28.3.4 Aviation

Slovenia has only one aircraft operator (AO) who is regulated, who is not a small emitter. However, if they had additional AOs, meeting the requirements of MRR Article 54 ('small emitter' status), they would be allowed to use simplified monitoring requirements and a Commission approved tool to estimate their fuel consumption.

If a new operator were to appear on an updated version of the Commission EU ETS Operator List, the Agency would first contact the Ministry of Infrastructure and Spatial Planning to find whether they have operator licence. They would then contact operator and check what kind of activities they carry out to determine whether a MP is required.

The Agency is currently checking the small operators that appear on their list to confirm that a MP is not required. There is an issue where these operators do not respond to letters sent. The Agency recognised that additional effort may be required to ensure that they do not have additional AOs that require regulation.

The requirements for fuel density measurement and identifying sources of uncertainty and determining fuel uplift, as outlined in the MRR, are seen as clear by the agency.

No MPs have been approved allowing for the use of biofuel.

The CA does have a contract with Eurocontrol, therefore their database is permanently available for the checking of annual emissions reports (AERs) and info on other AOs assigned to Slovenia.

For the submission of 2013 AERs, there is a requirement in Slovenian legislation that reports needed to be submitted by the 31st March 2014. Therefore, the Agency advised AO to submit report and submit full scope. The Agency will now work with operators to determine the part scope relating to the new provisions for aviation.

28.4 Reporting and verification

28.4.1.1 Submission of AERs and VRs

According to the EPA an operator is required to submit a verified annual emission report (AER) and verification report (VR) by 31st of March each year to the Agency. Emission reports are submitted through the IT web based system, which consists of an electronic report template with entry fields. The electronic report template has been designed to meet the requirements as set out in the MRR.

The Agency ensures that ETS data is used in EU/UNFCCC national inventory reporting. Reporting to EU is done on the 15th of January (SEF tables – registry) and the 15th of March, while reporting to UNFCCC is carried out on the 15th of April. The Agency also reports according to Article 21 of the EU ETS Directive by 30th of June. In addition, the Agency also reports data about fuel consumption from the AERs to the Customs Administration of the Republic of Slovenia (CURS), which is a separate body within the Ministry of Finance. During the inspection, CURS checks fuel consumption in installations, involved in ETS.

The basic verification steps and requirements originate from ETS Directive and AVR. The EPA states that GHG emissions reports can only be verified by a legal person with accreditation according to AVR. No simplified verifications were approved in Slovenia for 2013 AERs.

If the verifier finds non-conformities in the permit or the monitoring plan, or with the MRR or national legislation, the operator and the Agency is contacted and the issue has to be solved by the operator. Direct communication is often possible between the verifier and the Agency. Issues are often resolved and corrected through collaboration between the verifier, the operator and the Agency.

If non-conformities cannot be corrected, they are mentioned in the VR. This also applies to misstatements. Operators are required to follow these issues up in the form of an Improvement Report under MRR Article 69(4), which then requires CA approval. Issues are also usually followed up as part of the next year's verification. This also applies to any verifier recommendations not related to misstatements in the data or non-conformities to the permit, the monitoring plan and the MRR, which are also laid out in the VR. Verifiers have to provide a paper version of the VR and to send CA all their internal documentation for each operator and aircraft operator.

Currently, there is one aircraft operator identified which reports for ETS. Aircraft operators have to use the excel templates provided by the Commission to report for ETS. The IT system, which is applied for installations, does not apply for aircraft operators.

28.4.2 Review of AERs and VRs

The Agency checks AERs and VRs each year after submission. Staff involved in reviewing these reports is the same staff as per permitting.

Reports for all installations (51 in 2014) are checked. The following checks are being performed:

- Completeness check of both reports
- Plausibility checks on the data within the emission report and cross checks between the emission reports and the permit and MP

- Check on the comments in the VR, which also involves an assessment of whether there is a need to change the permit or MP
- Check whether there was any change in the operation of installation
- Cross checks with data gathered from other reporting mechanisms
- Check on the correctness of the data in the reports.

According to Slovenian legislation, the Ministry can supervise the checking of AERs and VRs at any time. Some AERs and VRs are typically checked by the Ministry as part of this supervision exercise.
If errors are found in the report, the operators are required to make corrections and the emission report has to be re-verified and resubmitted to the Agency.

There is no deadline for the acceptance or rejection of emission reports. In principle, reports are reviewed before 30 April when allowances have to be surrendered. Operators are not informed of acceptance of the AER. They are only informed in instances where corrections are required.

In general, VRs contain detailed information about the verification activities performed and the documents and systems that have been verified. This enables the Agency to assess the work of the verifier by the means of document study.

In Slovenia, there is only one aircraft operator that reported for ETS. Due to this limited amount of aircraft operators, the Agency did not invest time in obtaining specific detailed knowledge about ETS in aviation. The review of the aviation AER consists of an interview with the verifier and an assessment of the consistency and completeness of the reports. Data from Eurocontrol is used in this process too.

28.4.2.1 Determination of the emissions figure

If there is no AER or VR submitted, the inspectorate imposes fines on the operator and the Agency hires a verifier to verify the emission report at the costs of the operator. There is no real official determination of the emission figure by the Agency. However, also due to the high fines, such cases have not occurred yet and the Agency has not had to determine emissions. If a verifier is in non-compliant, the Agency reports this to the Slovenian Accreditation.

28.4.2.2 Improvement reports

The CA requires a single improvement report (IR) on improvements to the monitoring methodology to be submitted by the 30th June each year in line with the requirements of the MRR. The Commission template for IRs is used. To date few improvements have been identified. The most common improvement requirements identified by verifiers and operators are those related to clarification of procedures.

28.4.2.3 Electronic reporting

The permit, MP and AER are all required to be submitted through a web-based IT system. Verifiers have to provide a paper version of the VR and to send CA all their internal documentation for each operator and aircraft operator. Additional data relating to ETS installations is stored in a separate database, which is not linked to the web-based system.

The web-based IT system serves as a database for installation data, permit data, MP data and for keeping track of changes to these data. Each operator gets a customised password and username for the IT system. This ETS database is separate from other environmental IT databases and the registry database. The IT system was required to help the two-person team deal with all the ETS responsibilities of the Agency in an efficient and accurate manner.

Only the Agency has access to the web-based IT system. There is cooperation between authorities involved and other authorities can request information via email (have indirect access to the data).

While operators are required to complete the templates on the web-based system for the permit, MP and AER, they are also required to send a signed paper copy to support the web version.

28.5 Accreditation of verifiers

Due to a change in national legislation, the Ministry is no longer responsible for the supervision of verifiers. Accreditation and supervision is now carried out by Slovenian Accreditation (SA), which is the national accreditation body (NAB) for Slovenia. Verifiers must be accredited by the Slovenian Accreditation, according to EN ISO 14065:2013 and the AVR, to have authorisation to carry out accreditation in Slovenia. SA accreditation is carried out as required by regulation.

The accreditation certificate in Slovenia is valid for a maximum of five years. The reassessment process is started after four years.

When assessing an application for accreditation, SA first carry out a pre-assessment, followed by the main assessment. The assessment includes review of documents, premises visit and witnessing. SA look to see whether they have an operating and management system in place that can ensure they meet all the requirements. Following these initial assessments, the verifier has six months to close off any actions and then, if all is determined to be satisfactory, they can sign contract.

Where required SA will involve technical assessors (from accredited certification, industry or other MS) in conducting the assessment of verifiers.

The communication between the accreditation body and the Ministry is regulated by EPA, which specifies requirements for information exchange. The NAB informs the CA about accredited verifiers, the management report and the annual work programme. It is the CA's responsibility to publish information on their web page, including any complaints on verifiers. All information is also available on the NAB webpage. However, there have been no complaints regarding a verifier to date[28].

According to the EPA, the Agency is required to inform SA in case of serious violation such as:

- A verifier providing inaccurate, false or incomplete VR
- A verifier not providing the VR before the submission deadline
- The requirements and procedures for accreditation and acceptance of verifiers is the same for installations and aviation. There are currently only Slovenian verifiers verifying in Slovenia.

[28] However, the CA has received complaints from verifiers regarding operators.

28.6 Inspections and enforcement

28.6.1 Inspections

Inspection is carried out by the Inspectorate, which is a separate body within the Ministry. The inspectorate is not only responsible for inspecting GHG permits. It also carries out inspection activities for other Environmental legislation like water, GMO, Environmental Management Act, waste, IPPC, noise, chemicals and nature protection.

Inspection is carried out based on an annual inspection plan. Installations that fall under the IPPC Directive and Seveso Directive are inspected regularly, at least once a year. During those inspections, all environmental activities related to permits are assessed. This is part of routine inspection.

Non-routine inspection is carried out consisting of unannounced inspection visits based on complaints about an operator or information on possible non-compliance provided by the Agency. This information arises from sources such as the Agency's routine review of air quality emission monitoring reports. A risk-based approach is applied for selecting installations to be inspected. Approximately 10% (five installations) are inspected per year.

During the inspection, the inspectorate can issue orders and measures that have to be met within a certain specified timeframe. A follow up inspection is the organised to see whether these orders and measures have been fulfilled. If the operator has not undertaken any corrective action, fines can be imposed by the inspectorate pursuant to the general offense act. These fines can rise by up to €1,000 per day that the operator is in non-compliance.

