



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL  
CLIMATE ACTION  
Directorate B - European and International Carbon Markets

Brussels, **15 MAI 2012**  
CLIMA/B2/CdM Ares(2012) 588480

**Subject: EU Emissions Trading System (ETS) for Stationary Installations: Questions on the National Implementation Measures submitted pursuant to Article 11 of Directive 2003/87/EC and Articles 7 and 15 of Commission Decision 2011/278/EU**

Dear Ms Stanga,

By letter dated 29 September 2011, registered on 4 October 2011, Latvia notified to the Commission the list of installations covered by Directive 2003/87/EC on the territory of Latvia and any free allocation to each installation calculated in accordance with the rules referred to in Article 10a(1). Latvia also reported, attached to the same letter, the additional information pursuant to Articles 7 and 15 of Commission Decision 2011/278/EU.

Pursuant to Article 15(3) of Commission Decision 2011/278/EU, the Commission shall assess the inclusion of each installation in the list and the related preliminary total annual amounts of emission allowances allocated free of charge.

As a first step in this assessment, the Commission assessed the completeness of the NIMs submitted ("completeness assessment"). In this respect, the Commission requested by letter dated 10 November 2011 specific installations or data to be added to the initial NIMs submitted.

The Latvian authorities submitted the modified NIMs by letter dated 23 December 2012, registered on the 6 January 2012.

Ms Evita Stanga  
Permanent Representation of Latvia  
to the European Union  
Avenue des Arts 23  
1000 Bruxelles

The Commission carried out a new "completeness assessment" of the modified NIMs and found that Latvia addressed in a satisfactory manner all of the Commission's recommendations relating both to the installation completeness and to the data completeness.

As a second step of the assessment process, the Commission examines whether it can be concluded that the free allocation to each installation is calculated in accordance with the rules referred to in Article 10a(1) of Directive 2003/87/EC ("compliance assessment") as set out in Commission Decision 2011/278/EU.

The Commission would like to share the preliminary results of this assessment for Latvia, which was based on a number of compliance checks and statistical analyses. It has concluded that a number of issues need to be further clarified, which are described in Annex II of this letter. The Latvian Authorities are kindly invited to assess and comment on these issues and consider whether the NIMs Table and NIMs List need to be modified and re-submitted.

Following the general assessment of the documents submitted by the Latvian Authorities, it was also concluded that there is a need to perform detailed assessments on a sample of installations (for further information, please see Annex III).

In order to clarify these issues and to perform the detailed assessments, the Commission would like to ask that the Latvian Ministry of Environment:

(a) sends via e-mail to the functional mailbox [CLIMA-ETS-NIMS@ec.europa.eu](mailto:CLIMA-ETS-NIMS@ec.europa.eu) at the latest by 30 May 2012 cob comments/replies to the issues outlined in Annexes I and II of this letter;

(b) sends via e-mail to the functional mailbox [CLIMA-ETS-NIMS@ec.europa.eu](mailto:CLIMA-ETS-NIMS@ec.europa.eu) by 23 May 2012 specific documentation related to the installations mentioned in Annex III. That documentation consists of the baseline data collection templates (these can be sent in the original language; if wished so, the encryption tools used for submitting the NIMs can also be used to encrypt the files), the methodology reports<sup>1</sup> (if feasible, in an English courtesy translation) and the verification reports, consisting of the verification opinion and the internal verification report<sup>1</sup> (if feasible, in an English courtesy translation) for the 3 installations listed in Annex III.

Following the comments in this letter, Latvia will need to make changes to the submitted NIMs to ensure that its application is brought in line with the relevant rules. It is to be reiterated that these changes may only relate to changes or corrections at the request of the Commission as a result of the compliance assessment, meaning that no data from installations other than the ones identified in (the Annexes of) this letter may be changed.

---

<sup>1</sup> If the courtesy translation cannot be provided, it is recommended to send those documents in a real file format, meaning not as scanned document format.

Latvia will therefore need to notify a corrected version of the NIMs. We kindly request to use the same submission procedure as elaborated in the letter dated 31 August 2011:

1. the corrected NIMs List (NIMs list.xls) should be sent through the Permanent Representation to the Director-General of DG Climate Action of the European Commission;
2. both the corrected NIMs Table (NIMs table.xls) and corrected NIMs List (NIMs list.xls) should be sent electronically to [CLIMA-ETS-NIMS@ec.europa.eu](mailto:CLIMA-ETS-NIMS@ec.europa.eu).