The Inspectorate enforces compliance with GHG permit, but is not empowered to inspect compliance with the MP. According to the Environmental Protection Act, this is the responsibility of the verifiers. If the Agency detects issues of non-compliance at the installation during their review of the AER, they can ask the inspectorate to visit the installation and issue measures for corrective action if this is related to permits.

28.6.2 Enforcement

The inspectorate can impose an ETS fine of €40,000 to €125,000 in the following cases:

- Operating without a GHG permit
- Not notifying the Agency of changes to permit and MP
- Not submitting the AER within the set annual time limit
- Not notifying the Agency of closure of an installation
- Not monitoring and reporting in line with national law implementing MRR
- Not submitting a verified AER
- Undertaking transfers of GHG emission allowances after 31 March if the AER is not verified as correct within the set time limit.

These sanctions can be imposed based on inspection results identified by Inspectorate or through the review of AERs and VRs by the Agency.

The inspectorate can also impose fine of €40,000 to €75,000 to a verifier who continues to perform verification work without of SA accreditation for verification.

Inspection procedures (and to some extent inspection reports) are also made available for the public to see at the inspectorate. Anyone can request such information.

The course of inspections and enforcement is similar for installations and for aviation.

28.7 Good practices

- The CA organises workshops with operators to help provide them with additional guidance.
- Checks are carried out on all MPs and AERs, including completeness checks, plausibility checks and manual checks with other documents and sources of data.
- There is a procedure in place for non-routine inspections to be carried out, which amongst other things can be in response to issues identified in the Agency's review of AERs.
- The CA has implemented an IT system to help the two-person team deal with all the ETS responsibilities of the Agency in an efficient and accurate manner.

29 Spain

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29.1 Main changes compared to Phase 2

- Spain now has a single national accreditation body (NAB), the Entidad Nacional de Acreditacion (ENAC).
- The Ministry of Agriculture, Food and Environment (MoE) now receives a copy of the annual emission reports (AERs) to facilitate Article 21 reporting.
- The MoE is responsible for the implementation of sanctions regarding non-compliance with the obligation to notify changes in the installation capacity or activity level (Art. 24 of Decision 2011/278/EC).
- Within the MoE, the Spanish Climate Change Office has been appointed as focal point according to Article 69 of Regulation on Accreditation and Verification under the EU ETS, Commission Regulation No. 600/2012 (AVR).

29.2 Short description of authorities involved, their responsibilities and how they work together

In Spain, the basic provisions of environmental legislation are set at the national level, while the implementation related provisions are set at the level of the Spanish regions.

Key Responsibilities are with:

- The MoE: With regards to installations, its competences are more related to creating the framework for the EU ETS, i.e. establishing the basis of the EU Emissions Trading System (EU ETS) regime and processing allocation procedures and managing the Spanish area of the EU registry. MoE can propose solutions or even issue written recommendations for problems under the responsibility of the regions. For aviation the MoE acts as the competent authority together with the Ministry of Public Works and Transport. MoE is responsible of the management of the Emissions Registry.
- The Spanish regions are autonomously responsible for all issues related to permitting and monitoring, reporting, reviewing AERs and verification reports (VRs) and inspecting. The implementation of sanctions for installations is the responsibility of the regional Competent Authorities (CAs) except for those issues related to allocation of allowances. Although the legal basis with the general requirements is established at national level, the implementation of these tasks for installations fully depends on the specific region and overseen by the MoE on a day-to-day level and by the CCCCP at a higher strategic level.

- In order to adapt the Spanish accreditation framework to the requirements of the Accreditation Regulation 765/2008, Royal Decree 1715/2010, of 17 December, designating ENAC as the Spanish NAB, has been adopted.
- The Commission of Coordination of Climate Change Policies (CCCCP) includes regional CAs and other Departments of the General Administration of the State (including the MoE) and meets regularly and when required on specific topics. In this Commission the regions and the MoE discuss experiences and problems regarding the EU ETS and agree on a common approach, where considered necessary (e.g. regarding IRs, excluded installations and the AER template). The Commission and its working group on emissions trading are seen as a tool for harmonization among the regions and also enhances the exchange of guidance or tools developed for the EU ETS among the regions (e.g. application template for the exclusion of permitted opt-outs from the ETS).

Figure 29 gives an overview on the cooperation of the parties involved with regards to installations.

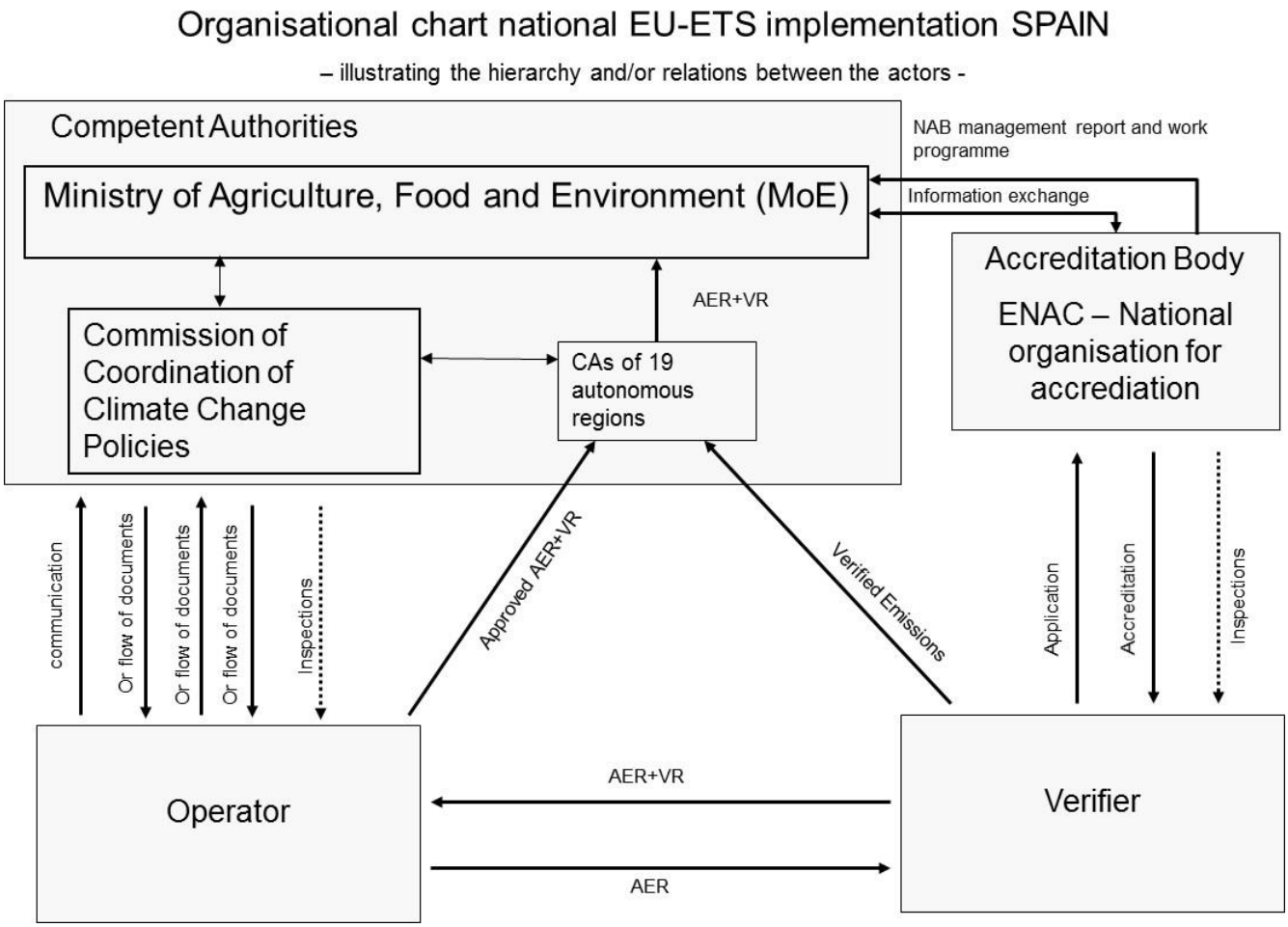

Figure 29 Institutional Structures of the EU-ETS in Spain for installations

Three Spanish Regions have been interviewed in 2014 to gain insight into the provisions applied at regional level. These regions are Gobierno de Aragón (Aragon), Generalitat Valenciana (Valencia) and Generalitat Cataluña (Catalonia).

29.3 Permitting and monitoring, including notification of changes

All 19 CAs of the Spanish regions provide the Commission's monitoring plan (MP) template for the submission of MPs by installations. Some CAs still either requires or allows the submission of a printed hard copy of the MP. However, in such cases an accompanying electronic copy must always be submitted.

In the future, electronic MP applications and also reporting are planned.

The regions interviewed had between 20-80 installations each, which variations in man power available. Staff members in all regions interviewed had not received specific training, but learn on the job and their work is peer reviewed by other/more senior team members.

Formal written guidance has not been developed by the MoE or the regional CAs but the Working Group on Emissions Trading (part of the CCCCP) issues recommendations, with common approaches agreed for solving specific issues arising in the application of the EU ETS. In addition, some Spanish sector associations, namely the cement and ceramic sectors associations, did produce guidance to their members on completing the MPs.

Staff members stated that they participated in the Commission of Coordination of Climate Change Policies (CCCCP) and that this opportunity for exchange with other technical staff members in other regional CAs has helped them considerably.

Spain requires the use of the Commission's MP template and so all requirements laid down in that template are being met in Spain. Monitoring plans in the regions interviewed were found to have a good level of detail, though the CAs recognise that in many cases there is either poor information regarding procedures or a lack of any information at all.

In the regions interviewed, EU ETS permits are separate from other environmental permits, such as permits required under the IED. Permit and MP applications are checked for completeness and consistency. Only Catalonia used a template for the checking of the MP. This was a regional-developed template, which the CA developed prior to publication of the Commission's version.

The regional CAs interviewed confirmed that the majority of category B and C installations were applying the highest tier requirements as outlined in Article 26 and Annex II of the MRR. The CAs confirmed that there are a few cases where they have approved operators using one tier lower (than that required) on the grounds of unreasonable costs or technical infeasibility. In such cases justifications were duly submitted by the operators and approved by the CA. The MoE confirmed that, at the time of the interview, no installation was applying the fall-back methodology. In the regions interviewed, there were only two installations using CEMS for the monitoring of N_2O emissions, as mandated by the MRR. No installations in the regions interviewed use CEMS for the monitoring of CO_2 emissions.

In all regions interviewed, the majority of MPs were approved in December 2012.

There are generally no templates for notifications of changes, as operators and AOs must submit a new MP highlighting the changes. All CAs interviewed enforce the list in Article 15 of the Regulation

on Monitoring and Reporting under the EU ETS, Commission Regulation No. 601/2012 (MRR) as significant changes requiring approval by the CA. Whether a significant change also requires an update of the permit is region-dependent. All CAs send out a formal letter to the operator as approval of a significant modification to the MP.

Previous issues with the availability of suitably accredited laboratories in Spain under Phase 2 have been addressed and more laboratories are now EN ISO 17025 accredited. The regions interviewed also believe that the EN ISO 17025 equivalence of laboratories can now be shown more easily.

The regions reported that while uncertainty assessments and risk assessments were submitted by operators, most CAs only undertake a submission check. The CAs rely on the verifiers to check these documents as part of the verification process.

29.3.1 Aviation

For aviation the MoE shares responsibility with the Directorate of Civil Aviation and Civil Security Agency at the Ministry of Public Works and Transport (short "Civil Aviation Authority"). This co-operation between both Ministries, combining aviation knowledge and competences and the environmental views and ETS experience has been perceived as very beneficial to the process.

For MP approval, the templates provided by the EU Commission are used. Monitoring plans are reviewed by the "Civil Aviation Authority" that issues a report for the MoE to approve the MP application.

The Civil Aviation Authority and MoE do not have access to the Eurocontrol Support Facility data but does have access to information regarding the number of full scope flights, emissions and AO statuses.

In February 2014, the Civil Aviation Authority explained to AOs that they did not need to submit an AER by February 2013 for the 2013 year. The CAA told AOs that they could submit full-scope reports before 28/02/14 for 2013 if they were concerned, or could submit intra-EU scope report and would not be sanctioned.

After entry into force of the new regulation, the CA has validated these reports in the intra-EU reports. Full scope reports received under the old regulation were entered into a tool to determine the intra-EU scope by looking at the aerodrome pairs. This was done by the CAA/MoE rather than require the AO to re-submit the AER. The CAA/MoE communicated the intra-EU scope emissions calculated by them to the AO to get their confirmation of the figures before submission into the Registry - as the figures have not been verified.

29.4 Reporting and Verification

Verified emission reports have to be submitted to the relevant CA by February 28. All operators must use the Commission's AER template. An agreement through the CCCCP requires the mandatory usage of the Commission's template in all regions. The CA has one month to evaluate the AERs and then to

enter the verified emission figure in the Union Registry. By May 31 the CAs send the AERs in electronic format to the MoE to feed into the ETS data base and facilitate Article 21 reporting.

All (100%) of AERs are reviewed by the CAs on an annual basis. This is linked to the Spanish situation where the CAs, rather than the MoE, enter the emissions figures into the Registry.

All CAs interviewed use the Commission's template for improvement reporting (template No. 7). The CAs interviewed had not started reviewing the IRs submitted by operators when the interview took place, but early feeling was that more detail on operators' procedures was a common improvement being reported.

Verification in Spain follows the steps as laid out in the Accreditation and Verification Regulation (AVR) and the EA 6/03.

The competent authorities have one month, from the 28 February, to: review the verified emissions reports; validate the verified emission figure if everything is correct, or to estimate the amount of emissions where discrepancies have been identified or no AER has been submitted; before entering the correct verified emissions figure into the Registry.

The CAs review all AERs and VRs checking for consistency between the reports, consistency with the MP and internal consistency within the AER. Errors in AERs are generally resolved with the operator and**,** if necessary**,** the verifier. Where no verified AER is available, e.g. in case of bankruptcies, the regions would determine the emission based on the data available.

The review of aviation reports is undertaken by the Civil Aviation Authority in cooperation with the MoE. The Civil Aviation Authority takes the final decision for annual emissions reports, while this lies with MoE for tonne kilometre data reports. The verified emission amounts are entered into the registry by the Ministry of Environment at the request of the civil aviation authority.

29.5 Accreditation of verifiers

Spain has a single accreditation body, ENAC, which is the NAB appointed by Spain under the accreditation framework regulation 765/2008.

ENAC is a European co-operation for Accreditation (EA) Member for the EU ETS and applies Reg. 600/2012 (the AVR), EN ISO 14065, EN ISO/IEC 17011 together with the EA 6/03 guidelines.

To coordinate actions and get feedback from the CAs, a Committee was created within ENAC called the "Forum of competent authorities", which is still active and meets two times per year. ENAC is also invited to the working group of the CCCCP when accreditation topics are being discussed.

With ENAC being a member to the EA for the EU ETS, accreditation closely follows the EA requirements. The basic steps are described in the following:

1. An application (specific form) for accreditation is completed by the verification body and submitted to ENAC

2. The verification body submits the documentation requested by ENAC in line with Article 45 of the AVR as part of the application
3. ENAC undertakes a review of the submitted documentation
4. ENAC selects a team of assessors
5. An office assessment of the verification body is undertaken by the assessment team
6. ENAC undertakes scope specific witness auditing of the verification body's verifiers, typically undertaking three – four witness audits of the verification body
7. ENAC drafts initial findings, which are shared with the verification body
8. The verification body undertakes any corrective actions as deemed necessary in line with the initial findings
9. ENAC undertakes a final technical review relating to any corrective actions taken by the verification body
10. ENAC makes a formal decision regarding accreditation of the verification body and the decision is shared with the verification body.

In the second step, the document assessment, all administrative, staff and process related documents are reviewed in detail. Specific consideration is given to the process related documents, where it has to be ensured that the processes are based on the accreditation criteria. Findings from the document review by ENAC (step 3) are collected in a report, including requests for clarification or non-conformities, e.g. in case of a lack of qualification of staff members.

After the document review, an assessment team is assembled (step 4), considering potential conflicts of interests through previous assignments. The assessment team is suggested to the applicant verification body, which can refuse the team with justified reasons.

An accreditation team consists of a lead assessor and a technical expert. The lead assessor holds expertise with regards to ISO14065, EA 6/03 and on the EU-ETS, the technical expert holds expertise on one or more industry sectors and the verification process; both in line with the content of the Article 59(2) of the AVR.

The lead auditors have to attend internal ENAC courses in order to build their expertise, then depending on the previous experience, they have to participate in at least five office audits as an observer and hand in a report on findings of the audit, which is reviewed by ENAC. Technical experts attend a 1-day course at ENAC on the specific EU ETS verification process, and the applicable clauses of the EN ISO 14065 and the EA 6/03, then act as an observer at witness audits accompanied by a qualified expert, where they have to prepare a report, which is reviewed by ENAC. Based on the observed performance and on the quality of the observer reports, ENAC decides when experts are ready.

As a next step (step 5), an office audit is performed. The assessment team develops the approaches to be taken during audit based on a risk analysis made from the document review. The main focus of the audit is assessing the competence by reviewing the documentation and records of competence, performing interviews with the verification staff and the technical managers.

The number of witness audits (step 6) carried out after the office audit depends on the scope the applicant verification body applies for. If the scope includes activities/ installations considered by ENAC as high risk activities/installations (coal combustion, aviation or CEMS) the witnessing will

cover at least one verification for each activity. The assessment team reviews relevant documentation like the permit, MP and previous AERs and VRs of the installation. Furthermore, the applicant verifier's documentation, such as its risk analysis and verification plan, are reviewed before the witness audit as well as the VR after the audit.

The witnessing can also include the evaluation of installation documentation in their office. The witnessing is performed only by the technical expert, which delivers a witness report, indicating non-conformities, if such occur.

The accreditation decision is taken by an internal committee at ENAC (step 7/10). If the outcome of the assessment is not positive the applicant must implement corrective actions (step 8) and a new evaluation may be performed by ENAC.