For any clarifications on these matters please do not hesitate to contact Unit B2 - Benchmarking:

- Chiara Di Mambro ([chiara.di-mambro@ec.europa.eu](mailto:chiara.di-mambro@ec.europa.eu), tel: +32 2 299 49 31), or
- Tomas Velghe ([tomas.velghe@ec.europa.eu](mailto:tomas.velghe@ec.europa.eu), tel: +32 2 299 51 34)

Yours sincerely,



Mary Veronica Tovšak Pleterski  
Director

Enclosure:

- Annex I: Specific questions related to the baseline data collection process
- Annex II: Findings identified during compliance checks and statistical analyses
- Annex III: List of the installations for the specific assessment

## ANNEXES

### **Annex I: Specific questions related to the baseline data collection process**

1. According to the answer to question 5.2 of the methodology report for Latvia, the share of heat typically delivered to private households was not determined according to national statistics. This implies that each of the concerned operators needed to provide always evidence of the heat delivered during the baseline period. The Latvian authorities are required to explain how such evidence was provided, which documents were required to bring such evidence and which measures or procedures were adopted in case that the evidence provided was not deemed as sufficient.
2. The answer to question 5.2 related to the definition of electricity generators is not fully clear. Please clarify.
3. Concerning the answer to question 6.3 concerning the application of the experimental verification and, more in general, of Article 9.6, the Commission takes note of the fact that the harmonised rules were misinterpreted and requires corrections to the allocations to the Latvian Authorities. For further details please refer to the following Annex II (Sections II.1 and II.4).

## Annex II: Findings identified during the compliance checks and statistical analyses

The following are findings that were identified during the compliance checks and statistical analysis of the NIMs Table data. Those show a potential improper application of the harmonised allocation rules. The Latvian Competent Authority is therefore requested to double-check, explain and, where needed, change the relevant data which are at the origin of these findings. Please note that this could have an impact on the preliminary amount of allowances previously notified to be allocated to the installations mentioned, and therefore might need involvement of the operator and/or verifier.

Where installation IDs are mentioned, these relate either to the CITL installation IDs, or (in the case of installations without open OHA in the CITL) to the installation ID included in the NIMs List. Sometimes next to the installation ID, the number of the relevant sub-installation is also mentioned according to the following classification:

sub 1-10	Product benchmark sub-installation
sub11	Heat benchmark sub-installation, CL
sub12	Heat benchmark sub-installation, non-CL
sub13	Fuel benchmark sub-installation, CL
sub14	Fuel benchmark sub-installation, non-CL
sub15	Process emissions sub-installation, CL
sub16	Process emissions sub-installation, non-CL
sub17	Private households

### II.1. Capacity determination

#	Finding description	Relevant Installation IDs
1	The indicated installation reported that capacity was determined via experimental verification. On the basis of the Commission Decision this is only acceptable where data are not available (the installation operated less than 2 months in the relevant baseline period or records were lost). On the basis of the starting date of 26/03/2009, it can be concluded that this criterion is not fulfilled and the capacity has to be re-calculated based on the standard methodology.	#114

## II.2. PRODCOM/NACE and carbon leakage status

#	Finding description	Relevant Installation IDs
2	PRODCOM codes entered for products within a product BM sub-installation 1) are not sufficient to determine whether the chosen product BM is to be applied, or 2) seem to relate to products not covered by the chosen product BM	<p>#59 sub1: the NACE relates to lime production but the dolime BM is applied instead.</p> <p>#65 sub2: the NACE relates to EAF carbon steel but the Iron casting BM is applied instead.</p> <p>#new-115 sub 2: the NACE relates to plasterboard production while plaster BM is applied instead.</p>

## II.3. Split in sub-installations

#	Finding description	Relevant Installation IDs
3	The installations identified list sub-installations which are not expected to be coupled (fuel or heat BM-product BM). The presence of the sub-installations identified in brackets needs to be explained, or they should be deleted.	#59 (sub 11), #104 (sub 14), #114 (sub 13)
4	The installations reported only list fuel benchmark sub-installations. As this kind of approach should be of very limited use, as it can be applied only to those cases where a product BM sub-installation or a heat benchmark sub-installation could not be identified, it is likely that a mistake occurred in the split in sub-installations. Please verify.	#30 (sub 14), #32 (sub 14), #98 (sub 14), #83(sub 13), #108 (sub 14)
5	The presence of a process emissions sub-installation - in combination with other selected sub-installations - seems to be unlikely. Please double check and correct.	#61, #65