After accreditation, surveillance is carried out annually and consists of an office audit and witness audit(s) as a second step. The number of witnesses carried out for one verification body, again, depends on the scope of accreditation.

Witnessing takes place mainly between October and February, with office audits being carried out between March and May. Witness audits are chosen so that a new sector of the scope of accreditation is covered every year, as far as possible.

When surveillance visits are scheduled, ENAC invites the respective CA to participate in the surveillance. CAs are also invited to provide feedback on the surveillance to ENAC. This enhances understanding of verification and accreditation processes on the side of the CA and improves communication between CA, ENAC and the operator.

For the introduction of accreditation for aviation ENAC cooperated with the National Security Authority (AESA) in order to receive a better understanding on technical issues related to aviation. In turn AESA received training in accreditation. Furthermore the Ministry of Public Works and Transport was invited into the CA working group. The Ministry of Public Works and Transport in co-operation with MoE developed requirements for verification bodies. The requirements include that at least one person in the team needs specific experience for aviation and has to have attended a training course for aviation activities on verifiers (provided by AESA).

29.6 Inspections and enforcement

Inspection approaches vary significantly among the regions. This concerns both the approach of inspection as well as the share of installations inspected.

In Valencia and Catalonia, inspections are not specific to EU ETS and cover a range of other environmental legislation including the EU-wide Industrial Emission Directive (IED) and local waste permitting. In Aragon, inspections are EU ETS specific.

Since the introduction of the Phase 3 requirements, Catalonia has not undertaken any inspections due to a lack of resources within the CA's inspection directorate general. In Valencia and Aragon,

inspections have been undertaken and Aragon has undertaken an inspection of c. 15% of its installations (seven inspections).

All CAs interviewed stated that there is an inspection plan but none were aware of a specific target on what share of installations and aircraft operators should be inspected on an annual basis.

The approach to selecting operators for inspection also varies between the CAs. Aragon selects the recipients of inspections on a risk based approach based on the findings outlined within the VR and also on the emissions of the installation (installation category C, B or A in order of preference). In Valencia, a similar risk assessment and risk based approach is used, but the risk assessment is not specific to the EU ETS. In Catalonia, selection is based on IED parameters.

In Aragon, the CA undertakes inspections of both operators and verifiers (not accompanying the NAB, ENAC). As part of the inspections of operators, the inspector checks the operator's MP, procedures and supporting documentation (risk assessment, uncertainty assessment and sampling plan, where applicable) as well as performing a site visit. In Valencia, the CA inspects the MP and permit remotely and has not, as yet, undertaken any on-site inspections.

For the regions interviewed, none of the CAs provide specific EU ETS training to their inspectorates, though all have informed the inspectorate of the new MRR and AVR regulations and the new Annex I activities included under Phase 3 for the first time.

All CAs interviewed confirmed that only minor issues have been identified through inspections carried out to date under Phase 3.

The basic provisions for enforcement, i.e. infringements and sanctions are laid down at the national level. Three levels of infringements exist:

1. Very serious, e.g. operating without a permit, not handing in emission units
2. Serious, e.g. failing to notify relevant changes to the permit or the MP, not implementing the MP correctly in a way which leads to deviations in total emissions
3. Light, e.g. not implementing the MP correctly in a way which does not lead to deviations in total emissions.

Financial sanctions range between 50,001 - 2,000,000 € for a very serious infringement, 10,001-50,000 € for a serious infringement and up to 10,000 € for a light infraction.

This applies both to installations and aviation operators. Sanctions other than fines include temporary or total closure of the installation for very serious infractions, suspension of GHG permit for up to one year for a serious infractions. Where a penalty procedure for an aviation operator has been started due to a serious or a very serious infraction, and if it is needed to guarantee the effectiveness of the resolution, the CA has the option to block the operator's ETS account to prevent the access to the carbon market.

Sanctions are to be applied by the regions, but little experience exists so far. For aviation sanctions would be applied through MoE, after having received a report from the National Agency for Air Security, but have not been applied so far.

29.7 Good Practices

- To facilitate the EU ETS data management and Member State reporting under Article 21, all 19 regional CAs agreed, through the Commission of Coordination of Climate Change Policies (CCCP), to:
  - Use the Commission's AER templates and operators are required to use the templates.
  - The CAs promote the electronic submission of MPs, AERs, VRs and IRs though electronic submission is not mandatory in all regions.
- Close cooperation between the Ministry of Agriculture, Food and Environment (MoE) and the Ministry of Public Works and Transport for aviation, both for MP approval and report review. This facilitates using existing experience and supports capacity building on all sides.
- The CCCCP strongly supports harmonisation of approaches and exchange of experiences and tools among the regions and the General Administration of the State including the Ministry of Agriculture, Food and Environment. The CCCCP has both a working group for technical/administrative issues as well as a directorate general group for political/interpretative decisions.
- Even before the introduction of the information exchange requirements, Spain implemented strong feedback loops between regional CAs, ENAC and the verifiers, allowing for the efficient identification and addressing of problems related to verification or accreditation. This includes inviting CAs to surveillance visits.
- The surveillance by ENAC is split into a preparatory office audit in September/October and witnessing during the verification period. This considerably reduces time pressure on surveillance and ensures that issues found during the previous surveillance are correctly implemented before the new verification period begins.

30 Sweden

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30.1 Main changes compared to Phase 2

- Uses Commission templates for monitoring plans, improvement reports and verification report
- MRR provides the legal basis for determining emission if required
- Waste incineration plants have been included into the scope of the EU ETS.

30.2 Short description of authorities involved, their responsibilities and how they work together

Several authorities are involved in the Swedish EU ETS compliance cycle. The main authorities are the Swedish Environmental Protection Agency (EPA) acting as the central competent authority (CA) and the county administrative boards (CABs) as the regional CA, the Swedish Energy Agency and SWEDAC. (See Figure 30)

The EPA organises meetings, training and seminars for and with operators, CAB staff, verifiers and SWEDAC.

EPA and the Swedish Energy Agency jointly host a website on the EU ETS, which provides information both in Swedish and in English, as well as links to the Swedish Emissions Trading Registry (English version: www.utslappshandel.se/en/Emissions-Trading-Scheme-ETS.

Operators frequently make use of direct communication with the EPA to get clarification for their questions.

Legislation and guidance:
The EU Emissions Trading Directive has been implemented in Sweden through the Emissions Trading Act (2004:1199), the Emissions Trading Ordinance (2004:1205), The Swedish EPA regulation (NFS 2012:9) and general recommendations on CO_2 emission allowances, as well as the Swedish Energy Agency regulations on the emissions allowance registry.

Aircraft operators are required to submit a monitoring plan under the Swedish Emissions Trading Act (2004:1199), the Emissions Trading Ordinance (2004:1205) and the Swedish EPA regulation (NFS 2012:9).

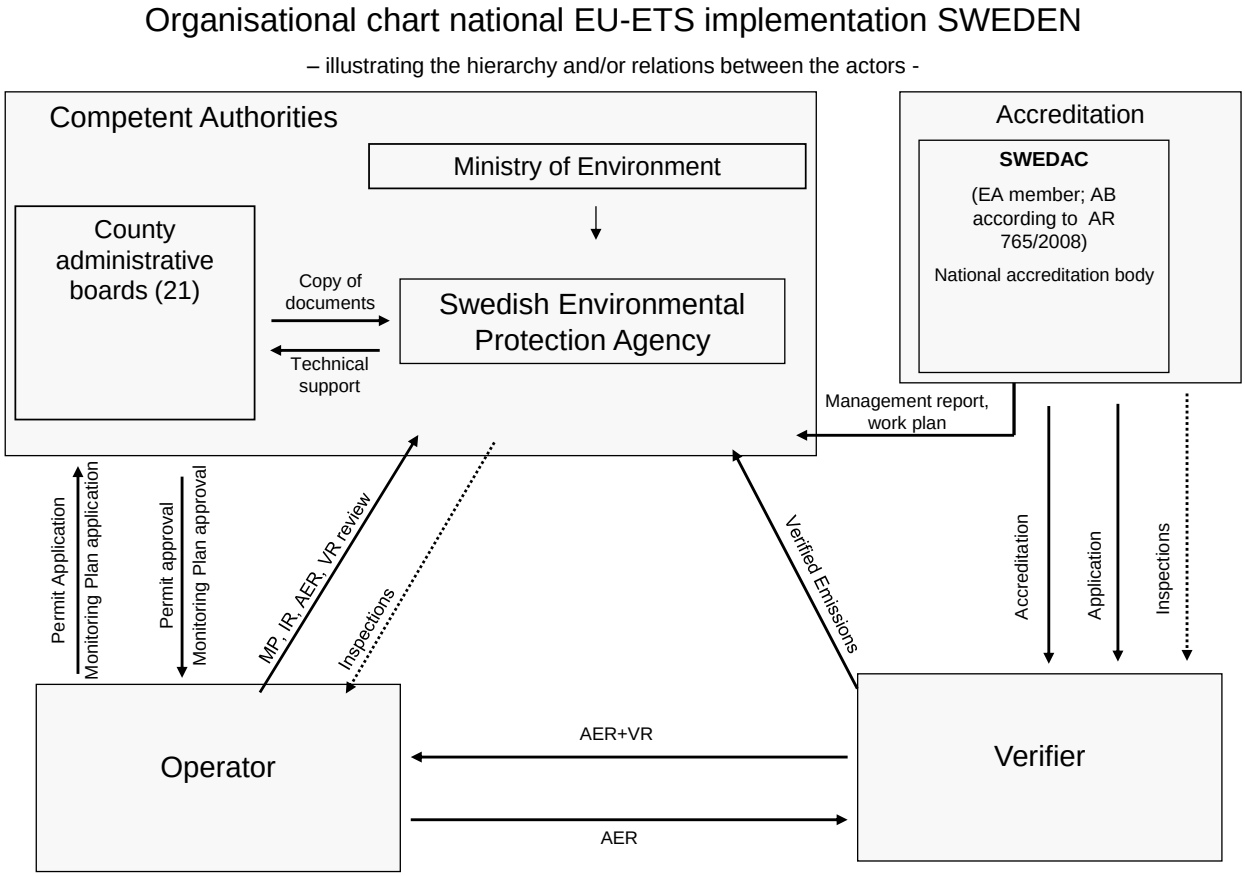

Figure 30 Institutional Structures of the EU ETS in Sweden

30.2.1.1 Swedish Environmental Protection Agency:

As well as for the issuance of permits and the approval of monitoring plans for installations, the Swedish EPA is tasked with all responsibilities related to the compliance cycle, which includes a review of all monitoring plans every five years, approval of improvement reports, and review of annual emission reports and verification reports. The EPA has chosen to use the templates issued by the Commission for monitoring plans, improvement reports and verification reports for implementing the new monitoring and reporting requirements in Phase 3. For the annual emissions report the EPA is providing its own template which is within its own IT system "ECO2". The EPA is furthermore in charge of inspection and enforcement, and acts as the focal point to National Accreditation Bodies, i.e. SWEDAC and those outside of Sweden. The EPA decides on the allocation of emission allowances and oversees operators' compliance with their allowance surrendering obligations each reporting period.

The EPA has a separate team dedicated to reviewing submissions by aircraft operators, including the approval of monitoring plans, the review of annual emission reports (both tonne-km report and annual emission report) and verification reports.

30.2.2 County administrative boards

The 21 CABs act as regional CAs and are responsible for issuing and updating permits for emitting GHG to operators and for approving monitoring plans, as well as taking note of changes to these plans. The CABs rely to a large extent on the expertise of the EPA in regards to EU ETS specific requirements and technical expertise. The EPA educates the personnel of the CABs when needed (and to the extent it has the required expertise) and provides advice to CABs in more difficult matters concerning permit issues. However, the EPA's opinion is not binding to CABs and in case of disagreeing to the permit decision the EPA can only influence the decision of a permit being issued through appeals.

30.2.3 Swedish Energy Agency

The Swedish Energy Agency is in charge of handling requests by airline operators, operators and verifiers for opening accounts in the Union Registry.

30.2.4 National accreditation body

The Swedish Board for Accreditation and Conformity Assessment (SWEDAC) is the appointed national accreditation body, responsible for accrediting verifiers. It is a member of the EA and has been in charge of accreditation since the onset of the EU ETS in 2005.

30.3 Permitting and monitoring including notification of changes

The CABs (regionals CAs) are the authorities issuing permits. To apply for a permit operators are obliged to use a template, downloadable from the EPA website, which is a direct translation of the Commission template for monitoring plans. It contains an additional sheet which asks for information relevant to issue the permit. The permit application therefore contains the monitoring plan, which needs to be approved by the CABs as well. Hence, the monitoring plan is, in practice, part of the permit.

The CABs check completeness and content based on either the Commission checklist or their own list. The various CABs do not apply a unified approach to the assessment of permit applications and monitoring plans.

In Sweden, EU ETS permits are valid until a change of Annex I activities, monitoring methodology, or operator or a change that leads to a significant deviation in annual emissions (permit is linked a certain range of emissions). Therefore, permits do not have to be updated every period. New permits have been issued together with the approval of updated monitoring plans for Phase 3 until mid-2013[29]. Operators should hand in an application for a permit update and approval of revised monitoring plan as soon as the relevant documents and information on the modifications are

[29] With the exception of one, which was approved in the second quarter of 2014

available to the operator. Usually this should be no later than three weeks after the modification is known. However, this deadline is not strictly applied. Flexibility is given on a case-by-case basis.
Also, minor changes to the monitoring plan are usually communicated as soon as they occur. Operators have not been informed that they can wait until end of December with communicating all minor changes that have happened during the year. This is to avoid having to process a high number of notifications at the same time. However, since this notification can be done through various communication channels, such as email, phone, or letter, timely communication is not seen as a burden to operators.

While the EU ETS permit is not physically integrated with other permits, there is a link to other permits: a prerequisite to receive a permit is that the operator has a permit according to the Swedish Environmental Code (except for some small combustion installations that opted-in which do not fall under the Environmental Code nor the Directive 96/61/EC because of their small size).

30.3.1 Aviation

The EPA is responsible for approving monitoring plans and tonne-kilometre reports, as well as for reviewing annual emission reports of airline operators.

To submit monitoring plans airline operators have to use the templates for monitoring plans released by the European Commission. A Swedish translation is available, however, aviation monitoring plans submitted in English are accepted.

30.4 Reporting and Verification

30.4.1 Submission of reports

The EPA had already in Phase 2 developed an IT-system called ECO2 to facilitate the reporting and verification processes. This system has been amended and improved to match Phase 3 requirements. However, it is currently only used by the EPA and not by the CABs, which means that monitoring plans are not part of the system, and applies to installations only. Installation operators are obliged to enter their data for the annual emissions report into this system, while verifiers upload their verification report to the system. Airline operators still need to use the Commission template, because as of 2013 the IT system was not functioning appropriately for their purposes. The IT system still contains some errors. It performs only very basic automated checks on the input data in regards to consistency across certain input values and indicates to the operator fields that need to be complete.

Other documents, such as the monitoring plan, permits and other related documents, submitted together with the monitoring plan and the permit application, are saved separately on the hard drives of the EPA and the CABs (there is no joint access to the same hard drive). Generally, the format of these submissions are Excel files, sent via email. However, some submissions are still received as hard copies.

Installations are obliged to report using ECO2, entering all required data for the annual emission report into the system. When the report is finished it becomes available to the verifier, who then reviews it and uploads its verification report, using a translated version of the Commission template, to the system. EPA personnel check the report and the statement after the verifier has submitted its report.

For improvement reports a translation of the Commission template is being used, which means that the two types of improvement reports will have to be submitted together by 30th June. At the time of writing no improvement reports have been submitted.

30.4.1.1 Aviation

The ECO2 system has been amended for 2013 to also contain the annual emission report for airline operators, but was not functioning appropriately, which is why the Commission templates have still been used by aircraft operators for reporting annual emission for 2013. ECO2 does not contain a form for tonne-kilometre reports, which is why the Commission template will continue to be used in future.

For 2013 emissions the EPA had issued the recommendation to aircraft operators to report the full scope by 31 March 2014, which was before the Commission's decision to reduce the scope and to postpone the reporting deadline to March 2015. According to the new scope 12 operators are required to report, all of them having an approved MP in place. Ten of these submitted verified annual emission reports by 31 March 2014, while only two chose to wait until March 2015 in accordance with the new decision.

30.4.2 Review of AERs and Verification Reports

Due to lack of resources only a very basic check of annual emission reports for 2013 has taken place. No formal procedure for the EPA's staff has been defined yet in order to ensure a consistent approach of the review for the coming years.

While ECO2 provides some automated completeness check, it is still possible to submit incomplete reports, which means that completeness will need to be checked manually by the central CA's staff.

30.4.2.1 Aviation

The ten annual emission reports received from aircraft operators underwent a basic review procedure, which included steps such as checking that submissions were in time and whether they fell out of scope, and comparing the reported emission figures to data from the Eurocontrol Support Facility. The decision on the annual emission figures in line with the reduced scope is scheduled for autumn in order to inform aircraft operators of the amount of EUAs to be surrendered in April 2015. Review is generally done by comparing reported emission data with Eurocontrol Support Facility data. However, a general finding is that Eurocontrol Support Facility data usually under estimates emissions.

30.5 Accreditation of verifiers

SWEDAC is the appointed National Accreditation Body in Sweden and has been in charge of accrediting verifiers for the EU ETS since its introduction in 2005. SWEDAC is a public authority under the Ministry for Foreign Affairs, and assesses the competence of laboratories, certification, and inspection bodies. SWEDAC is also the public authority responsible for regulations and surveillance in the field of legal metrology, and is a member of the European co-operation for Accreditation (EA).

While the accreditation procedures have not seen considerable change due to the introduction of the AVR, each verifier had to undergo the accreditation procedure again in order to become accredited for Phase 3. In line with the AVR, surveillance of the accreditation is performed annually, which also includes witnessing the verification work and the accreditation certificate for EU-ETS verifiers is valid for five years. This is the main difference to the procedures applied in Phase 2 and to other accreditation systems applied by SWEDAC, which require reassessment after four years and surveillance to take place only every 16 month.
For the accreditation assessments, reassessments and surveillance SWEDAC uses three sectoral experts, one each on the energy sector, aviation and chemical industry, linked to the Gothenborg University or the EPA. SWEDAC provided training on the accreditation procedures to these sectoral experts.