#### II.4. RCUF, HCUF, CUF

#	Finding description	Relevant Installation IDs
6	Unless corrected, the capacity utilisation factor of the installation indicated cannot be deemed as reliable and should not be used for the calculation of the SCUF as it appears to be very low (5%).	#104 (sub 1)
7	The activity level of the installation compared to the capacity as well as the RCUF indicate that most probably the installation did not start its operations in the sense of the Commission Decision 2011/278/EC <sup>2</sup> . The allocation of the installation should therefore normally be '0'. The installation would get the allocation based on the new entrant's rules once it reaches the minimum activity level to be identified as having started normal operations.	#108

#### II.5. Application of Art. 9.9

#	Finding description	Relevant Installation IDs
8	The indicated installations reported a capacity change occurring before the beginning of the chosen baseline period. In those cases the rule for capacity increases should not be applied but the real activity level should be used.	#60 (sub 13 and 15), #96 (sub 13), #102 (sub 12)
9	The activity level of the new capacity is relatively low or erroneous data appear to have been filled in. This could imply that the application of the rule was not appropriate for the installations indicated.	#69 sub13 (low level of capacity utilisation, <40%) #8 sub12 (HAL unchanged erroneously filled – looks the same as HAL reported without change) #6 sub12 (HAL unchanged indicated as 0)

<sup>2</sup> Article 3 (o) of Commission Decision 2011/278/EU

## II.6. Other findings which need further clarifications

#	Finding description	Relevant Installation IDs
10	The reported installations seem to have performed much better (historical emissions / historical activity level) than the relevant product benchmark level	#59 , #104
11	The reported installations seem to have performed much better (historical emissions / historical activity level) than the heat benchmark level	#12, #22, #34, #37, #58
12	The reported installations seem to have performed much better (historical emissions / historical activity level) than the fuel benchmark level	#28, #54, #100

## II.7. Allocation rules and non-eligible heat

According to the Commission Decision 2001/278/EU on the Harmonised Allocation Rules, when heat is coming from a non-ETS installation or 'other entity', it should be deducted for the purpose of the allocation calculation (Art. 13 & Art.3 (c)). As further explained in the Guidance Documents (GD 2, p. 11 and GD 6, p.6), endorsed by the Climate Change Committee at its meeting of 14 April 2011, heat is eligible for free allocation if it can be regarded as covered by the ETS and if it is not produced via electric boilers. The GD goes further by stating that *"This is in particular likely to be the case for measurable heat directly linked (combustion process or exothermic production process) to source streams which are contained in the monitoring plan (MP) of an installation covered by the EU ETS."*

Source streams are defined in the relevant provisions on Monitoring & Reporting as any of the following:

*(a) a specific fuel type, raw material or product giving rise to emissions of relevant greenhouse gases [...]*

*(b) a specific fuel type, raw material or product containing carbon [...]*

This implies that heat coming from exothermic reactions not giving rise to emissions of greenhouse gases covered by the ETS Directive is not a source stream and thus cannot be considered eligible for free allocation.

In order to guarantee a harmonised application of the allocation rules across the EU, the Member States' authorities are asked to:

1. Confirm whether this approach was followed in the allocation process and, where another approach has been detected, the allocation has been corrected based on the approach described above.



2. As one of the industrial processes where a non-harmonised approach was detected at EU level concerns the treatment of heat coming from the production of sulphuric acid, please identify installations listed in the NIMs which produce sulphuric acid.

As mentioned above, the heat generated by exothermic chemical reactions, like the one resulting from the production of sulphuric acid, can only be considered eligible if the measurable heat is directly linked to source streams which are contained in the monitoring plan (MP) of an installation covered by the EU ETS. In order to ensure equal treatment of installations across Europe, the Member States' authorities shall in particular provide evidence that the activity level of the heat benchmark sub-installation of installations where sulphuric acid is produced does not include any non-eligible heat.

**Annex III: Specific questions related to the baseline data collection process**

On the basis of the compliance checks and of the assessment of the data collection process in Latvia, specific documentation related to the following installations are required need to be provided. As described above, those can be sent via email to the email address [CLIMA-ETS-NIMS@ec.europa.eu](mailto:CLIMA-ETS-NIMS@ec.europa.eu).

<b>Installation ID</b>	<b>Installation name</b>
LV0000000000000006	Akciju sabiedrība "Latvenergo" TEC-1
LV0000000000000058	Papīra ražošanas iekārta
LV0000000000000065	A/S "Liepājas metalurģis"