The accreditation process can take a few months and involves assessment of the implementation of the verifier's quality management system, the competence of the verification body and always entails an office visit and a witness activity of the applicant entity. In regards to time allocation, SWEDAC recommends that verifiers ask for a copy of the approved monitoring plan before preparing a verification offer, as this document should provide the required information regarding the complexity of the verification. Whether sufficient time is then actually allocated to the verification activities is being checked by SWEDAC during the accreditation assessment and annual surveillance through interviews with verifiers, the review of internal reports, and the witness activities.

Currently five verification bodies are accredited, of which two undertake verification activities in Denmark and Norway. Through the submitted verification plans, SWEDAC was informed about the planned verification activities of its applicant entities in other MS and EEA states. It has therefore kept both the Norwegian and the Danish CAs informed on the accreditation status of the relevant verifiers.

30.6 Inspections and enforcement

As the central CA, the Swedish EPA is in charge of undertaking inspections. However, due to the lack of resources and other priorities no inspections have taken place in Phase 3. These are not expected to happen before the EPA has sufficient resources and procedures in place. Procedures for inspections are not anticipated to change in Phase 3. In the past an inspection procedure for large installation existed, which is expected to be used again once inspection is recommenced. The selection procedure on who to inspect has not been defined yet.

CA staff that carry out the inspections are only trained by reviewing annual emission reports and internal meetings and workshops.

A penalty of 20,000 SEK applies in case of late or missed submission of an annual emission report, or in case of an annual emission report not verified. However, it has proven to be difficult to enforce the fine in cases in which the operator has gone out of business.

The Ministry of Environment is currently working on a change to its legislation for charging a fine where changes affecting allocation are not reported to the competent authority.

30.6.1 Aviation

There is no formal procedure in place for regularly reviewing the Commission EU ETS Operator List. All operators that have been on the list in 2010 have been contacted in order to ask them for relevant information to identify whether they need to report or not. However, this was not done again recently in a structured manner.

Similarly, an operating ban implemented by the Swedish Transport Agency is the only enforcement policy at hand; however it is unlikely to be implemented.

30.7 Good Practices

- EPA developed a short guidance note for verifiers on how to track fuels if operators use suppliers' proof of sustainability concerning biomass.
- SWEDAC is paying close attention to verifiers' time allocation in order to avoid competiveness issues (i.e. verifiers allocating insufficient time to verification activities and through this being able to charge lower rates).

31 United Kingdom

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Reviewers of Document: Michael Robinson, Naomi Walker, Steph Littler, Paul Siddle, Phil Shaw, Ray Cottam (Environment Agency) & Iwan Hughes (Natural Resources Wales)

31.1 Main changes compared to Phase 2

- Additional Competent Authorities (CAs): Responsibilities related to installations in Wales have been moved to Natural Resources Wales
- All CAs use a common IT system (ETSWAP) for reviewing and storing submissions of both aircraft operators and installation operators, with the exception of DECC offshore, which will move to the system in 2014
- No national guidance has been issued for Phase 3 other than a compliance manual focussing on the national system and processes rather than clarifications of technical requirements
- Adoption of penalty based enforcement regime for installations.

31.2 Short description of authorities involved, their responsibilities and how they work together

Due to the devolved administrations in Scotland, Northern Ireland, and Wales, several authorities are involved on the European Union Emissions Trading Scheme (EU ETS). The Scottish Government, the Department of Environment in Northern Ireland (DOENI), and the Welsh Government work with Department of Energy and Climate Change (DECC) and the Environment Agency for England in relation to EU ETS implementation, satisfying the requirements of these devolved administrations. The functions of the Competent Authority as defined by Directive 2003/87/EC are also executed by a number of different bodies.

Figure 31 shows the authorities and stakeholders involved and the communication between them.

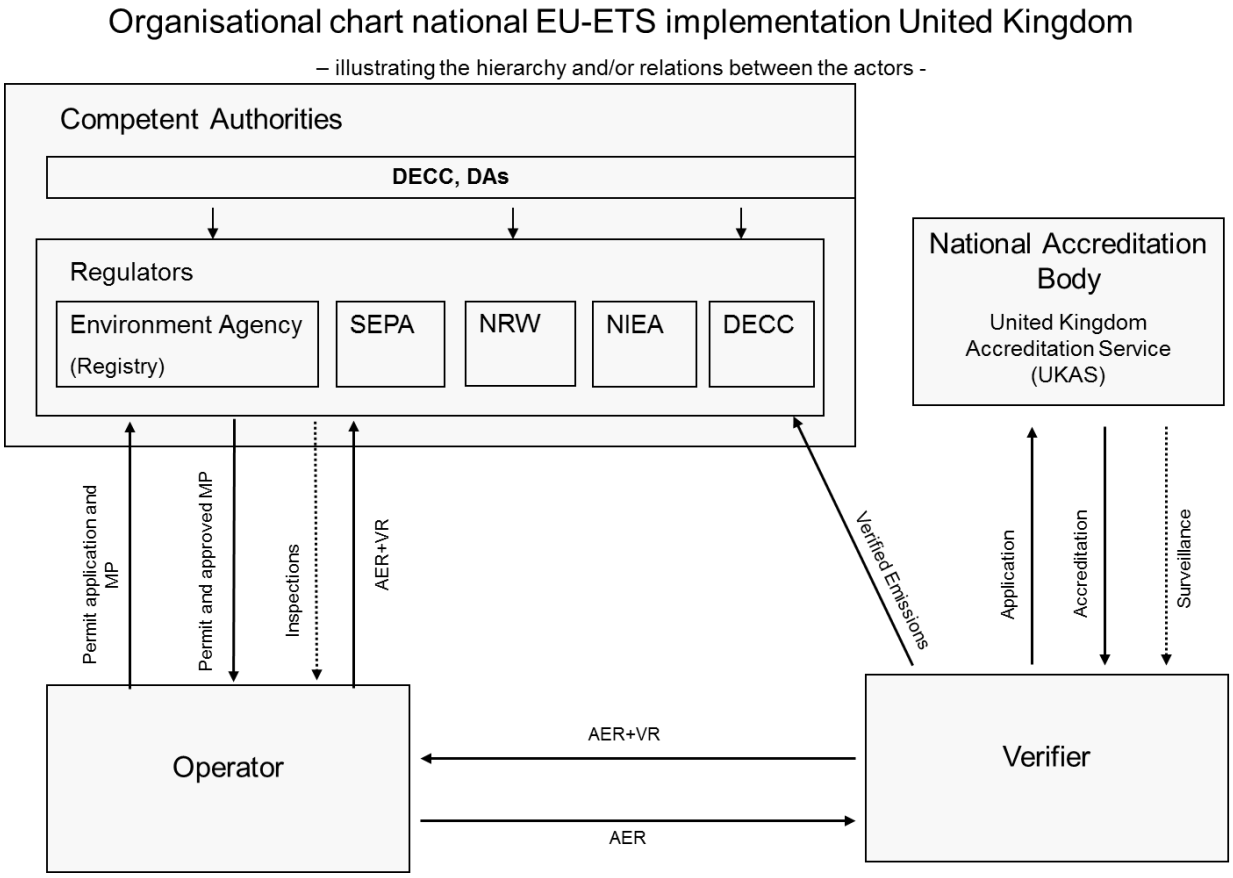

Figure 31 Institutional Structures of the EU-ETS in the United Kingdom

31.2.1 Department of Energy and Climate Change

DECC is the lead government department for EU ETS implementation and is in charge of policy development. It is responsible for National Implementing Measures (NIMs), new entrant policy, providing direction and guidance to the Registry Administrator and other Competent Authorities (CAs), and acting as a liaison with other government departments and the devolved administrations.

31.2.2 Competent Authorities

In the UK there are five CAs: English Environment Agency (EA), Scottish Environment Protection Agency (SEPA), Northern Ireland Environment Agency (NIEA), DECC (for offshore installations, 'DECC offshore') and, since April 2013, Natural Resources Wales (NRW). These authorities are responsible for the entire compliance cycle of installations in their jurisdiction, from issuance of permits and review of reports to enforcement. For aviation, The CA responsible is determined based on where the aircraft operator is registered within the UK or in the case of non-UK companies, where the majority of the emissions are incurred. SEPA currently have 12 and NRW have 2 UK aircraft operators assigned to them for regulation, but this is expected to change due to recently reduced scope. While all CAs may have regulatory responsibility for aircraft operators, the majority are regulated by the EA.

31.2.3 The Registry Administrator

The EA is also responsible for the maintenance and administration of the UK Registry.

31.2.4 National accreditation body

The United Kingdom Accreditation Service (UKAS) is responsible for accreditation of EU ETS verification bodies in the UK.

These authorities co-ordinate their responsibilities with each other and liaise with representatives of accredited verifiers and installation operators through direct contact and through various sub-groups of the UK Emissions Trading Group. The latter greatly aids consultations on the content of on-line forms and guidance, as well as providing consistent awareness and understanding of obligations. The EA takes on a role of a coordinating entity. It involves all other CAs in its trainings and shares its technical expertise. Further groups exist (so called "regulators group") to coordinate the overall responsibilities of the Competent Authorities, and to specifically agree on consistency of opinion and approach to the MRR and AVR requirements. The CAs operate EU ETS websites and email helpdesks to answer enquiries.

The approaches described below refer to the activities of the Environment Agency. It should be noted that SEPA, NRW and NIEA follow broadly the same processes for permit issuance, monitoring plan approval and report review, and use a common IT system called Emissions Trading System Workflow Automation Process (ETSWAP). DECC offshore will move to the system in September 2014. The UK has decided to issue some national guidance additional to that provided by the Commission, such as on how to comply, regulatory guidance for installations, and guidance for aircraft operators administered by the UK.

31.3 Permitting and monitoring, including notification of changes

Since 2012 all CAs, with the exception of DECC offshore, use a common IT system, ETSWAP, to receive, review and store submissions from operators and verifiers in regards to EU ETS monitoring and reporting purposes. This means that the permit application, monitoring plan, improvement report, annual emissions report, verification report and any supporting documents are submitted through on-line form using this system. Its use is mandatory both for installations and aircraft operators.

31.3.1 Submission of permit application and monitoring plan

UK regulations require an operator's permit application to include a monitoring plan (MP) in accordance with the EU's Monitoring and Reporting Regulation (MRR). The approved MP is integrated into the issued permit as an appendix. The permit application and the request for approval of the MP is now one process and requires an operator to complete a single online form in ETSWAP. Guidance, based on the Commission guidance documents, is contained as text boxes in the on-line forms to aid completion of the forms and to provide technical assistance. The EA's website has an example

monitoring plan template available. To simplify an MP, the on-line template automatically blanks out sections that are not to be filled in when an operator confirms that the 'low emitter' status applies. No standardisation for specific types of installations is provided in the MP template. Sections not filled by the operator are flagged and the submission process cannot be completed before these sections are completed. Permit and MP application are submitted electronically to the CAs through ETSWAP.

The amount of guidance provided on a national basis has been limited to a 'compliance manual' focussing on summarising the information and documents that needs to be submitted.

With regards to notification of changes there is a differentiation into temporary and permanent changes. Permanent changes are called "variations", while temporary changes are addressed as "notifications". Separate on-line forms for variation applications and notification of changes are available in ETSWAP. The permit explicitly refers to Article 15 of the MRR to define what significant modifications are. An operator must apply for a variation, where applicable, within 14 days. A fee is not charged for some minor variation applications. Applications for variations undergo the same checks in ETSWAP as permit applications and a new permit (incorporating the monitoring plan) is generated. The variations are documented both in ETSWAP as well as in the permit.

31.3.2 MP review process for installations

At the EA, each category B and C site is allocated to a specific EA technical officer, with a second technical officer with equal experience allocated as backup. Category A sites are allocated between the team of officers on a rotational basis depending on individual workload. The workflows defined in ETSWAP ensure that none of the review steps are left out and ensures that incomplete or incorrect submissions can be passed back to the operator and then be resubmitted in a timely manner.

The review process includes a check of MPs and supporting documents against the requirements of the MRR and requires the assigned technical officer to confirm that each section is adequate or, if not, to provide comments. Checks include that the required level of detail is provided, correctness of information, choice of tiers, etc. Also, summary details about the procedures, i.e.: title, reference, brief description, location of documents, etc. are reviewed during the permitting process, but a comprehensive review of the operator procedures (control activities) is not done during MP approval, as this is evaluated during the verification or CA inspections, or where as part of the CA's review of an operator-requested variation, they consider it necessary to check the procedures.

The review of permit and monitoring plan applications are peer reviewed by the backup officer, a process which is also documented within ETSWAP. CA staff are supported by some guidance notes within ETSWAP at each step of the review process. The workflow is also reflected in the operators' compliance manual to provide a better understanding of how the fulfilment of requirements is being checked. The final permit, which includes the monitoring plan, is generated by ETSWAP.

31.3.3 MP review process for aviation

The EA has defined the following approach for contacting aircraft operators that fall within its jurisdiction: A gap analysis is applied to the Commission's list of aircraft operators in order to identify

and upload new operators to ETSWAP or to change the status of accounts. Once contact data have been collated, an introduction letter about the EU ETS and the respective monitoring and reporting requirements is sent to the aircraft operator requesting the identification of a relevant contact person. Applications for MP approval are made through ETSWAP, which provides an aviation specific MP form (in the UK is referred to as an "emissions plan"). When an application for a MP approval is being submitted a technical officer, including back-up, is assigned. The work flow for assessing the application for approval of new MPs or updates to MPs is the same as for installations. The approved emission plan contains conditions that reflect the requirements of the MRR, such as the notification of modifications, similar to the conditions of permits for installations.

31.3.4 Ensuring competence

Competence of EA's staff is ensured through a number of measures. For each technical process work profile has been defined identifying the relevant qualifications. A technical development framework sets out the key capabilities and how to get there. Training plans with different technical modules for each key topic have been developed, enabling staff to be trained according to their work profile and the required capabilities. Where skills gaps are identified that cannot be filled through the internal training plans, external training is provided, such as on verification, gas metering. New staff members receive a training plan from their team manager and a mentor (a more experienced officer) supporting the training process. The mentor checks, whether the new staff member has successfully completed the required training modules and peer reviews of her/his work tasks.

Staff of other CAs are invited to participate in the training provided by the EA, and they usually attend such additional training.

31.3.5 Ensuring a harmonised implementation

At national level a harmonised implementation of requirements across CAs is ensured through the common use of ETSWAP, which warrants that the same review processes are being followed. Also, regular meetings of stakeholder groups, like the regulators group and the Emissions Trading Group (national level), and technical workshops facilitate a common understanding of the requirements and process implementation.

Harmonisation of the national implementation with the EU-wide requirements is facilitated by the fact that national guidance has been limited to the compliance manual. Newsletters have been sent out to inform operators of the new requirements of the MRR and AVR.

31.3.6 Improvements over time

The EA ensures that existing approaches are improved over time by reviewing its own experiences as well as feedback collected from operators and verifiers. This includes work instructions, which are improved annually based on experience. The website and ETSWAP web-interface has been improved regularly based on comments from operators and verifiers collected through an on-line survey and

the helpdesk. New technical guidance is built into ETSWAP as text boxes whenever they come available.

Re-permitting was completed during the second half of 2012, well in time for the start of Phase 3. However, at that time many of the technical Commission guidance documents were not available or could only be provided to operators as drafts. Therefore, improvements to MPs are still expected, triggered through the requirements of reporting on improvements, including reports on verifiers' recommendations.

31.4 Reporting and Verification

31.4.1 Submission of reports

Both installations and aircraft operators report directly through ETSWAP. Technical guidance on reporting is provided through text boxes in ETSWAP and general guidance is outlined in the compliance manual, as is the case for monitoring.

The system contains some automatic population functions which fill in data based on the approved MPs, such as tiers applied and national factors used. ETSWAP only allows forms to be submitted in which all mandatory fields are completed. After completion of the annual emission report form in ETSWAP, the report is passed on to the contracted verifier. All ETS verifiers that want to provide verification services in the UK have to request access to ETSWAP in order to compile and submit verification reports (VRs). This is done by emailing the EA helpdesk with details of the verifier organization, the country, accreditation identification number plus a copy of the accreditation certificate and the full name and email address of the main point of contact (this user will have the responsibility for managing other users for this verifier). Once the ETSWAP administrator has approved the verifier's request for access, ETSWAP will send them an email with the login details for their individual user account.

The verifier reviews the annual emission report and appends their verification report, using the on-line form in ETSWAP. This form has been updated for Phase 3 to reflect the requirements of the Regulation on Accreditation and Verification (AVR) and the Commission template. It now contains general verification findings, rather than findings for each section, and incorporates the verification report into the annual emissions report (AER). The verifier then returns the verified AER together with the annexes to the verification report back to the operator through ETSWAP. The operator is responsible for submitting the completed emission report and verification report to the relevant CA through ETSWAP. The deadline for submission is 31 March.

By means of a derogation from the requirement to undertake site-visits during the first reporting year of Phase 3, verifiers were allowed to waive site-visits of off-shore installations based on a risk analysis done by verifier. The reason for waiving the site-visits were due to helicopter availability following fatal accidents in the previous year.

Two separate forms exist in ETSWAP for the two different improvement reports required by the MRR. Quite a few improvement reports are expected in 2014 due to a considerable number of findings during the first verification, which were reflected in the recommendation of verifiers. The inclusion of

very small sources is a typical example of what has been missed during review of MPs but should have been picked up by operators by now.

31.4.1.1 Aviation

Prior to the decision of amending the EU ETS Directive in April 2014, no advice was given to aircraft operators administered by the UK on whether they should report full scope or not. As a consequence some operators decided to report full scope for 2013, some according to the revised scope, i.e. only intra-EU, while others did not submit AERs at all.

31.4.2 Review of AERs and Verification Reports

A technical review on the reported data is carried out for a share of the installations using a risk-based approach: the review covers all category C installations, a total of 50% of category B installations, covering the ones verified with comments first and then others, if the 50% are not yet reached, as well as 5% of category A. All reports that are "not verified" or "verified with comments" are subject to a review regardless of their installation category. Again, the technical review is supported by detailed work instructions within ETSWAP. A revision to the selection criteria for Phase 3 is currently being considered. While the approach will remain risk-based it will also take into account the Commission risk profiling tool.

31.4.2.1 Aviation

In the case of aviation, a slightly different approach for the review is being taken. The reports of all aircraft operators with average annual emissions above 50,000t CO_2 (Category B 50,000> to <500,000 t CO_2 and C >500,000 t CO_2) are being reviewed. Reports of operators with average annual emissions of 50,000t CO_2 (Category A) and below are being reviewed if "verified" with comments, or "not verified" opinions are submitted. A selection of "verified" reports are also reviewed, the selection of which is based on where an assessment of an operator's report has been made in a previous year. The review process includes the comparison of reported data with data held in Eurocontrol's support facility. A gap analysis is performed using an excel macro, with significant differences being communicated to the operator for comment.

31.5 Accreditation of verifiers

The United Kingdom Accreditation Service (UKAS) is the appointed national accreditation body (NAB) in the UK and has already been in charge of verifiers' accreditation under the UK emissions trading system before the start of the EU ETS. UKAS is a member of the European Co-operation for Accreditation (EA).

During Phase 2, all UK-based EU ETS verification bodies were accredited according to EN ISO 14065, having held accreditation in accordance with EN ISO 45011 for the UK ETS and Phase 1 and 2 EU ETS. As they were already accredited to the required harmonised standard under the AVR and had a

proven history with UKAS, UKAS invited all existing UK based verification bodies to apply for an extension to their existing scope of accreditation. UKAS requested the applicant entities to undertake a gap analysis, to identify what needed to be provided in addition to the existing EN ISO 14065 accreditation in order to demonstrate AVR compliance. The information that typically needed to be submitted to UKAS based on this gap analysis included, for example, documentation on the required changes to their processes, information of the verifiers' training for the new AVR requirements and documentation on fulfilling the competence criteria.

UKAS announced the development of the Phase 3 EU ETS pilot programme as part of a UKAS 'development project' in January 2013, advising that applications should be submitted in May 2013. As part of the development project a single date for accreditation of all applicant entities was defined. Thus, all nine applicant entities became accredited on 19th December 2013 subject to the satisfactory passing of a witness activity, which was the first verification scheduled by the verifiers.

UKAS already had a defined accreditation process and this did not change due to the AVR. It starts with a review of documents, followed by potential queries resulting in contact with verifiers and a head-office visit and witnessing activity. For verifiers already accredited according to EN ISO 14065, the existing accreditation is taken as a basis and these requirements are sampled during surveillance and extension to scope assessments and fully checked again at the next full assessment. Close attention is paid to the competence of verifiers and how the competence criteria of the AVR have been internalised into their EN ISO 14065 competence management process and training programmes. Actual competences of relevant personnel is being monitoring during witness assessment, and also confirmed during head office visits by detailed client file reviews to confirm correct implementation of the verification requirements. Upon successful passing of all of these steps the accreditation certificate is issued, which is valid for four years in line with other accreditation programmes governed by UKAS. Procedures for re-assessments are already in place, however, the current EN ISO 14065 and AVR 600/2012 accreditation may be subject to re assessment before expiry of the initial four year period, since the timing of re-assessments is aligned with the expiry of all other existing accreditations held by the organisation.

Surveillance takes place on an annual basis. Activities are being selected based on the verification plan allowing UKAS to sample individual verifiers and scopes of each verification body over the entire period of accreditation. For one of its accredited verifiers with activities in Ireland, UKAS has commissioned the Irish NAB (the Irish National Accreditation Board) to undertake surveillance of this verifier in Ireland. However, due to constraints the Irish NAB was not able to provide sufficient resources and therefore under their agreement the UKAS undertook the work instead.

All of the accredited verifiers submitted verifications plan by 15th November 2013 and continuously provide updates within the defined timeline which is the 15th of every month. Next to the formal reporting requirements, UKAS and the EA meet verifiers at least once a year as part of an Emissions Trading Group (ETG) subgroup meeting when AER/VR findings are communicated. During 2013/14 there were ad-hoc meetings with verifiers, CAs and UKAS to discuss Phase 3 verification requirements and changes between the MRG and MRR that would impact on verification activities.

UKAS and the EA, which has been assigned as the focal point on accreditation issues, have established an efficient information exchange through following the procedures defined by the AVR, i.e. submitting the work programme and management report to the CA and the CA informing of

complaints regarding verifiers. Complaints regarding verifiers are always raised and solved directly with the respective verifier and the NAB is always informed as well. However, such cases have not occurred in Phase 3 yet. The same approach is followed for verifiers accredited abroad, involving also the respective MS' NAB. On the other hand informal information exchanges have been established through, for example, the participation in the ETG and the NAB attending meetings held with verifiers organised by the EA.

Regarding communication with other MS, UKAS has sent the work programme by 31 December 2013 to CAs of MS for which UKAS accredited verifiers have identified clients in their verification plans and provides updates on these activities whenever they come available. In cases where the focal point of CAs on accreditation issues was not easily identified the work programme was sent to the MS' NABs instead.

31.6 Inspections and enforcement

Around 5% of installations are inspected by the EA annually with a focus on category B and C installations. An inspection schedule was developed early in Phase 3 with installations being selected for inspections based on a risk assessment, taking into account the date of the last inspections, compliance issues, complex improvement actions, and any discrepancies between reported emissions and free allocation received.

The schedule ensures certain proportions between installation categories, with a higher proportion of category B and C installations. The inspections are undertaken by the technical officers that undertake the review of respective AER and VR. The site visits are also being used to familiarise staff members with certain sector activities. In general, the inspection takes a higher level approach than verification in order to avoid duplication with verification activities. Officers seek to confirm that the MP accurately reflects the installation and focus on the physical metering equipment.

Officers check such things as metering, procedures and existence of units stated in the monitoring plan. A short work instruction on inspection exists, focusing mainly on the aims of inspection. Identified shortcoming are summarised in a report, and a date when operators need to address these shortcoming is set. In contrast to verifiers, inspectors can make recommendations on how things can be improved or can share good practice examples.

In addition to the EA's own inspections, it asks the IPPC inspectors to check for certain EU ETS aspects, such as boundaries and the inclusion of installations into the scheme.

Enforcement processes have been improved through the fact that in Phase 3 UK Regulations now also impose civil sanctions to offences by installation operators, while this was always the case for airline operators. The regulation provides for fixed and incremental penalties for the following situations[30]:

- Operation without permit (installation)
- Failure to apply for an emissions plan (aviation)
- Failure to report emissions
- Not complying to permit (installation) or plan (aviation)conditions

[30] Where not specified, the penalty applies to both aviation and installation.

- Failure to surrender a permit (installation)
- Opt-out installations exceed their emissions targets
- Under-reporting from opt-out installation
- Opt-out installation failing to notify that it falls out of the criteria for opt-out
- Infringement of monitoring and reporting obligations, omission to notify changes
- Not surrendering a sufficient amount of allowances
- Failure to return allowances (in case of free allocation)
- Providing false and misleading information
- Penalty fail to pay penalty (installation)
- Not complying with regulation related to an operation ban (aviation)
- Failure to comply with an enforcement or information notice.

31.6.1 Aviation

An extensive process to identify new operators on the Commission's list has been established, which includes a comparison of the previous version of the list to the updated one, identification of transferred operators and communicating with MS from which they transferred, and identification of name changes and uploading new operators to ETSWAP accounts. In cases where an address has been identified but a letter to this address returns saying that no one is registered under the address, national law allows to go one step further to require the owner of the aircraft to identify the aircraft operator assigned to the UK on the list. However, enforcement for cases of non-compliance by aircraft operators is still difficult. There are a number of operators on the list since 2009 or 2010 that have still not responded to the notification of being included in the scope of the EU ETS.

31.7 Good Practices

- The use of ETSWAP ensures a harmonised approach for reviewing MP, AER and VR across all CAs as steps of the assessment processes are defined by the IT system.
- Guidance, based on the Commission guidance documents, is contained as text boxes in the on-line forms to aid completion of the forms and to provide technical assistance. To simplify an MP, the on-line template automatically blanks out sections that are not to be filled in when an operator confirms that the 'low emitter' status applies.
- Transparency on the review process is provided to operators through the compliance manual.
- One of the CAs is providing a Helpdesk for operators, which is used frequently.
- One of the CAs maintains a training database with training modules, the development of training plans for new staff member and using mentors to support the implementation of the training plan. A technical development framework sets out the key capabilities and how to get there.
- The fact that a back-up staff is allocated to each officer and the fact that the review process includes a peer review by this assigned back-up officer should be considered best practice. One of the CAs actively collects operator comments in order to improve website, templates, guidance, etc.

- A compliance manual focussing on the national system and processes rather than clarifications of technical requirements provides operators with relevant information on how the relevant information needs to be reported within ETSWAP.
- A UK Emissions Trading Group regularly brings together representatives of DECC, the CAs, UKAS, verifiers and industry to discuss ETS implementation requirements and issues facilitating an efficient exchange of information and consistent ETS implementation.

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